

PUBLIC RECORD

Dates: 10/01/2024

Medical Practitioner’s name: Dr Victor EBENUWA

GMC reference number: 6059442

Primary medical qualification: MB BS 1989 Lagos

Type of case	Outcome on impairment
Review - Misconduct	Not Impaired

Summary of outcome

Suspension to expire

Tribunal:

Legally Qualified Chair	Mrs Emma Gilberthorpe
Medical Tribunal Member:	Dr Jill Belch
Medical Tribunal Member:	Dr William Seligman

Tribunal Clerk:	Mrs Jennifer Ireland
-----------------	----------------------

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner’s Representative:	Mr Michael Rawlinson, Counsel, instructed by Weightmans LLP
GMC Representative:	Ms Laura Kaye, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Impairment - 10/01/2024

1. At this review hearing the Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Ebenuwa's fitness to practise is impaired by reason of misconduct.

Background

2. Dr Ebenuwa qualified with an MBBS from the University of Lagos, Nigeria, in 1989. He qualified as a Family Physician in 2000 and then went on to practise as a General Practitioner ('GP') and trainer in Nigeria. He moved to the UK in 2003 and shortly thereafter obtained his GMC registration. Dr Ebenuwa joined the Margaret Thompson Medical Centre in Liverpool ('the Practice') in 2006 and became a Partner in 2010.

3. On 16 March 2021, Dr Ebenuwa misinterpreted Patient A's blood test results and entered an incorrect diagnosis of '*hypothyroidism*' instead of the indicated '*hyperthyroidism*' onto the patient's medical record. On 1 April 2021, Dr Ebenuwa had a telephone consultation with Patient A and discussed with him the incorrect diagnosis, prescribing 25mg of levothyroxine ('the Medication') with a plan to repeat the thyroid function test in six weeks.

4. On 22 April 2021, Patient A suffered a heart attack and was admitted to Whiston Hospital ('the Hospital'), where he was prescribed medication to manage his heart condition. He was discharged on 5 May 2021, and a discharge letter was sent to the Practice.

5. Dr Ebenuwa reviewed the discharge letter on 6 May 2021, which prompted him to review Patient A's medical records in more detail. At this point, Dr Ebenuwa realised his misinterpretation of the blood test results, his incorrect diagnosis, and consequential incorrect prescribing of the Medication. On realising the error, Dr Ebenuwa changed the diagnosis from subclinical hypothyroidism to subclinical hyperthyroidism, stopped the Medication prescription, and deleted the record of the telephone consultation of 1 April 2021.

6. On 7 May 2021, a copy of the discharge letter was read by one of Dr Ebenuwa’s colleagues who saw that Patient A had been on the Medication when discharged from the Hospital and reinstated it. On 27 May 2021, after Patient A attended an appointment complaining of dizziness, a GP at the Practice removed Patient A from other medications prescribed by the Hospital.

7. On 13 July 2021, Patient A was admitted to the Hospital following a suspected heart attack. It was assumed by doctors, and not checked, that Patient A was still taking the medication prescribed during his previous admission, and a large dose of betablockers and other medication was administered. Patient A suffered a further, more severe heart attack and died on 14 July 2021.

8. In February 2022, a copy of Patient A’s medical records was requested by his family, as they were concerned about his treatment at the Hospital. A case review was conducted and Dr Ebenuwa’s alteration of the records was discovered. Dr Ebenuwa subsequently admitted his clinical error and dishonesty. The matter was referred to the GMC on 7 April 2022.

The 2023 Tribunal

9. At a Medical Practitioners Tribunal hearing which began on 8 September 2023 and concluded 15 September 2023 (‘the 2023 Tribunal’), Dr Ebenuwa admitted, and the 2023 Tribunal found proved, the entirety of the Allegation.

10. Following Dr Ebenuwa’s admissions, the 2023 Tribunal then went on to consider the matter of impairment in relation to his misconduct. It considered that Dr Ebenuwa had made a serious clinical error in misinterpreting Patient A’s blood test results which led to inappropriate Medication being prescribed. When discovering his error, instead of attempting to put things right, he accessed Patient A’s medical records, removed the Medication from the list of recent medications without recording that the Amendments were made retrospectively, then deleted the record of the telephone consultation he had with Patient A, and did not contact Patient A to advise him of the errors and to stop taking the Medication.

11. Taking all of those factors into consideration, the 2023 Tribunal concluded that Dr Ebenuwa’s actions amounted to serious misconduct. It then went on to consider whether his fitness to practise was impaired by reason of misconduct.

