Record of Determinations –
Medical Practitioners Tribunal

PUBLIC RECORD


Medical Practitioner’s name: Dr Petya STEFANOVA

GMC reference number: 6123580

Primary medical qualification: State Exam Med 1996 I. P. Pavlov Higher Medical Institute Plovdiv

Type of case
New - Misconduct

Outcome on impairment
Not Impaired

Summary of outcome
No action (warning not considered)

Tribunal:

<table>
<thead>
<tr>
<th>Medical Tribunal Member (Chair)</th>
<th>Mr Patrick Cox</th>
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<tbody>
<tr>
<td>Lay Tribunal Member:</td>
<td>Mrs Barbara Larkin</td>
</tr>
<tr>
<td>Medical Tribunal Member:</td>
<td>Dr Farhan Munawar</td>
</tr>
</tbody>
</table>

Tribunal Clerk: Ms Lorraine Curry

Attendance and Representation:

<table>
<thead>
<tr>
<th>Medical Practitioner:</th>
<th>Present and represented</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical Practitioner’s Representative:</td>
<td>Mr Philip Stott, Counsel, instructed by MDU.</td>
</tr>
<tr>
<td>GMC Representative:</td>
<td>Mr Neil Usher, Counsel, instructed by GMC legal.</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 - 25/09/2019

1. Dr Stefanova qualified in 1996 from the Medical University in Plovdiv, Bulgaria. Dr Stefanova moved to the UK and obtained full GMC registration in 2007 and worked in a number of hospitals in London. Dr Stefanova gained entry onto the GP register in 2008 and worked as a locum and salaried GP in various practices.

2. At the time of the events Dr Stefanova was practising as a locum GP at Ocean Health in Plymouth. On 21 November 2017 a qualified pharmacist from Boots raised concerns relating to a potentially fraudulent private prescription for 30 capsules of antibiotics which had been written and signed by Dr Stefanova.

3. The initial concerns were raised with the GMC on 30 November 2017 by Mr E of Boots Pharmacy.

4. Dr Stefanova was interviewed by NHS England on the 2 May 2018. During the interview Dr Stefanova claimed she had received a call on her mobile telephone from a patient who said she was suffering from a urinary tract infection (UTI) and wanted to see her. The patient was from Bulgaria and was in Plymouth as a tourist. Dr Stefanova met the patient in a shopping centre. The patient had been clear about her symptoms. Dr Stefanova prescribed an antibiotic for the patient. Dr Stefanova agreed to go to the pharmacy to collect the medication on behalf of the patient as she could not speak any English.

The Outcome of Applications Made during the Facts Stage

5. The Tribunal determined to amend paragraph 2 of the allegation, pursuant to Rule 17(6), as set out in Annex A. Both parties agreed to the proposed amendment and the Tribunal determined that the amendment could be made without injustice.

The Allegation and the Doctor’s Response

6. The Allegation made against Dr Stefanova is as follows:
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1. On 21 November 2017 you issued a prescription for Nitrofurantoin (‘the prescription’) for Patient [C] when you:

   a. did not issue the prescription for Patient [C]’s use; To be determined

   b. knew that you did not issue the prescription for Patient [C]’s use To be determined

2. On 21 November 2017 you presented the prescription to Boots Pharmacy, Drakes Circus and: you stated that:

   a. you stated to Ms A that you were Patient [C], or words to that effect; To be determined

   you stated to Mr B that the prescription was for a relative, or words to that effect. To be determined

3. You knew that your statements in paragraph 2 above were untrue.

4. Your actions at:

   a. paragraph 1 a were dishonest by reason of paragraph 1 b; To be determined

   b. paragraphs 2 a and 2 b were dishonest by reason of paragraph 3 To be determined

Factual Witness Evidence

7. The Tribunal received evidence on behalf of the GMC from the following witnesses:

   • Ms A, Boots pharmacist, Drakes Circus by video link
   • Mr B, Boots pharmacy manager, Drakes Circus

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

   • Ms F, Deputy Head of Practitioner Performance and Revalidation at NHS England (London)
9. Dr Stefanova provided her own witness statement dated 22 July 2019 and also gave oral evidence at the hearing.

10. The Tribunal also received evidence on behalf of Dr Stefanova in the form of witness statements from the following witnesses who were not called to give oral evidence:

   • Dr D, GP at Barndoc GP service and former colleague of Dr Stefanova.

**Documentary Evidence**

11. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included, but was not limited to, the information contained within the hearing bundle.

**GMC Submissions**

12. Mr Usher submitted that the matters before the Tribunal relate to three specific allegations of dishonesty. He told the Tribunal that Dr Stefanova’s account of her alleged meeting with Patient C and her explanation in regard to the circumstances surrounding the event which led to the allegations, were not satisfactory. Mr Usher further told the Tribunal that Dr Stefanova’s witness statement and oral evidence compare unfavourably with Ms A and Mr B’s evidence, both of whom gave careful, credible, consistent evidence. He invited the Tribunal to prefer the evidence of Ms A and Mr B to that of Dr Stefanova.

13. Mr Usher submitted that had the events occurred as told by Dr Stefanova, where by a foreign tourist needed a prescription, it would be important for the patient to accompany Dr Stefanova to the pharmacy so that the situation could be fully explained. He further stated that there is no good reason why Patient C did not accompany Dr Stefanova to the GP surgery where she worked in order to obtain a prescription, when the attempt to obtain the medication at the pharmacy failed.

