

PUBLIC RECORD

Dates: 23/03/2017 – 23/03/2017

Medical Practitioner's name: Dr Raghavan KADALRAJA

GMC reference number: 5196983

Primary medical qualification: MB BS 1989 Gulbarga

Type of case **Outcome on impairment**

Review - Misconduct Impaired

Summary of outcome

Erasure

Tribunal:

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| Legally Qualified Chair | Mrs Claire Sharp |
| Lay Tribunal Member: | |
| Medical Tribunal Member: | Mr Mike Hayward, Mr Ghulam Mufti |
| | |
| Tribunal Clerk: | Miss Kate James |

Attendance and Representation:

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|--|---------------------------------|
| Medical Practitioner: | Not present and not represented |
| Medical Practitioner's Representative: | No representation |
| GMC Representative: | Mr Chris Hamlet, Counsel |

Attendance of Press / Public

The hearing was all heard in public.

Determination on Impairment - 23/03/2017

Mr Hamlet:

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Service

1. Dr Kadalraja is neither present nor represented at this hearing. The tribunal has considered your submission, on behalf of the General Medical Council ('GMC'), that notification of this hearing has been properly served upon him.
2. The tribunal noted that Dr Kadalraja was first informed of the date of today's hearing in a letter dated 22 November 2016, which was sent to his registered address. A further letter dated 28 November 2016 indicated that the hearing date was set for 23 March 2017. Further letters with details of the hearing were sent to Dr Kadalraja's registered address on, 9 January 2017, 17 January 2017 and 30 January 2017. Dr Kadalraja has not responded to any of the correspondence.
3. The GMC's information letter dated 30 January 2017 was sent by recorded delivery to Dr Kadalraja's registered address. The tribunal noted the tracking document indicating that attempted delivery of the item was made on 1 February 2017, but was returned to sender. A Notice of Hearing dated 15 February 2017 was sent by recorded delivery to Dr Kadalraja's registered address. The tribunal noted the tracking document which indicated that attempted delivery of the item was made on 16 February 2017, but again was returned to sender.
4. Having regard to the information provided, the tribunal was satisfied that the GMC has produced evidence which demonstrates that notification of this hearing has been properly served upon Dr Kadalraja in accordance with Rules 15, 20 and 40 of the GMC (Fitness to Practise) Rules 2004 ('the Rules').

Proceeding in absence

5. Pursuant to Rule 31, you invited the tribunal to proceed in the absence of Dr Kadalraja. You stated that Dr Kadalraja had disengaged with the GMC process, and said this should not be a reason for the tribunal to adjourn these proceedings of its own volition.
6. The tribunal has borne in mind that the discretion to proceed in the absence of Dr Kadalraja should be exercised with the utmost care and caution. It also bore in mind the need to balance Dr Kadalraja's interests with the public interest.
7. The tribunal was satisfied that it was appropriate to proceed with the hearing in Dr Kadalraja's absence. The tribunal noted Dr Kadalraja has not sought an adjournment of this hearing, nor is there any information to indicate that he has sought legal representation. The tribunal considered that no useful purpose would be achieved by adjourning matters today, and that any such adjournment would not increase the likelihood of the Dr Kadalraja's attendance at a future hearing. In reaching its decision, it had regard to the issue of fairness to Dr Kadalraja, as well as

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fairness to the GMC and its duty to ensure the proper and expeditious discharge of its regulatory function in the public interest.

8. Having reached this decision, the tribunal wished to make it clear that it drew no adverse inference from Dr Kadalraja's absence and that it recognised the need to give Dr Kadalraja a fair hearing despite his absence.

Background

9. Dr Kadalraja's case was considered by a Medical Practitioners Tribunal in September 2016 (the 2016 tribunal). The allegations before that tribunal concerned Dr Kadalraja's treatment of four patients whilst he was working as a Consultant Paediatrician at Bedford Hospital NHS Foundation Trust.

10. The 2016 tribunal found that Dr Kadalraja had not admitted Patient A for a period of continued observation and discharged the patient without any safety-netting.

11. The 2016 tribunal found that Dr Kadalraja's care of Patient B to be a serious departure from his duties under Good Medical Practice (GMP). The 2016 tribunal found that Dr Kadalraja left a junior doctor responsible for the care and management of Patient B, and considered that he should have attended and personally reviewed Patient B much sooner.

