Record of Determinations – Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 07/10/2019 - 10/10/2019

Medical Practitioner’s name: Dr Kuraya RAMASWAMY also known as Dr SWAMY

GMC reference number: 5173594

Primary medical qualification: MB BS 1988 Mangalore University

Type of case
New - Misconduct

Outcome on impairment
Impaired

Summary of outcome
Erasure

Tribunal:

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<th>Legally Qualified Chair</th>
<th>Mr Neil Mercer</th>
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<td>Medical Tribunal Member:</td>
<td>Dr Stephen Duxbury and Dr Alexandra McMillan</td>
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Attendance and Representation:

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<td>Medical Practitioner’s Representative:</td>
<td>Mr Lee Gledhill, Counsel instructed by Doctors Defence Service</td>
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<td>GMC Representative:</td>
<td>Ms Chloe Hudson, Counsel</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 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 Facts - 08/10/2019

Background

1. Dr Ramaswamy qualified in 1990 from Mangalore University, India. At the time of the events Dr Ramaswamy owned and worked as the director of Dr Swamy Plab Courses Limited, a post he held from February 2016 until he applied for its closure. Since June 2019 Dr Ramaswamy has held the position of Teacher and Director at Dr Swamyplab Courses and Recruitment Limited, a Company he recently formed, where he teaches medical topics to international medical graduates taking the PLAB exam.

2. The allegation that has led to Dr Ramaswamy’s hearing can be summarised as that whilst working as a director of Dr Swamy Plab Courses Limited, Dr Ramaswamy placed an advert stating that his Company had a 100% pass rate in the PLAB 2 tests, and/or allowed the advert to be placed, when he knew it to be untrue. It is further alleged that by placing the advert or allowing the advert to be placed, Dr Ramaswamy’s actions were dishonest.

3. The initial concerns were raised with the GMC on 10 August 2018, in an email from a member of the public who had watched a programme televised by Channel 4 entitled "The Foreign Doctors Are Coming" in which Dr Ramaswamy was featured. The author of the email directed the GMC’s attention to Google adverts for Dr Ramaswamy’s websites, where Dr Ramaswamy claimed a “100% pass rate in PLAB 2”. The complaint stated that the pass rate claimed by Dr Ramaswamy was “inaccurate and misleading” and that “Foreign doctors considering the course could be deceived.”

The Outcome of Applications Made during the Facts Stage

4. The Tribunal granted the GMC’s application, made pursuant to Rule 34(1) of the General Medical Council (Fitness to Practise Rules) 2004 as amended (‘the Rules’), that further evidence be adduced, namely a Case Examiners’ decision letter dated 3 November 2016 that was sent to Dr Ramaswamy. The Tribunal’s full decision on the application is included at Annex A.

The Allegation and the Doctor’s Response

5. The Allegation made against Dr Ramaswamy is as follows:
1. In or around August 2018 you were a director of Dr Swamy Plab Courses Ltd (‘the Company’). **Admitted and found proved**

2. In or around August 2018 you:
   a. placed an advert advertising that the Company had a 100% pass rate in PLAB 2 tests (‘the Advert’); **Admitted and found proved**
   b. allowed the Advert to be placed. **Falls away due to the admission to 2a**

3. The PLAB 2 tests pass rate advertised in the Advert was untrue. **Admitted and found proved**

4. You knew that:
   a. you had placed the Advert; **Admitted and found proved**
   b. you had allowed the Advert to be placed; **Falls away due to the admission of 4a**
   c. the PLAB 2 tests pass rate advertised in the Advert was untrue. **To be determined**

5. Your actions as described at paragraph 2 were dishonest by reason of paragraphs 3 and 4. **To be determined**

   And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct. **To be determined**

**The Admitted Facts**

6. At the outset of these proceedings, through his counsel, Mr Gledhill, Dr Ramaswamy made admissions to some paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended (‘the Rules’). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

**The Facts to be Determined**

7. In light of Dr Ramaswamy’s response to the allegations made against him, the Tribunal is required to determine whether Dr Ramaswamy knew the PLAB 2 pass rate he advertised was untrue and whether as a result his actions were dishonest.
Factual Witness Evidence

8. The Tribunal received evidence on behalf of the GMC in the form of witness statements from the following witness who was not called to give oral evidence:

- Mr A, Head of Assessment within the Registration and Revalidation Directorate at the GMC, dated 6 April 2019, together with his supplemental statement, dated 10 May 2019.