12. The 2023 Tribunal acknowledged Dr Ebebuwa’s full admissions and his acceptance that he had behaved dishonestly. It also took into account that he expressed regret and remorse and had not sought to blame his behaviour on stresses he faced at the time, and he had apologised to Patient A’s family both verbally and in writing. It noted that in his final reflection statement, Dr Ebebuwa had written about his insight into the ripple effect of his actions and the wider reaching impact on others. The 2023 Tribunal formed the view that Dr Ebebuwa had insight, but this was still developing.

13. The 2023 Tribunal also had regard to the fact that Dr Ebebuwa had taken steps to improve his knowledge and skills by taking related Continuing Professional Development (‘CPD’) courses and provided the 2023 Tribunal with his reflections on some of these.

14. The 2023 Tribunal took into account the reasons Dr Ebebuwa gave for concealing his error, and that the dishonest behaviour was a deliberate choice. It was of the view that Dr Ebebuwa had put his own interests and personal reputation before the interests of Patient A.

15. The 2023 Tribunal took into consideration Dr Ebebuwa’s level of insight and his steps to remediate his behaviour. The 2023 Tribunal also had regard to the fact that Dr Ebebuwa had approached fellow professionals for support but noted that it had received no evidence from those colleagues to assist in its assessment of his insight and remediation.

16. The 2023 Tribunal was concerned that Dr Ebebuwa did not think of the ramifications of his actions at the time of the events. It was of the view that this had been a serious act of dishonesty and, although it related to a single error, Dr Ebebuwa concealed that error for 10 months and seemingly had no intention of admitting to his actions until he was confronted by the incontrovertible evidence. For this reason, the 2023 Tribunal could not be satisfied that Dr Ebebuwa would not repeat the dishonest behaviour if he were in a similar situation in the future. However, given the developing insight and current depth of remediation undertaken, the 2023 Tribunal concluded that the risk of repetition was low.

17. The 2023 Tribunal was mindful of its findings that Dr Ebebuwa’s actions brought the medical profession into disrepute, breached fundamental tenets of the profession, and represented a significant departure of the standards of doctors, as set out in GMP. It also bore in mind his admitted dishonesty.

18. The 2023 Tribunal determined that although Dr Ebenuwa had, in the past, put a patient at unwarranted risk of harm, this was an isolated incident with a low risk of repetition and there was no current risk to patient safety.

19. The 2023 Tribunal was satisfied that a member of the public, knowing the full facts of this case, would be concerned to learn of a doctor acting in this way. It was satisfied that public confidence in the profession, would be undermined if a finding of impairment was not made. The 2023 Tribunal concluded that a finding of impairment was necessary to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession. The 2023 Tribunal determined that Dr Ebenuwa's fitness to practise was impaired by reason of his misconduct.

20. Having determined that Dr Ebenuwa's fitness to practise was impaired by reason of his misconduct, the 2023 Tribunal considered what sanction if any should be imposed on his registration. It determined the proportionate sanction was to suspend Dr Ebenuwa's registration in order to mark the seriousness of his misconduct, and to maintain public confidence and uphold proper standards of conduct for the profession. It determined that a short period of suspension, 3 months, would be proportionate in the circumstances, to allow Dr Ebenuwa to develop full insight into his misconduct and mark the gravity of the misconduct.

21. The 2023 Tribunal considered that it may assist the reviewing Tribunal if Dr Ebenuwa provided:

- Evidence that he has maintained his medical knowledge and skills during the period of suspension, and completed the adequate number of CPD hours;
- A reflective piece detailing his insight into the impact of his actions on the public interest and public confidence in the medical profession by further reflection following the Tribunal's findings;
- Evidence from Dr Ebenuwa's mentor relating to his progress and adherence to his Development and Restoration Plan.

The Evidence

22. The Tribunal has taken into account all the evidence received.

23. The Tribunal received documentary evidence which included but was not limited to:

- Record of Determination of the 2023 MPT hearing, dated 8 to 15 September 2023;

- Dr Ebenuwa’s reflective statement, undated;
- Various CPD certificates and associated reflections;
- Dr Ebenuwa’s updated development and restoration plan; and
- A report from Dr C, Dr Ebenuwa’s mentor, dated 13 December 2023.

Submissions

24. On behalf of the GMC, Ms Kaye adopted a neutral position in relation to current impairment. She referred the Tribunal to the determinations of the 2023 Tribunal throughout her submissions and to relevant paragraphs of the Sanctions Guidance (2020) (‘the SG’).