12. It found the allegations regarding Patient C not proved.

13. In relation to Patient D, the 2016 tribunal found that Dr Kadalraja failed to provide good clinical care and that he failed to attend and assess Patient D's clinical status. The tribunal determined that Dr Kadalraja's failure to attend and assess Patient D amounted to a failure to provide good clinical care.

14. In all the circumstances, the 2016 tribunal concluded that Dr Kadalraja's failure to provide good clinical care and failure to appropriately supervise and support junior colleagues amounted to serious misconduct. As Dr Kadalraja had failed to attend the 2016 hearing and provide any up-to-date evidence to demonstrate that he had full insight and had remediated his misconduct, the 2016 tribunal could not be satisfied that he had adequately addressed his failings. The 2016 tribunal concluded that Dr Kadalraja presented a risk to the public and determined that his fitness to practise was impaired by reason of his misconduct.

15. The 2016 tribunal bore in mind its conclusions in relation to Dr Kadalraja's insight and potential to remediate his failings and determined that a period of suspension would appropriately achieve the over-arching objective. It determined

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that a six month period of suspension would allow Dr Kadalraja sufficient time to take the necessary steps to show how he had remediated his failings.

16. The 2016 tribunal considered that a reviewing tribunal would be assisted by receiving the following evidence:

- Evidence of any steps taken to obtain mentoring and/or educational guidance to assist in the remediation of the deficiencies identified in this case
- A Personal Development Plan demonstrating how Dr Kadalraja will remedy his deficiencies including:
- Evidence of steps taken to remedy the deficiencies found in this case including:
 - a. Courses undertaken and online learning
 - b. Reflective notes to show the development of insight into the events surrounding Dr Kadalraja's involvement with Patients A, B and D, and the findings of the tribunal
 - c. A full awareness of the principles of *Good Medical Practice*, particularly the *Leadership and Management for all doctors* document 2012, referred to within the impairment decision. This should be evidenced by reflective statements
- Recent references and/or testimonials that attest to Dr Kadalraja's insight and remediation
- Evidence of steps taken to keep skills and knowledge up-to-date
- Any other relevant evidence that Dr Kadalraja thinks may assist the tribunal

Today's Review Hearing

17. This tribunal has been tasked with reviewing Dr Kadalraja's case. It has considered whether his fitness to practise is currently impaired. In doing so, the tribunal has carefully considered all the documentary evidence placed before it, together with the submissions made by you on behalf of the GMC.

Evidence

18. On 22 November 2016, the GMC wrote to Dr Kadalraja inviting him to provide an update on any activities he had been involved in to keep his clinical knowledge and skills up to date, whether he had developed a Personal Development Plan and whether he had written reflective notes to show the development of insight into the findings of the 2016 tribunal. The GMC wrote again to Dr Kadalraja on 28 November

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2016, providing him a further opportunity to provide the information as requested in the letter of 22 November 2016. No correspondence has been received from Dr Kadalraja in relation to these requests.

Submissions on Impairment

19. On behalf of the GMC, you said that a number of letters had been sent by the GMC to Dr Kadalraja reminding him of the evidence that a reviewing tribunal would be assisted by. You stated that the 2016 tribunal imposed a 6 months period of suspension in order for Dr Kadalraja to engage and begin the process of remediation. You submitted that Dr Kadalraja had not taken any positive steps to address the concerns and said that therefore the risks the 2016 tribunal identified still remained. You further submitted that Dr Kadalraja's fitness to practise remained impaired by reason of his misconduct.

The Tribunals' Decision

20. The issue of whether Dr Kadalraja's fitness to practise is currently impaired is one for the tribunal to determine, exercising its own judgement, having regard to all the evidence and bearing in mind the Legally Qualified Chair's advice. The tribunal has taken into account the public interest, which includes the need to protect patients, to promote and maintain public confidence in the profession, and to promote and maintain proper professional standards of conduct and behaviour. The tribunal reminded itself that the persuasive burden is on Dr Kadalraja to demonstrate today that he has taken all the necessary steps to address the concerns raised in this case.

21. In reaching its decision the tribunal has considered, amongst other matters, whether there is evidence of remediation, whether there is evidence of insight and the risk of repetition.

22. The tribunal has taken into account Dr Kadalraja's disengagement with his regulator and its processes. The tribunal noted that, to date, Dr Kadalraja has not replied to any of the GMC correspondence, nor has he engaged with the proceedings today.