9. Dr Ramaswamy provided his own witness statement, dated 11 September 2019, and also gave oral evidence at the hearing. In addition, the Tribunal received evidence from the following on Dr Ramaswamy’s behalf:

- Dr B, a previous student of Dr Ramaswamy, by telephone link, together with her testimonial statement dated 29 August 2019;
- Dr C, a previous student and honorary teacher at Dr Ramaswamy’s Company, by telephone link, together with his testimonial statement dated 27 August 2019.

10. The Tribunal also received, on behalf of Dr Ramaswamy, further testimonial statements from former students of his, who were not called to give oral evidence:

- Dr E, dated 29 August 2019;
- Dr F, dated 27 August 2019;
- Dr G, dated 29 August 2019

Documentary Evidence

11. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included, but was not limited to:

- Screenshots of Dr Ramaswamy’s Google advert;
- Results of candidates from 10 PLAB 2 exam results;
- Correspondence between the GMC and Dr Ramaswamy dated 2 October 2018, 11 December 2018, 15 March 2019 and 26 March 2019;
- Transcript of video from Dr Ramaswamy’s website on 100% pass rate;
- Video of the Programme “The Foreign Doctors Are Coming.”

Submissions

On behalf of the GMC

12. Ms Hudson stated that Dr Ramaswamy’s business was extremely lucrative and for it to remain successful and pay the wages of his staff in both the UK and India, it
required more and more candidates to attend his PLAB courses and make use of the accommodation provided by his wife’s Company.

13. Ms Hudson stated that Dr Ramaswamy knew that he did not have a 100% pass rate and reminded the Tribunal of the Channel 4 television programme where it showed one of Dr Ramaswamy’s candidates had failed the course.

14. She further stated that in his letter to the GMC dated 26 March 2019, Dr Ramaswamy had stated that some candidates pass the PLAB exam after two, three or four attempts, some don’t give their full name, some attend different centres and some sit the Irish Medical Council exam. Ms Hudson submitted that this together with Dr Ramaswamy’s knowledge that one candidate shown in the television programme had failed the exam, was ample evidence to prove that Dr Ramaswamy knew the 100% pass rate he had advertised on his website was untrue.

15. Ms Hudson said that Dr Ramaswamy in his witness statement stated that:

   "I was not deliberately dishonest. I accept, objectively speaking, that some honest people might come to the view that to present data in the manner set out in the advert was dishonest”.

16. Ms Hudson said that Dr Ramaswamy further stated that:

   "I accept, in hindsight, that I have fallen into serious error, but at the time I put up the Google ad I thought people would understand what I meant by 100% pass rate, when they clicked the advert and went to the next page”.

17. Ms Hudson submitted that the inclusion of an asterisk, to explain how the pass rates were calculated could have helped candidates to make informed decisions. She stated that by the time candidates got through to Dr Ramaswamy’s website they were already 'hooked in’. She submitted that candidates across the world desperate to work in the UK were deceived and exploited by Dr Ramaswamy’s advert of a 100% pass rate.

18. Ms Hudson reminded the Tribunal that it was only 21 months ago that Dr Ramaswamy had received words of advice from the GMC on the same issue and that as his regulator had warned Dr Ramaswamy to be “careful to provide accurate information about his qualifications and his current status in all advertisements”. Ms Hudson stated that the GMC had also reminded Dr Ramaswamy of the guidance at paragraph 66 of Good Medical Practice (GMP) (2013 version), which states:

   "66. You must always be honest about your experience, qualifications and current role,”
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19. Ms Hudson submitted that Dr Ramaswamy knew the PLAB 2 pass rates were untrue when he placed the advertisement, and that Dr Ramaswamy had acted dishonestly and for his own personal gain by placing the advert. Ms Hudson invited the Tribunal to find the outstanding allegations found proved.

**On Behalf of Dr Ramaswamy**

20. Mr Gledhill referred the Tribunal to Dr Ramaswamy’s Face Book page where on 11 February 2017, Dr Ramaswamy had posted “Yet again 100% passing rate on 12 Jan 2017 PLAB exam”, and submitted that it was an accurate portrayal of the information available to Dr Ramaswamy at that time.

21. Mr Gledhill stated that data collected by Dr Ramaswamy’s staff came from students they had spoken to. The students told the staff whether they had passed or failed and when they had taken the exam, which they relayed to Dr Ramaswamy. Mr Gledhill said that Dr Ramasamy had not deliberately misled anyone but had used the data available to him at that time, although with hindsight Dr Ramaswamy recognised that it was not a very reliable source of gathering information.

