Record of Determinations –
Medical Practitioners Tribunal

PUBLIC RECORD

Date: 01/08/2019 & 06/08/2019

Medical Practitioner’s name: Dr Inigo IRUSKIETA BLASCO

GMC reference number: 3503135

Primary medical qualification: LMS 1990 Basque Provinces

Type of case: Outcome on impairment

Review - Misconduct

Impaired

Summary of outcome
Suspension, 12 months.

Review hearing directed

Tribunal:

<table>
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<tr>
<th>Legally Qualified Chair</th>
<th>Mrs Fiona Barnett</th>
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<tr>
<td>Lay Tribunal Member:</td>
<td>Mr Andrew Waite</td>
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<td>Medical Tribunal Member:</td>
<td>Mrs Deborah McInerny</td>
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| Tribunal Clerk: | Mr Michael Murphy |

Attendance and Representation:

<table>
<thead>
<tr>
<th>Medical Practitioner:</th>
<th>Present and not represented</th>
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<tr>
<td>GMC Representative:</td>
<td>Mr Tom Broomfield, Counsel, instructed by GMC legal - 01/08/2019 Mr Tom Orpin-Massey, Counsel, instructed by GMC legal - 06/08/2019</td>
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Attendance of Press / Public

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

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
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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 - 06/08/2019

1. 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 Blasco’s fitness to practise remains impaired by reason of his misconduct.

Background

2. The Tribunal does not intend to rehearse the full background of Dr Blasco’s case, but had regard to the determinations of the previous Medical Practitioner’s Tribunal ("the first Tribunal") which considered Dr Blasco’s case in July 2018. In summary, Dr Blasco was a GP partner of Dr A at the Practice. In 2012, inconsistencies were raised regarding computer entries made by Dr Blasco in relation to asthma reviews where it did not appear that he had seen the patients prior to making the entries. A patient at the practice also made a formal complaint to Dr A in 2014 regarding a computer-generated report signed by Dr A which stated that the patient had depression and had been taking anti-depressants, which had impacted upon a claim for life-insurance. Upon further investigation Dr A found that Dr Blasco had made a bulk computer entry diagnosing depression in multiple patient records when he had not seen the patients. NHS England subsequently commissioned an audit of Dr Blasco’s entries on patient records in relation to Quality and Outcomes Framework (QOF) indicators on the Practice’s SystmOne database.

3. The first Tribunal found that Dr Blasco had made a number of bulk computer entries, in which he had entered diagnoses for large numbers of patients when he had not examined the patients and knew that he had not done so. These included diagnoses for chronic kidney disease, obesity, and depression. He had also inputted asthma reviews and medication reviews when he had not seen the patients. The first Tribunal found that Dr Blasco failed to provide good clinical care to a number of these patients and had acted dishonestly in relation to the bulk computer entries. The first Tribunal found that Dr Blasco was not primarily motivated by financial gain, however the Practice would have made a financial gain as a result of his actions. It found that his actions amounted to misconduct and that his fitness to practise was impaired by reason of his misconduct. It decided that whilst Dr Blasco might not try to make another bulk entry in future, it was not satisfied that he fully understood the potential impact on patients, the effort needed to undo the bulk entries, or the dishonesty or lack of integrity involved. The first Tribunal decided that Dr Blasco had not taken any steps to remediate either his failure to provide clinical care, or his dishonest behaviour. It could not be satisfied that there was no risk of repetition, and found that there were ongoing risks to patient safety and to the reputation of the medical profession.
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4. The first Tribunal determined that Dr Blasco’s registration should be suspended for a period of 12 months. It was satisfied that a period of suspension would protect the public, preserve the reputation of the profession, maintain public confidence in the profession and send out a signal that dishonesty by a member of the medical profession is wholly unacceptable. The first Tribunal was of the view that a period of suspension for 12 months would be sufficient to enable Dr Blasco to reflect on its findings and consider how he could demonstrate to a future reviewing Tribunal that he has reflected upon the issues raised regarding the accurate and timely recording of clinical findings, and the issues of honesty and probity as a medical professional.

5. The first Tribunal stated that the next Tribunal reviewing this case may be assisted by the following:

- A written statement outlining his reflections on his dishonest conduct relating to bulk entries and how his conduct that may be perceived by patients at the medical practice, the public, and members of the medical profession;
- Evidence of any training undertaken, particularly if it relates to the issues raised in the hearing, for example, the accurate and timely recording of clinical findings;
- A written statement outlining his reflections on his training undertaken;
- Evidence that he has undertaken Continuing Professional Development in his area of practice, such as training, seminars, workshops, courses and online study.