23. The tribunal bore in mind the failings previously identified by the 2016 tribunal in relation to the clinical care Dr Kadalraja provided to a number of patients and his failure to appropriately supervise and support junior doctors. The present tribunal was satisfied that the failings previously identified represented serious misconduct and were serious departures from GMP.

24. The misconduct found by the 2016 tribunal is not easily remediable in the view of the present tribunal, as it requires considerable work to be undertaken by Dr Kadalraja. The present tribunal was particularly concerned by Dr Kadalraja's email

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dated 16 September 2015, where he stated he '*would like to retrain in 1) recognising a sick child*'. It noted Dr Kadalraja was a Consultant Paediatrician and could reasonably be expected to recognise such a patient.

25. The present tribunal noted the findings of the 2016 tribunal that Dr Kadalraja had limited insight into his failure to provide good clinical care, but he had not shown any insight in relation to the failure to appropriately supervise and support junior staff. Given the lack of any further evidence from Dr Kadalraja to the present tribunal, it concluded that there had been no further development of meaningful insight in either regard.

26. No evidence has been submitted by Dr Kadalraja for the purposes of this hearing. The present tribunal has no evidence regarding the status of his current medical knowledge or skills, or Continuing Professional Development.

27. The tribunal noted that Dr Kadalraja has not worked as a doctor for over two years, and that there is no evidence before it that he has kept his clinical knowledge and skills up to date. As no such evidence has been provided by Dr Kadalraja, the tribunal concluded it would be likely that there would be a repetition of the misconduct if it were not to make a finding of impairment today.

28. Accordingly, and in all the circumstances, the tribunal has concluded that Dr Kadalraja's fitness to practise remains impaired by reason of his misconduct.

Determination on Sanction - 23/03/2017

Mr Hamlet:

1. Having determined that Dr Kadalraja's fitness to practise is impaired by reason of his misconduct, the tribunal has now considered what action, if any, it should take with regard to his registration.

2. In so doing, the tribunal has given careful consideration to all the evidence adduced, including the submissions made by you on behalf of the GMC.

GMC Submissions

3. You stated the tribunal had found in its determination on impairment that Dr Kadalraja had limited insight into his failure to give good clinical care to patients and had showed no insight in relation to his failure to supervise junior colleagues. You said that the tribunal had identified that there remained a risk of repetition of his misconduct.

4. You submitted that it would be entirely inappropriate to impose conditions on Dr Kadalraja's registration. You said Dr Kadalraja had completely disengaged with

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the process, and that as a result, there was no practicable basis that he would respond positively to conditions. You submitted that as the tribunal was not aware of his current employment situation, there were no conditions which could be formulated, or would be workable.

5. You stated that the 2016 tribunal had given Dr Kadalraja the opportunity to address the issues. You said the present tribunal was not facing a situation where Dr Kadalraja had requested more time to fully achieve remediation, but that it was facing a situation where Dr Kadalraja had failed to engage with the process at all. You submitted that going forward, the tribunal could have no confidence that Dr Kadalraja would engage and positively respond to a further opportunity for remediation, if it were to impose a further period of suspension.

6. You stated that in the absence of any evidence over the last 6 months, it could not be said for certain that Dr Kadalraja had sought to pursue an alternative career. You submitted that as Dr Kadalraja had chosen to disengage with the process, erasure was now the only viable and appropriate option in order to protect patients and public confidence in the profession.

The Tribunal's approach

7. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this tribunal exercising its own judgement.

8. In reaching its decision, the tribunal has taken account of the Sanctions Guidance (July 2016) ('the SG'). It has borne in mind that the purpose of the sanctions is not to be punitive, but to protect patients and the wider public interest, although they may have a punitive effect.

9. Throughout its deliberations, the tribunal has applied the principle of proportionality, balancing Dr Kadalraja's interests with the public interest. It has taken account of the over-arching objective, which includes the protection of the public, the maintenance of public confidence in the profession, and the promoting and maintaining of proper professional standards and conduct for members of the profession.

10. The tribunal has already given a detailed determination on impairment and it has taken those matters into account during its deliberations on sanction.

No Action

11. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Kadalraja's case the tribunal first considered whether to conclude the case by taking no action. The tribunal determined that in view of the serious nature of the tribunal's findings on impairment and absence of any exceptional circumstances, it

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would be neither sufficient, proportionate nor in the public interest, to conclude this case by taking no action.

Conditions

12. The tribunal next considered whether it would be sufficient to impose conditions on Dr Kadalraja's registration. It has borne in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable.