22. Mr Gledhill stated that it was only when Dr Ramaswamy posted the advert with Google that he got into difficulty. Dr Ramaswamy had told the Tribunal that on ten days out of thirty five, his students had achieved a 100% pass rate. However, the space allowed in the advert was limited and he was unable to record this explanatory detail. Dr Ramaswamy said he had discussed this with Google and it was their idea to headline the 100% pass rate. Dr Ramaswamy then explained that he expected inquirers to enter his website and view video where he explained precisely what the 100% pass rate meant, that is to say ten days out of thirty five. Mr Gledhill reminded the Tribunal of the transcripts of the video, and stated that Dr Ramaswamy had not been dishonest.

23. Mr Gledhill further stated that Dr Ramaswamy was a man of good character, and reminded the Tribunal of the oral evidence of Dr B and Dr C, both past students of Dr Ramaswamy, who said that he was an honest and straightforward man.

24. Mr Gledhill stated that although Dr Ramaswamy had previously received words of advice from the GMC this was not a propensity case and the words of advice should be approached with caution. Mr Gledhill said that Dr Ramaswamy was a man of honesty, was a credible witness and although he had struggled, he had tried his utmost to give an explanation to the Tribunal.

25. Mr Gledhill submitted that when presented with the evidence of Mr A, Dr Ramaswamy had not sought to explain or ‘massage it away’, rather Dr Ramaswamy had confronted it and had gone on to understand that his statement that he had a 100% pass rate could not be relied upon. Mr Gledhill stated that Dr Ramaswamy
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had tried to explain how he had made such an error, but that it was not through
acting dishonestly.

26. Mr Gledhill submitted that the GMC had not proved its case against Dr
Ramaswamy and invited to the Tribunal to reject the outstanding allegations and to
find them not proved.

The Tribunal’s Approach

27. In reaching its decision on facts, the Tribunal has borne in mind that the burden
of proof rests on the GMC and it is for the GMC to prove the allegations. Dr
Ramaswamy does not need to prove anything. The standard of proof is that applicable
to civil proceedings, namely the balance of probabilities, i.e. whether it is more likely
than not that the events occurred.

28. The Tribunal also bore in mind the legal principle set out in Ivey v Genting
Casinos (UK) Limited (t/as Crockfords Club) [2017] UKSC 67, that it must:

"...first ascertain (subjectively) the actual state of the individual's knowledge
or belief as to the facts... [and] once his actual state of mind as to knowledge
or belief as to the facts is established, the question whether his conduct was
honest or dishonest by applying the objective standards of ordinary decent
people. There is no requirement for the individual to appreciate that what he
has done is, by those standards, dishonest”

The Tribunal’s Analysis of the Evidence and Findings

29. The Tribunal has considered each outstanding paragraph of the Allegation
separately and has evaluated the evidence in order to make its findings on the facts.

Paragraph 4c

30. The Tribunal first considered whether at the material time Dr Ramaswamy
knew that the 100% pass rate he advertised on his website was untrue. The
Tribunal concluded that the PLAB 2 100% pass rate was untrue as it was very clear
that a number of students, at different times, had failed the test. It had regard to Dr
Ramaswamy’s oral evidence where had had tried to explain how he had reached
that conclusion, the Tribunal considered Dr Ramaswamy’s explanation to be
misleading.

31. The Tribunal noted that Dr Ramaswamy was ‘hands on’ and very much
involved in the day-to-day running of his business and would have known that not
everyone passed the exam on the first attempt. It reminded itself of the Channel 4
programme “The Foreign Doctors are Coming” which showed that one of Dr
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Ramaswamy’s students had failed the exam on 7 February 2018 and noted that Dr Ramaswamy would have known that.

32. The Tribunal next considered Dr Ramaswamy’s Google advert and his explanation that there was insufficient space to include any more text. The Tribunal determined that Dr Ramaswamy had provided the information to Google himself and that Google would not have used the statement ‘100% pass rate’ unless Dr Ramaswamy had provided it to them. The Tribunal determined that Dr Ramaswamy had a duty and an obligation to provide information that was accurate and that could be relied upon. The Tribunal determined that Dr Ramaswamy had provided information to Google that he knew to be untrue.