The Evidence

6. The Tribunal has taken account of all the evidence before it. This included evidence of continuing professional development ("CPD") provided by Dr Blasco, and his oral evidence. In summary, during his oral evidence, Dr Blasco referred to the dispute between himself and his GP partner. He said that Dr A knew about the bulk entries and should have told him that such entries were wrong. He told the Tribunal that his own computer skills were poor, and his wrongdoing was in using the computer to make bulk entries when he did not fully understand how to use the computer system. Dr Blasco acknowledged that the Tribunal had made findings of dishonesty against him but maintained that he had not been dishonest. He said that what he had done was wrong and ‘stupid’, but it was not voluntarily dishonest. He told the Tribunal that he is a ‘good person’ who makes many charitable donations. Dr Blasco referred the Tribunal to his CPD evidence and said that he always maintains his CPD because of his love of medicine.

Submissions

7. On behalf of the GMC, Mr Broomfield submitted that no evidence has been presented to suggest that Dr Blasco’s fitness to practise is no longer impaired. He reminded the Tribunal of the concerns raised at the previous hearing relating to Dr
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Blasco’s level of insight and stated that these still remain. Mr Broomfield submitted that there remains a risk to patients and the reputation of the medical profession because a finding of impairment can not be remediated by the passage of time and that tangible proof is required to demonstrate remediation.

8. Mr Broomfield stated that Dr Blasco chose not to attend a course on record keeping and that he blames another doctor and his own lack of computer skills for his misconduct. He reminded the Tribunal that Dr Blasco does not accept that he acted dishonestly and submitted that he remains impaired by reason of misconduct.

9. Dr Blasco submitted that he disagrees with the GMC submission that he is impaired. He informed the Tribunal that he has been punished enough and that there is no risk of repetition as he will never make another bulk entry. He informed the Tribunal that in the future, if he does not have the knowledge to complete a task, then he will not do it.

10. Dr Blasco submitted that he is an asset as there is a current shortage of GP’s. He said that he does have insight.

The Relevant Legal Principles

11. The Tribunal reminded itself that the decision on impairment is a matter for the Tribunal in its own judgement. At a review hearing, there is a persuasive burden on the Doctor to satisfy the Tribunal that he is safe to return to unrestricted practice. The Tribunal referred to paragraph 164 of the Sanctions Guidance, which states that at a review hearing, the Tribunal should consider whether the Doctor has shown, by producing objective evidence, that:

- They fully appreciate the gravity of the offence;
- They have not re-offended;
- They have maintained their skills and knowledge;
- Patients will not be placed at risk by resumption of practice, or by the imposition of conditional registration.

12. The Tribunal also reminded itself of the case of Yussuf v GMC 2018 EWHC 13 (Admin), in which Mrs Yip J stated:

'I conclude having reviewed all the relevant authorities that at a review hearing:

a. The findings of fact are not to be reopened;

b. The registrant is entitled not to accept the findings of the Tribunal;
c. In the alternative, the registrant is entitled to say that he accepts the findings in the sense that he does not seek to go behind them while still maintaining a denial of the conduct underpinning the findings;

d. When considering whether fitness to practise remains impaired, it is relevant for the Tribunal to know whether or not the registrant now admits the misconduct;

e. Admitting the misconduct is not a condition precedent to establishing that the registrant understands the gravity of the offending and is unlikely to repeat it;

f. If it is made apparent that the registrant does not accept the truth of the findings, questioning should not focus on the denials and the previous findings;

g. A want of candour and/or continued dishonesty at the review hearing may be a relevant consideration in looking at impairment.’

The Tribunal’s Determination on Impairment

13. Dr Blasco had not complied fully with the recommendations of the first Tribunal in that he had not produced written statements outlining his reflections on his dishonest conduct and his reflections on the training he has undertaken. However, these are recommendations only and are not mandatory requirements. Dr Blasco explained to the Tribunal why he had not fully complied, XXX and chose to give oral evidence, which gave him the opportunity to provide the Tribunal with his reflections in this way.

14. Dr Blasco made clear during his evidence that whilst he acknowledges that the first Tribunal found him to have acted dishonestly in making the bulk computer entries, he does not accept that he was dishonest. The Tribunal bore in mind that in accordance with the principles set out by Mrs Yip J in the case of Yussuf v GMC, admitting the misconduct is not a condition precedent to establishing that the doctor understands the gravity of the offending and is unlikely to repeat it. However, having heard Dr Blasco’s evidence, the Tribunal could not be satisfied in any event that he fully understood the gravity of his offending. It reached this conclusion for a number of reasons which were as follows:

• Dr Blasco continued to deflect some of the blame for his actions onto Dr A, whom he said was aware that he was making bulk computer entries but took no action to stop him from doing so;

• He maintained that his wrongdoing was in using the computer to make bulk entries when he did not have the appropriate computer skills to do this. This led
the Tribunal to conclude that he does not yet fully recognise what he has done wrong, and has not fully understood the findings of the first Tribunal;