25. Ms Kaye acknowledged that the 2023 Tribunal agreed that Dr Ebenuwa did not ‘*have far to go*’ in terms of fully developing his insight. She submitted that Dr Ebenuwa has provided a further reflective statement that expands upon his insight and addresses his return to work during the 28 day appeal period before his suspension took effect. Ms Kaye observed that the statement and Dr Ebenuwa’s insights appear to be focused and detailed, setting out not only commitments, but also the practical ways in which Dr Ebenuwa will deal with matters moving forward. Two full time doctors have been employed at the Practise to alleviate the workload, Dr Ebenuwa will reduce his own clinical sessions to allow him greater time to focus.

26. Ms Kaye submitted that there has been no repetition, that the GMC is aware of, since the events in 2021. Further, Dr Ebenuwa has provided evidence of additional CPD he has undertaken to maintain his skills and knowledge. Ms Kaye also referred the Tribunal to the letter from Dr C, who is acting as a mentor to Dr Ebenuwa. She submitted that this letter does not specifically address what the 2023 Tribunal had in mind, which was adherence to the development and restoration plan, it appears to be more general in terms of insight. She submitted that the risk to patients was previously acknowledged as low by the 2023 Tribunal and that this primarily was a case about public confidence as opposed to patient safety.

27. Ms Kaye submitted that there does not appear to be any evidence before the Tribunal today which would demonstrate or suggest that there is a risk to patient safety in the event of an application for early revocation of the suspension. She adopted a neutral position in relation to early revocation.

28. On behalf of Dr Ebenuwa, Mr Rawlinson submitted that Dr Ebenuwa has done all that was requested of him since the last hearing to demonstrate that he is no longer impaired. He submitted that Dr Ebenuwa is a good example of what happens when the interface between

a doctor and the regulator goes well and where a doctor truly learns lessons from the regulatory process.

29. Mr Rawlinson stated that the 2023 Tribunal had agreed that Dr Ebenuwa had very well developed insight at the last hearing, and submitted that his insight had developed further since. Mr Rawlinson submitted that this was primarily a public confidence case. Dr Ebenuwa has not '*sat on his laurels*' but has, as demonstrated by the evidence from his mentor and from Dr Ebenuwa himself, maintained progress and adhered to his development and restoration plan. Further there was clear evidence from the CPD certificates submitted that Dr Ebenuwa has kept his medical knowledge and skills up to date, as he should have done.

30. Mr Rawlinson submitted that Dr Ebenuwa has provided a genuine and authentic reflective piece which not only demonstrates the impact that this case has had upon him personally but also demonstrates the effect it has had on public confidence, following the negative response from patients on his return to work during the 28 day appeal period. He submitted that this was a good example of deterrence in action and why dishonesty is difficult to remediate. He submitted that Dr Ebenuwa has not shied away from those criticisms, although they were difficult comments to hear and difficult emotions to process. Dr Ebenuwa has done his best in the reflective piece to demonstrate how the difficult time experienced during the 28 day appeal period has helped his insight to deepen. Further, Dr Ebenuwa has set out how he effectively regards his remediation and his reflection as a continuous process and talks about his deepening and developing insight as a key feature. Mr Rawlinson submitted that Dr Ebenuwa spent some considerable time trying to process things that went wrong and why they will not go wrong again. Mr Rawlinson submitted that Dr Ebenuwa has also sought feedback from his colleagues and has a support network in place for the future.

31. Mr Rawlinson submitted that, in the circumstances, the Tribunal should also revoke the current order of suspension. He submitted that there is always a public interest in returning experienced and fully remediated doctors to unrestricted practice. It was his submission that Dr Ebenuwa deserves the opportunity to '*draw a line under this and move on with his career*' at this stage. Mr Rawlinson stated that there is no justification for allowing it to run another two weeks, which to some extent would be meaningless in light of the hard work that has been done.

The Relevant Legal Principles

32. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for Dr Ebenuwa to satisfy it that he would be safe to return to unrestricted practise.

33. This Tribunal must determine whether Dr Ebenuwa's fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal's Determination on Impairment

34. The Tribunal, in making its decision, referred to the various items that the 2023 Tribunal considered that this Tribunal would be assisted by.

35. The Tribunal first had regard to the findings of the 2023 Tribunal. It considered that it was important to recognise the seriousness of Dr Ebenuwa's misconduct, that had the potential to have seriously harmed a patient. It also acknowledged that the 2023 Tribunal had not made its findings based on patient safety concerns, but on grounds of public confidence and the gravity of the misconduct.

36. The Tribunal, having those factors in mind, went on to consider Dr Ebenuwa's insight and remediation. It noted the 2023 Tribunal's assessment of Dr Ebenuwa's insight, and took into consideration the further reflective statement he has provided to this Tribunal, in addition to the CPD certificates submitted, the development and restoration plan annotated with additional reflections, as well as Dr C's report.