33. The Tribunal has therefore found Paragraph 4c of the allegation proved.

Paragraph 5

34. The Tribunal next considered whether Dr Ramaswamy’s actions were dishonest and reminded itself of the Case Examiners’ advice given to Dr Ramaswamy in November 2016. In that matter, Dr Ramaswamy had used post nominal letters which he was not entitled to at that time and he was given advice to take care to make sure that information about his qualifications and experience, which he placed in adverts, was accurate and correct. This of course reflected the requirement set out in paragraph 66 of GMP. Whilst the Tribunal accepts that this was in relation to a different area, nevertheless, it related to advice to take care that the advertising material which Dr Ramaswamy was using was accurate. The Tribunal considered that Dr Ramaswamy’s argument that there was insufficient space to include any more text within the advert was not credible. It was not necessary to mention the pass rate at all, and there was other text in the advert such as ‘highest pass rate’ which could easily have been sacrificed in order to allow an explanation of what a 100% pass rate meant. The pass rate of Dr Ramaswamy’s students in the PLAB 2 test was not 100%. On ten occasions out of thirty five, it may have been 100%, but that still leaves twenty five out of thirty five occasions when it was not.

35. The Tribunal noted that students from all over the world would be able to see Dr Ramaswamy’s on line advert and that they might be attracted by his claim that he had a 100% pass rate. The Tribunal considered that the claim of a 100% pass rate, which was not in fact true, was likely to be a significant factor in attracting the attention of doctors who needed to take and pass the PLAB 2 test.

36. The Tribunal considered that Dr Ramaswamy should have ensured that the material in his advertisement was true. The claim of a 100% pass rate was both a very important part of the advert and secondly untrue.

37. The Tribunal therefore considered that Dr Ramaswamy had deliberately misled anyone reading his adverts in to thinking that students that took his course
had a 100% pass rate of the PLAB 2 test. The Tribunal considered that he did this for a personal gain. Having found this, the Tribunal is satisfied that ordinary decent members of the public would find this dishonest. The Tribunal determined that Dr Ramaswamy’s actions at paragraph 5 above were dishonest and has therefore found paragraph 5 of the Allegation proved.

The Tribunal’s Overall Determination on the Facts

38. The Tribunal has determined the facts as follows:

1. In or around August 2018 you were a director of Dr Swamy Plab Courses Ltd (‘the Company’). *Admitted and found proved*

2. In or around August 2018 you:
   a. placed an advert advertising that the Company had a 100% pass rate in PLAB 2 tests (‘the Advert’); *Admitted and found proved*
   b. allowed the Advert to be placed. *Falls away due to the admission of 2a*

3. The PLAB 2 tests pass rate advertised in the Advert was untrue. *Admitted and found proved*

4. You knew that:
   a. you had placed the Advert; *Admitted and found proved*
   b. you had allowed the Advert to be placed; *Falls away due to the admission of 4a*
   c. the PLAB 2 tests pass rate advertised in the Advert was untrue. *Determined and found proved*

5. Your actions as described at paragraph 2 were dishonest by reason of paragraphs 3 and 4. *Determined and found proved*

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct. *To be determined*

**Determination on Impairment** - 09/10/2019
1. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Ramaswamy’s fitness to practise is impaired by reason of misconduct.

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence on behalf of Dr Ramaswamy as follows:
   - Completion Certificate for online course Misleading Advertising: Part One, dated 6 October 2019;
   - Certificate of Attendance of Maintaining Professional Ethics, dated 18 September 2019;
   - Dr Ramaswamy’s Reflective Statement, dated 30 September 2019;

Submissions

On behalf of the GMC

3. On behalf of the GMC, Ms Hudson submitted that Dr Ramaswamy’s fitness to practise is impaired by reason of misconduct. She referred the Tribunal to relevant authority and to paragraphs 1, 4, 65, 66, 70 and 71 of GMP which she said are engaged in this case. Ms Hudson said that Dr Ramaswamy had acted in a way which had an adverse impact on the public’s confidence in the medical profession. She said that his conduct was serious, dishonest and sustained over a long period of time. Ms Hudson reminded the Tribunal of the Overarching Objective and said that the second and third limbs were engaged - the need to maintain public confidence in the profession, and to maintain proper professional standards and conduct.

4. Ms Hudson submitted that Dr Ramaswamy’s misconduct was disgraceful and dishonourable, and that members of the medical profession and the public would be satisfied that he had brought the medical profession into disrepute.