• He told the Tribunal that he had made a list of the patients involved in the bulk entries and that he had given this to the reception staff who were supposed to call the patients to attend the practice at a later date, but this did not happen. This suggested to the Tribunal that Dr Blasco was minimising his misconduct;

• Dr Blasco was questioned by Mr Broomfield and by the Tribunal about the significance from an ethical perspective of the false/inaccurate patient records which resulted from his bulk entries. He did not provide any direct answer about the ethical issues arising from a false record. The Tribunal could only conclude from his responses that either he did not understand the potential ethical issues, or did not wish to accept that his actions were unethical;

• Dr Blasco was questioned by Mr Broomfield and by the Tribunal about the likely consequences/implications for a patient who had a false diagnosis in his/her medical record. Dr Blasco did accept that there could be repercussions if the patient saw a different GP, but was unable to explain what the consequences could be from a general wider perspective. When questioned, he tried to give specific clinical examples, each of which justified his position that there would be no adverse consequences for the patient(s).

15. Overall, the Tribunal’s view was that Dr Blasco showed very limited understanding of the findings of the first Tribunal and of what he has done wrong. He minimised his misconduct and seemed to have no appreciation that the bulk entries he had made damaged the integrity of the clinical records and gave rise to potentially wide-ranging consequences for the patients involved. Dr Blasco maintained that he had insight into his misconduct and assured the Tribunal that he will never make another bulk entry. However, this was an assertion that he made at the first hearing. This Tribunal heard nothing new from Dr Blasco to persuade it that he fully understood the significance and consequences of the bulk entries he made in patient records when he had not examined the patients. It received no evidence, either oral or documentary, to persuade it that Dr Blasco’s insight into the misconduct has developed since the initial hearing.

16. The Tribunal also considered Dr Blasco’s CPD evidence to ascertain whether he has maintained his skills and knowledge during his suspension. It was apparent that Dr Blasco has attended a number of CPD meetings, courses and conferences covering subjects which are relevant to general practice. He said he attends these courses because of his genuine love of medicine, which the Tribunal accepted. However, Dr Blasco has not attended mandatory basic life support and safeguarding courses, and agreed that he has not attended any courses which are specifically relevant to the findings of the first Tribunal. He has also not undertaken any clinical attachments during the period in which he has not been practising as a doctor.
17. The first Tribunal said that Dr Blasco has taken limited steps to remediate either his failure to provide clinical care, or his dishonest behaviour; it could not be satisfied at that time that there was no risk of future repetition. This Tribunal concluded that the position remains the same. Dr Blasco has taken limited steps to remediate his misconduct, does not truly understand it or appreciate the gravity of it, and has not developed his insight to any meaningful extent. Consequently, in spite of his assertions that he will never again make another bulk entry, the Tribunal could not rule out that some form of similar conduct could occur in future. Dr Blasco told the Tribunal that he has been punished enough and should now be allowed to return to practice. However, the fact that he has suffered a period of suspension is not of itself proper justification to allow a return to work when his insight has not fully developed, he does not appreciate the gravity of his misconduct, and little remediation has taken place.

18. The Tribunal therefore concluded that Dr Blasco’s fitness to practise is still impaired by reason of his misconduct. This finding is necessary to protect and promote the health, safety and well-being of the public and to promote and maintain public confidence in the medical profession.

**Determination on Sanction - 06/08/2019**

1. Having determined that Dr Blasco’s fitness to practise remains impaired by reason of his misconduct, the Tribunal now has to decide in accordance with Rule 22(1)(h) of the Rules on the appropriate sanction, if any, to impose.

**The Evidence**

2. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

**Submissions**

3. On behalf of the GMC, Mr Orpin-Massey submitted that, as Dr Blasco is not currently practising medicine, a sanction of conditions would not be workable. He submitted that the appropriate sanction was one of suspension due to the seriousness of Dr Blasco’s misconduct and the lack of progress he has made since his first MPT hearing. Mr Orpin-Massey stated that Dr Blasco should be given sufficient time to address the issues raised by the Tribunal so that he can present evidence of this at a review hearing.

4. Dr Blasco explained to the Tribunal that he had always maintained that the bulk entries he made to patient records could be rectified very quickly. He submitted that this meant he had insight into his misconduct.
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The Tribunal’s Determination on Sanction

5. The decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgement.

6. In reaching its decision, the Tribunal has taken account of the Sanctions Guidance (2018) (SG) and Good Medical Practice (2013) (GMP). It has borne in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it may have a punitive effect.

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

No Action

8. In reaching its decision as to the appropriate sanction, if any, to impose in this case, the Tribunal first considered whether to conclude the case by taking no action.

9. The Tribunal concluded, in the light of its findings on impairment, that taking no action would not be sufficient to uphold the statutory overarching objective.

Conditions

10. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Blasco’s registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable. The Tribunal had regard to paragraphs 81 to 84 of the SG.