13. The tribunal was not satisfied that appropriate conditions could be devised that would protect the public and maintain public confidence in the medical profession. Given Dr Kadalraja's failure to provide the evidence suggested by the 2016 tribunal, or any evidence at all, the present tribunal could not be assured that Dr Kadalraja had developed sufficient insight to make conditions workable. The tribunal was not satisfied that a period of conditional registration would adequately reflect the serious nature of the unremediated concerns regarding Dr Kadalraja's clinical care of three patients and failure to support junior medical staff when required to do so.

14. The tribunal therefore determined that it could not formulate a set of appropriate, proportionate, workable and measurable conditions in this case.

Suspension

15. The tribunal then went on to consider whether to suspend Dr Kadalraja's registration for a further period.

16. The tribunal was mindful that Dr Kadalraja has already been suspended for 6 months. During this time, despite repeated requests, he has not provided any evidence which would suggest that he has made progress in addressing or acquiring insight into the clinical concerns; indeed he has not answered any of the communications from the GMC or MPTS. Furthermore, the tribunal is aware that Dr Kadalraja has not been in clinical practice for over 2 years and has failed to provide any objective evidence which would indicate that he has kept his clinical skills and knowledge up to date during his period of suspension. The tribunal finds no evidence that the issues have been addressed by the doctor and is concerned that his de-skilling may have worsened during this period of time when he has been suspended.

17. The tribunal noted the 2016 tribunal's determination to impose a period of suspension for 6 months to allow Dr Kadalraja sufficient time to take the necessary steps.

18. Dr Kadalraja has not made use of this opportunity. The tribunal has concluded that Dr Kadalraja's lack of engagement with the regulatory process, and

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the absence of sufficient evidence to demonstrate remediation show that he does not have adequate insight into the actions that brought him before his professional regulator.

19. The only mitigating factor found by the tribunal was the letter from Dr Kadalraja's legal representatives dated 7 July 2014, and his email of 16 September 2015, which showed some acceptance of the concerns raised. The tribunal concluded that the failure to attempt to remediate following the 2016 tribunal, or to engage with the GMC, or to show remorse, combined with the reckless disregard for the duties of 'consultant for the week in paediatrics' in Patient D's case, to be aggravating factors.

20. The tribunal weighed the public interest in being treated safely against Dr Kadalraja's interest in being permitted to practise medicine. Given the absence of any remediation, despite the clear recommendations of the 2016 tribunal, the tribunal has determined that suspension is no longer sufficient nor appropriate.

Erasure

21. The tribunal has therefore concluded that erasure is the proportionate and appropriate sanction. In so doing it has had regard to paragraph 103 of the SG which outlines when erasure may be the appropriate sanction. It determined that the following features are engaged in this case:

'Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).

b A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.

j Persistent lack of insight into the seriousness of their actions or the consequences.'

22. The tribunal notes that in May 2013, Dr A, Medical Director, to the Consultant Paediatricians including Dr Kadalraja at Bedford Hospital, stated in a letter *'If a junior doctor requests an immediate review of a patient, it will happen'*. The 2016 tribunal found that Dr Kadalraja had breached this guideline in June 2013 in relation to Patient D, and this followed recent failings in relation to the care he provided to Patient B. The present tribunal considers this breach to be a reckless disregard for patient safety and Good Medical Practice, as is his persistent failure to engage with the regulator.

23. The tribunal reached the conclusion that Dr Kadalraja demonstrated a persistent lack of insight into the seriousness of his misconduct, and his failure to

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submit any evidence that he had taken advantage of the opportunity the 2016 tribunal had given him.

24. As a consequence, the tribunal is satisfied that erasure is the proportionate and appropriate sanction in this case and the minimum required to protect patients and the public interest. These proceedings act as a safeguard to protect members of the public and to uphold high standards within the profession. The tribunal therefore determined that erasure is also necessary in order to uphold public confidence in the medical profession. It is, in all the circumstances of this case, the only sanction that will address the concerns identified by the tribunal.

25. The effect of this direction is that, unless Dr Kadalraja exercises his right of appeal, his name will be erased from the Medical Register with effect from 28 days from when written notice of this determination has been served upon him. The suspension currently in place on his registration will remain until the appeal period has ended, or in the event that Dr Kadalraja does appeal, that appeal is decided.

26. This concludes the case.

Confirmed

Date 23 March 2017

Mrs Claire Sharp, Chair