5. Ms Hudson stated that doctors occupy a position of privilege and trust and members of the public place trust in doctors. She said that all of the students believed and were entitled to believe that the information on Dr Ramaswamy’s website was accurate. In this regard, she referred the Tribunal to paragraph 35 of its determination on the facts.
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6. Ms Hudson referred the Tribunal to paragraph 11 of Dr Ramaswamy’s reflective statement dated 4 October 2019, and said that the Tribunal should reject his claim that he was vulnerable.

7. Ms Hudson submitted that it would be unusual for there to be no finding of impairment in a case involving dishonesty. She invited the Tribunal to find that Dr Ramaswamy’s fitness to practise is impaired.

On Behalf of Dr Ramaswamy

8. On behalf of Dr Ramaswamy, Mr Gledhill referred the Tribunal to Dr Ramaswamy’s reflective statement, together with documentary evidence of remediation he had undertaken. Mr Gledhill said that Dr Ramaswamy acknowledged that his misconduct was serious.

The Relevant Legal Principles

9. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal’s judgement alone.

10. In approaching the decision, the Tribunal was mindful of the two stage process to be adopted: first whether the facts as found proved amounted to misconduct, and that the misconduct was serious and then whether the finding of that misconduct which was serious, could lead to a finding of impairment.

11. The Tribunal must determine whether Dr Ramaswamy’s fitness to practise is impaired today, taking into account Dr Ramaswamy’s 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

Misconduct

12. In reaching its determination the Tribunal reminded itself of Good Medical Practice (GMP 2013), in particular paragraphs 1, 4, 65 and 70:

‘1. Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.

4. You must use your judgement in applying the principles to the various situations you will face as a doctor, whether or not you hold a licence to practise, whatever field of medicine you work in, and whether or not you
routinely see patients. You must be prepared to explain and justify your decisions and actions.

'65 You must make sure that your conduct justifies your patients’ trust in you and the public’s trust in the profession.

70. When advertising your services, you must make sure the information you publish is factual and can be checked, and does not exploit patients’ vulnerability or lack of medical knowledge.’

13. The Tribunal accepted the early admissions by Dr Ramaswamy to some of the allegations and his own admission that he considered his fitness to practise to be currently impaired. The Tribunal reminded itself of the submissions of Mr Gledhill, who stated that Dr Ramaswamy admitted that his misconduct was serious.

14. The Tribunal determined that Dr Ramaswamy acted dishonestly by placing the advertisement which he knew to be untrue and that he had acted deliberately to mislead students for his own personal gain.

15. The Tribunal determined that this was a serious breach of a fundamental tenet of the profession and one which fellow doctors would find deplorable. It also determined that Dr Ramaswamy’s conduct was a serious departure from GMP and that it had brought the profession into disrepute and had undermined public confidence in the profession.

16. The Tribunal found that Dr Ramaswamy’s conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to serious misconduct.

17. The Tribunal having found that the facts found proved amounted to misconduct, went on to consider whether, as a result of that misconduct, Dr Ramaswamy’s fitness to practise is currently impaired.

Impairment

18. The Tribunal noted that Dr Ramaswamy had begun to develop some insight into his conduct, illustrated by his attendance on various courses including a Professional Ethics course and his own reflective statement. However, it noted that it was only recently that Dr Ramaswamy had begun to attend courses in order to develop his insight. During his oral evidence, Dr Ramaswamy had continued to blame Google for the inaccuracy in his advert. In his reflective statement he stated, “I understood my personal vulnerability – when google staff advised me about writing the adwords, I was vulnerable that I just listened to her without thinking myself how it might impact on my customers,” which the Tribunal determined demonstrated a lack of insight.
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19. The Tribunal determined that Dr Ramaswamy did not yet fully understand the seriousness of his conduct and it considered that Dr Ramaswamy still had some way to go in developing his full insight.

20. The Tribunal had regard to Dr Ramaswamy’s reflective statement and determined that any weight it attached to it was significantly outweighed by the seriousness of Dr Ramaswamy’s conduct. The Tribunal considered that a risk of a repetition of Dr Ramaswamy’s dishonesty still remained.

21. The Tribunal concluded that a finding of impairment was required in this case in order to maintain public confidence in the profession and maintain proper professional standards and conduct for the members of the profession.

22. The Tribunal has therefore determined that Dr Ramaswamy’s fitness to practise is impaired by reason of his misconduct.