11. The Tribunal reminded itself that the misconduct needs to be remediably in order for conditions to be workable and appropriate. Dishonesty can be difficult to remEDIATE but it is not necessarily impossible. However, the Tribunal decided that conditions would not be appropriate for the following reasons:

- Dr Blasco has limited insight into the nature of his misconduct and its implications for patients;
- The issues before the Tribunal do not relate to a specific area of Dr Blasco’s practice which is in need of assessment or training. The issues are essentially behavioural and not clinical;
- Even if the Tribunal was able to formulate appropriate conditions, its view was that conditions would not be sufficient at this time to uphold the statutory overarching objective given that there were several instances of dishonest behaviour.
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Suspension

12. The Tribunal then went on to consider whether imposing a period of suspension on Dr Blasco’s registration would be appropriate and proportionate. It noted that Dr Blasco has acknowledged fault to some degree but has not acknowledged that he was dishonest.

13. The Tribunal had regard to paragraph 97 of the SG, which states:

‘97) Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.

a) A serious breach of Good medical practice, but where the doctor’s misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors...

...g) The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.’

14. Dr Blasco’s misconduct amounted to a serious breach of GMP. He was dishonest on several occasions and has not developed his insight into his misconduct to any meaningful degree since his first hearing. The Tribunal’s view, as set out in its decision on impairment, is that it could not rule out the risk of similar misconduct being repeated. However, its view was that whilst there was a residual risk of repetition, this was not a significant risk. The Tribunal also bore in mind the finding of the previous Tribunal that Dr Blasco’s misconduct was not fundamentally incompatible with continued medical registration. As the position has not changed for today’s hearing, this Tribunal remains satisfied that his misconduct is still not fundamentally incompatible with continued registration at this stage. The Tribunal’s view was that any sanction less than suspension would be insufficient taking account of Dr Blasco’s serious breaches of GMP. However, it decided that complete removal from the medical register would be disproportionate at this stage.

15. The Tribunal therefore determined that a further period of suspension would be an appropriate and proportionate sanction. A suspension would uphold the statutory overarching objective whilst at the same time, it would provide Dr Blasco with a further opportunity to develop his insight into his misconduct and to understand the implications of that misconduct for patients and for the integrity of the patient records.

16. In considering the appropriate period of suspension, the Tribunal was aware that the maximum period of suspension is 12 months. It determined that a suspension for a period of 12 months was required to uphold the statutory overarching objective, to
ensure that Dr Blasco has adequate time to develop his understanding of the findings of dishonesty and to allow him time to remediate it fully. The Tribunal bore in mind that very limited progress has been made by Dr Blasco in his initial 12 month suspension and consequently its view was that a period of less than 12 months would be insufficient.

17. Shortly before the end of the period of suspension, Dr Blasco’s case will be reviewed by a Medical Practitioners Tribunal. The Tribunal wished to re-iterate to Dr Blasco that at a review hearing there is a persuasive burden on him to satisfy the Tribunal that his fitness to practise is no longer impaired. If he wishes to rely on objective evidence to support his case, then it is up to him to present this evidence to the Tribunal. A letter will be sent to him about the arrangements for the review hearing. At the next hearing, the review Tribunal will be assisted by the following:

- A written statement from Dr Blasco outlining his reflections in relation to:
  a) His dishonest conduct in deliberately entering false diagnoses in patient records when he knew that he had not seen the patients
  b) The potential consequences for those patients who had false diagnoses entered into their records;
  c) The ethical issues arising from his misconduct;

- Evidence of any training undertaken, particularly if it relates to the issues raised in the findings of the first Tribunal, for example, the accurate and timely recording of clinical findings;
- A written statement outlining his reflections on his training undertaken;
- Evidence that he has undertaken Continuing Professional Development in his area of practice, such as training, seminars, workshops, courses and online study;
- Any other relevant evidence he wishes to present to assist the reviewing Tribunal such as any relevant testimonials, references or reports from any clinical attachment or observation he may have undertaken.

18. The effect of the foregoing direction is that, unless Dr Blasco exercises his right of appeal, his registration will be suspended 28 days from the date on which written notice of this decision is deemed to have been served upon him. A note explaining his right of appeal will be sent to him.

19. That concludes the case.
ANNEX A – 01/08/2019

Adjournment determination

1. The Tribunal found, having heard the evidence and submissions, that it had insufficient time to conclude the hearing.

2. It has identified 1 day on 6 August 2019 when it can return to consider the remainder of the case.

3. Dr Iruskieta Blasco and the GMC had no objection to this.

4. The Tribunal noted that Dr Iruskieta Blasco’s current suspension is due to expire on 22 August 2019 and that this is after the date set for the hearing to reconvene. It therefore did not exercise its powers to extend the order of suspension at this stage.

5. Case adjourned part heard.