37. The Tribunal first considered Dr Ebenuwa's reflective statement. It was clear to the Tribunal that Dr Ebenuwa has clearly been impacted by the events since the misconduct occurred, and has reflected on his actions. The Tribunal was of the view that his statement seemed to be a genuine reflection of his misconduct, the impact and the effects on public confidence.

38. The Tribunal also had regard to the CPD certificates presented. The Tribunal considered CPD undertaken was carefully chosen and targeted the issues identified by the 2023 Tribunal. Dr Ebenuwa provided reflections on these CPD courses to solidify his learning. The Tribunal also noted the updated development plan Dr Ebenuwa has provided. It took into

account that this plan was tailored to the specifics of the case and was of the view that this provided further reassurance that Dr Ebenuwa has learnt from his misconduct.

39. The Tribunal had regard to paragraph 164 of the SG:

‘164 *In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing. However, in most cases where a period of suspension is imposed, and in all cases where conditions have been imposed, the tribunal will need to be reassured that the doctor is fit to resume practice – either unrestricted or with conditions or further conditions. A review hearing is therefore likely to be necessary, so that the tribunal can consider whether the doctor has shown all of the following (by producing objective evidence):*

- a they fully appreciate the gravity of the offence*
- b they have not reoffended*
- c they have maintained their skills and knowledge*
- d patients will not be placed at risk by resumption of practice or by the imposition of conditional registration.’*

40. The Tribunal is satisfied that Dr Ebenuwa has fully appreciated the gravity of his misconduct and the impact this has had on public confidence. It particularly noted Dr Ebenuwa’s reflections on his return to work during the 28 day appeal period, and the negative response from patients who had learned of his misconduct, as set out in his reflective statement:

‘I believe that their behaviour was a reaction triggered by the disappointment they felt. The public holds the idea that doctors are above board in their character. They must be trustworthy, and patients must feel safe in their care. To the society, that’s what it means to be in a noble profession. Against the backdrop of these ideas, my behaviour caused a real concern to the public. They are rightly concerned that someone held in such respect would deviate so widely from set standards. They question my trustworthiness. I am sadly aware that this smears the general body of doctors and regulatory bodies. The more analytical public may ask the question, why

did this happen in the first instance and can we be reassured that there will be no recurrence? It might explain why there was an initial drop in the number of patients wanting to see me on my return to work. The public felt betrayed and had grounds for a loss of confidence in me, the practice and the profession. Even though I already felt bad and remorseful over my error, getting a sense of the emotional impact on the community served as a further deterrent from repeating a similar misconduct in the future.'

41. Having considered Dr Ebenuwa's written reflection and the remediation undertaken since the 2023 Tribunal, this Tribunal is satisfied that he now has sufficiently developed insight into his misconduct, is genuinely remorseful, and understands the seriousness and impact on the profession and the wider public.

42. The Tribunal took into account that there is no evidence of Dr Ebenuwa having repeated his misconduct since the matters came to light in 2022. Taking account of his developed insight and further learning, the Tribunal is satisfied that any risk of repetition is now negligible.

43. In terms of maintaining his medical skills and knowledge, the Tribunal noted the CPD undertaken by Dr Ebenuwa during his period of suspension, some of which related to aspects of practice. The Tribunal was satisfied that the short period of suspension was unlikely to have adversely affected Dr Ebenuwa's clinical skills or knowledge, and in any event, he has made efforts to maintain his clinical currency through relevant CPD.

44. Given Dr Ebenuwa's well-developed insight, remorse, and the learning and reflection he has undertaken by way of remediation, the Tribunal was satisfied that there was no risk to patient safety and concluded that he was fit to return to unrestricted practice.

45. This Tribunal has therefore determined that Dr Ebenuwa's fitness to practise is no longer impaired by reason of misconduct.

The current order of suspension

46. The substantive sanction of suspension imposed by the 2023 Tribunal remains in place until 19 January 2024. The Tribunal gave careful consideration as to whether it should revoke the order of suspension with immediate effect.

47. The Tribunal noted that in imposing a period of suspension on Dr Ebebuwa's registration, the previous Tribunal considered that a period of three months was appropriate. Such a period was needed for Dr Ebebuwa to complete his remediation, gain full insight into his conduct, to mark the seriousness of his misconduct and would be sufficient to maintain public confidence and uphold proper standards of conduct for the profession.

48. Having carefully considered all these factors, this Tribunal was of the view that it was not appropriate to revoke the current order of suspension as it would risk undermining the decision of the 2023 Tribunal, specifically in relation to maintaining public confidence in the profession.

49. The substantive order of suspension will remain in place until its expiry on 19 January 2024.

50. That concludes the case.