Determination on Sanction – 10/10/2019

1. Having determined that Dr Ramaswamy’s fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 17(2)(n) 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. At this stage of the proceedings Dr Ramaswamy gave further oral evidence for the Tribunal to consider.

3. Dr Ramaswamy stated that he had recently attended a course run by the Advertising Standards Agency relating to misleading advertising. Dr Ramaswamy said that he had learnt a lot from his attendance, in particular he has come to understand that the information contained in his Google advert was false and misleading, Dr Ramaswamy stated that he regretted this and apologised for it.

4. When asked by Mr Gledhill about his attendance on a Professional Ethics Course, Dr Ramaswamy explained that it was a tailored one-to-one course, and that he had learnt the importance of probity and honesty and that he should not abuse the trust of members of the public. He stated that he had learnt that what he had done was wrong. He admitted his dishonesty and stated that he recognised that his actions had brought the profession into disrepute.

5. Dr Ramaswamy stated that if he were to advertise in the future, he would ensure that any information he presented was accurate as he now has a better understanding of advertising and that information should not be misleading or dishonest. He stated that he would not publish pass rates, rather he would focus on testimonials of his
students and concentrate on advertising the facilities available to those wanting to study at his centre. Dr Ramaswamy said that he would also consider taking legal advice to ensure that the content of his advert was correct.

6. When asked by Mr Gledhill for his thoughts if a sanction of a suspension with a review was imposed on his registration, Dr Ramaswamy stated that he would comply with it and try his very best in every way not to go wrong again. He stated that he would undertake further learning and take feedback from colleagues to ensure that he would never repeat his mistake again.

7. Dr Ramaswamy stated that teaching was his passion and he would like to continue in education. He said that he would respect his students and ensure that he did nothing to mislead them or be dishonest with them.

8. Ms Hudson took Dr Ramaswamy to his reflective statement dated 30 September 2019 which he had submitted to this Tribunal at the impairment stage. In that statement he had stated that he had been vulnerable when the Google staff had advised him about writing the advert. In his reflective statement dated 9 October 2019, he accepted that he had been dishonest. He was asked when he had changed his position. He stated that the change had occurred over night. He accepted that he had not been vulnerable.

Submissions

On behalf of the GMC

9. On behalf of the GMC, Ms Hudson submitted that the proportionate sanction in this case was one of suspension.

10. Ms Hudson referred the Tribunal to the Sanctions guidance (‘SG’) (February 2018 version) and went through the options available to it. She reminded the Tribunal of its determinations on facts and on impairment and stated that taking no action or imposing a period of conditional registration on Dr Ramaswamy’s registration would not be the appropriate sanction.

11. Ms Hudson stated that although Dr Ramaswamy had developed some insight it was only at the developmental stage. His acceptance of personal responsibility for the inaccuracy of the advert had developed only overnight. She reminded the Tribunal that Dr Ramaswamy in his oral evidence stated that he had taken steps to ensure there would never be a repeat of his misconduct, and invited the Tribunal to balance this against the fact that Dr Ramaswamy ignored the Case Examiners’ letter some 21 months earlier.

12. Ms Hudson stated that Dr Ramaswamy’s conduct was serious misconduct and that although he did not cover it up it had lasted for some considerable time.
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13. Ms Hudson submitted that Dr Ramaswamy’s misconduct should be marked with a period of suspension and referred the Tribunal to paragraph 91 of the SG which states:

"Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbecoming a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention."

14. Ms Hudson submitted that a period of suspension would be appropriate and proportionate in this case and stated that the duration of suspension was for the Tribunal to determine. Ms Hudson stated that a period of suspension would give Dr Ramaswamy opportunity to develop his insight further and demonstrate it at a review hearing.

On behalf of Dr Ramaswamy

15. On behalf of Dr Ramaswamy, Mr Gledhill submitted that a sanction of erasure was a step too far in this case. Mr Gledhill stated that although Dr Ramaswamy’s insight had been slow to emerge it was now emerging and that a period of suspension of 6 months with a review directed, would properly uphold confidence in the profession and protect members of the public. He submitted that it would allow Dr Ramaswamy to develop his insight by undertaking courses, one to ones and undertaking further study.

16. Mr Gledhill stated that Dr Ramaswamy accepts the findings of the Tribunal and accepts that he acted dishonestly in the past. Mr Gledhill said that it is only now dawning on Dr Ramaswamy the effect his dishonesty has had on his students, and that Dr Ramaswamy felt ashamed of his actions. He further stated that Dr Ramaswamy loved to teach, to see his students improve their knowledge and skills and to see their success when they applied for positions within the NHS.

17. Mr Gledhill submitted that Dr Ramaswamy would like to retain his registration but has no intention of returning to clinical practice. He stated that Dr Ramaswamy felt very positive about his registration, that it gave him confidence when presenting himself on his courses and earned the respect of his students.

18. Mr Gledhill submitted that by acting dishonestly Dr Ramaswamy understands that he has come close to losing all of that along with the respect of his students, he stated that Dr Ramaswamy’s emerging insight could be dealt with by a period of suspension.

The Tribunal’s Determination on Sanction
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19. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgment.

20. In reaching its decision, the Tribunal has referred to the SG. It has borne in mind that the purpose of sanctions is not to be punitive, but to protect patients and the wider public interest, although sanctions may have a punitive effect.

21. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Ramaswamy’s interests with the public interest and it has taken account of the statutory overarching objective.

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

Mitigating and Aggravating Features

23. Prior to considering what action, if any, to take in this case, the Tribunal considered the mitigating and aggravating features. The Tribunal determined that there were no mitigating factors in this case.

24. The Tribunal went on to consider the aggravating factors relevant in this case:
   - Deliberate dishonesty for personal gain over a prolonged period

The Tribunal’s Decision

25. In deciding what sanction, if any, to impose, the Tribunal reminded itself that it must consider each of the sanctions available, starting with the least restrictive, to establish which, if any, is appropriate and proportionate in this case.

No action

26. The Tribunal considered whether to conclude the case by taking no action. It has already determined that Dr Ramaswamy’s fitness to practise is impaired by reason of his serious misconduct and determined that given the seriousness of its findings of dishonesty, taking no action would not be appropriate or proportionate.

27. The Tribunal determined that taking no action would undermine the overarching objective of promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct for members of the profession. It considered that taking no action would send the wrong signal to members of the public and members of the profession alike.
28. The Tribunal determined that in the absence of exceptional circumstances it would be inappropriate to conclude this case by taking no action.

**Conditions**

29. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Ramaswamy’s registration noting that any conditions imposed would need to be appropriate, proportionate, workable and measurable.

30. The Tribunal determined that conditions were neither appropriate nor sufficient given its findings of dishonesty in this case. It determined that no conditions could be formulated that would address the seriousness of Dr Ramaswamy’s misconduct or uphold professional standards and public confidence in the profession.

31. The Tribunal reminded itself that Dr Ramaswamy no longer holds a licence to practise and determined that conditions would neither be appropriate, proportionate, workable or measurable in this case.

**Suspension**

32. The Tribunal next considered a sanction of suspension on Dr Ramaswamy’s registration and had regard to the relevant paragraphs of the SG, in particular paragraph 91:

"Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbecoming a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention."

33. The Tribunal reminded itself that at the facts stage of the proceedings Dr Ramaswamy continued to blame Google for the inaccuracy in his advert. It reminded itself that at the impairment stage of the hearing, in his reflective statement, Dr Ramaswamy stated that he had been vulnerable when a Google employee advised him about the ad-words; he had just listened and had not thought about how his advert would impact on his customers. The Tribunal also had regard to Dr Ramaswamy’s oral evidence at the sanction stage of the hearing where it appeared that he had changed his mind and had stated that he now understood he had given false information in his advert, that he regretted it and apologised for it.

34. The Tribunal noted that the first reflective piece that Dr Ramaswamy submitted dated 30 September 2019, was produced after he had attended courses.
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and was submitted to the Tribunal on 8 October 2019, after he had completed the
ASA course. Dr Ramaswamy at that stage appeared to have learned very little and
was still denying his own culpability and blaming others for his own serious
misconduct. Only after the Tribunal’s finding at the impairment stage did Dr
Ramaswamy then submit a further reflective piece and give oral evidence accepting
his culpability. The Tribunal was sceptical about his insight into his serious
misconduct and his ability to make genuine changes to his behaviour in the future.

35. The Tribunal determined that this was a serious breach of GMP, Dr
Ramaswamy had lost sight of his responsibilities to the public and the profession, by
failing to act with honesty and integrity. The Tribunal noted Dr Ramaswamy’s
attempts at remediation. The Tribunal accepted that dishonesty was very difficult to
remediate. However, Dr Ramaswamy’s lack of insight meant that it was very
difficult for him to remediate his misconduct.

36. In the light of Dr Ramaswamy’s lack of insight and remediation the Tribunal
did not consider that a period of suspension was sufficient to address the
seriousness with which it viewed Dr Ramaswamy’s misconduct.

37. In the circumstances, the Tribunal reached the conclusion that a period of
suspension would not be a sufficient sanction.

Erasure

38. The Tribunal had regard to paragraphs 108, 109 and 124 of the SG, which
state:

“108. Erasure may be appropriate even where the doctor does not present a
risk to patient safety, but where this action is necessary to maintain
public confidence in the profession. For example, if a doctor has shown
a blatant disregard for the safeguards designed to protect members of
the public and maintain high standards within the profession that is
incompatible with continued registration as a doctor.

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

a. A particularly serious departure from the principles set
out in Good medical practice where the behaviour is
fundamentally incompatible with being a doctor.

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

c...
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d...

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

124. Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor’s clinical responsibility (e.g., providing false statements or fraudulent claims for monies) is particularly serious. This is because it can undermine the trust the public place in the medical profession. Health authorities should be able to trust the integrity of doctors, and where a doctor undermines that trust there is a risk to public confidence in the profession. Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty.”

The Tribunal determined that all of these applied in Dr Ramaswamy’s case.

39. The Tribunal has determined that, Dr Ramaswamy’s misconduct was fundamentally incompatible with continued registration on the Medical Register. It has concluded that erasing his name from the Medical Register is the only proportionate sanction to impose in order to maintain public confidence in the medical profession and declare and uphold the proper standards of conduct and behaviour.

Confirmed
Date 10 October 2019

Mr Neil Mercer, Chair
ANNEX A – 10/10/2019
Admission of Further Evidence

1. Ms Hudson, on behalf of the GMC, made an application for further evidence to be adduced before the Tribunal of a Case Examiner’s decision letter dated 3 November 2016, addressed to Dr Ramaswamy following an investigation by the GMC into his fitness to practice.

2. Ms Hudson stated that the Case Examiners’ letter to Dr Ramaswamy contained reminders of his responsibilities to ensure that he provided accurate information about his qualifications and status in his advertisements and communications.

3. Ms Hudson further stated that the words of advice from the Case Examiners’ letter highlight the same issue which is at the heart of the current case against Dr Ramaswamy, it was his responsibility to ensure the accuracy of his advertisements and communications.

4. Ms Hudson submitted that the advice was probative to what Dr Ramaswamy knew at the time he placed the advertisements. Ms Hudson did not submit that the letter could be used to establish propensity by Dr Ramaswamy to be dishonest. She submitted that the issue of dishonesty arising from that was a matter for the Tribunal to determine and she invited the Tribunal to grant the application.

5. Mr Gledhill, on behalf of Dr Ramaswamy opposed the GMC’s application and stated that the relevance of the Case Examiners’ letter was tenuous and that it would not be fair to admit into evidence details of the letter whether or not it was admissible in a court of law.

6. Mr Gledhill stated that the GMC’s application for the letter to be admitted would create an unfair situation to Dr Ramaswamy. Mr Gledhill said that Dr Ramaswamy’s actions were not intentional and that the GMC had conceded that they had found no dishonesty in his past conduct.

7. Mr Gledhill stated that no weight whatsoever should be given to Dr Ramaswamy’s past history and it would be unfair to admit the evidence at this stage and to draw any inference from it as the conduct in both cases was very different.

8. Mr Gledhill submitted that the gravity of the allegation in this case, that of dishonesty, required a fair process which could not be guaranteed if the letter and the underlying information leading to it was adduced.
9. Mr Gledhill therefore invited the Tribunal to reject the GMC’s application.

10. The Tribunal noted that Rule 34(1) of the GMC (Fitness to Practise) Rules 2004 (‘the Rules’) states as follows:

   34.

   (1) The Committee or a Tribunal may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.

11. The Tribunal considered that the letter of advice dealt with a not disimilar incident relating to Dr Ramaswamy advertising his services. This advice was given not very long before the incidents complained about in this case. Therefore, the advice which was essentially to take care to ensure that his adverts were accurate was potentially relevant to the question of whether Dr Ramaswamy had simply been careless or had been dishonest. Therefore, the Tribunal concluded that the Case Examiners’ letter was evidence that was relevant to these proceedings and that it could fairly be admitted.