14. He submitted to the Tribunal that the exchange between Dr Stefanova and Patient C did not happen and the Tribunal can be satisfied that when she wrote out the prescription she did so dishonestly and Dr Stefanova attempted to deceive the individuals working at the Boots pharmacy. He referred the Tribunal to the case of *Ivey v Genting Casinos (UK) Limited (t/a Crockfords Club)* [2017] and submitted that if this test was applied to the circumstances in this case, Dr Stefanova’s actions were dishonest.

**Submissions on behalf of Dr Stefanova**
15. Mr Stott requested that the Tribunal take into account that English is not Dr Stefanova’s first language. He stated that where she took a long time to answer the questions put to her by the GMC during her oral evidence, this was not an attempt to be evasive but instead, to ensure that she understood the question fully before answering. Mr Stott drew the Tribunal’s attention to the evidence of Ms A and Mr B and submitted that whilst both witnesses were able to give evidence that was more fluent than Dr Stefanova’s, this was a reflection of the fact that English is not Dr Stefanova’s first language.

16. Mr Stott told the Tribunal that the drug in question is not a drug of abuse but an antibiotic which is widely available. If Dr Stefanova wished to obtain this drug for herself then she could have simply gone to her GP and requested it or she could have asked a colleague at the GP practice where she worked to issue her a prescription. He further stated that there would be no reason for her to act in the way the GMC are suggesting and no motive has been put forward.

17. Mr Stott drew the Tribunal’s attention to the positive comments made by Dr D which reflect Dr Stefanova’s good character. He stated that Dr Stefanova is the type of doctor who acts in the best interests of her patients and aims to help those in need. Mr Stott further stated that this explanation is more likely than that her actions were an excuse to gain a drug that is widely available. He told the Tribunal that Dr Stefanova was on her lunch hour and simply did not have the time to drive Patient C to the GP surgery to obtain a prescription. In relation to the amount of tablets which had been prescribed, Mr Stott stated that Dr Stefanova admits that she should have prescribed fewer tablets and this was a mistake on her part, which attests further to Dr Stefanova’s honesty and integrity.

18. Mr Stott submitted that there were inconsistencies between Ms A and Mr B’s evidence as they both remembered the event differently. He suggested that things were said which were misunderstood, given that English was not Dr Stefanova’s first language. He further reminded the Tribunal that events took place in a busy pharmacy and more than two people were involved in the discussion which made matters more complicated. Mr Stott submitted that Dr Stefanova is not a dishonest woman and she would not act in a dishonest manner. He further submitted that, given that so little of what has happened appears to make any sense, it was more likely to be a series of misunderstandings.

The Tribunal’s Approach

19. 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 Allegation. Dr Stefanova 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.
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20. The Tribunal was reminded of the test in relation to dishonesty as set out in the case of *Ivey v Genting Casinos (UK) Limited (t/a Crockfords Club)* [2017] that:

“When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”

21. The Tribunal was told that Dr Stefanova is of good character, as demonstrated by the testimonials from colleagues, and that she has no previous fitness to practise history. The Tribunal reminded itself that Dr Stefanova’s character and history is not a defence to these allegations but that it might be relevant to the credibility of her evidence or her propensity to do what is alleged.

The Tribunal’s Analysis of the Evidence and Findings

22. 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 one

23. The Tribunal accepts there were difficulties with the account given by Dr Stefanova but they did not find her account to be implausible. Indeed during the course of her evidence, Dr Stefanova did accept wrongdoing (i.e. taking to a private consultation, a sheet of paper which had a “stamp” from her practice on it) and making some mistakes. She was however adamant that the prescription was for Patient C. The Tribunal came to the conclusion that Dr Stefanova’s prime motivation was to help this patient and in the course of events, she did not always act as she ought to have done. However, the Tribunal was of the opinion that Patient C did exist and that Dr Stefanova’s failings are more plausibly explained by her being mainly concerned with helping the patient than instead being explained by the GMC case – i.e. that the prescription itself was dishonest. Overall, the Tribunal found the suggestion that Dr Stefanova would issue a false prescription in the particular circumstances of this case to be implausible. Whilst the GMC are not required to provide a motivation for Dr Stefanova acting in the way they allege, the fact that there did not appear to be any motivation for acting in that manner was relevant in determining the plausibility of either account. The Tribunal finds the GMC have not proven that Dr Stefanova did not issue a prescription for Patient C.
24. As the Tribunal has found paragraph 1a of the Allegation not proved, it therefore followed that it must also find paragraph 1b of the Allegation not proved.

**Paragraph 2a**

25. In considering paragraph 2a of the allegation, the Tribunal believed that Ms A was a witness attempting to give an honest account of events. However, having heard Ms A’s evidence, the Tribunal was not satisfied on the balance of probabilities that Ms A did specifically ask Dr Stefanova if she was Patient C. The Tribunal noted that, when questioned, Ms A explained that she ‘would have normally’ asked that question under normal circumstances – as opposed to saying that she could specifically remember asking that question. Dr Stefanova was adamant that Ms A did not ask if she was Patient C. The Tribunal believed that it is more likely than not that Ms A did not ask that specific question. It therefore finds paragraph 2a of the allegation not proved.

**Paragraph 2b**

26. The Tribunal note that Mr B asserted in his statement made on 5th September 2018 that Dr Stefanova explained that Patient C was a relative. However, in the pharmacy incident investigation form, prepared on the day of the incident, there is no mention of Dr Stefanova stating Patient C was a relative. Further, the report to the GMC submitted 30th November 2017 does not suggest that Dr Stefanova stated that Patient C was a relative. Hence, neither of the two most contemporaneous accounts of the incident refer to this allegation. Dr Stefanova does accept that she did refer to “a relative” but that was in the context of asserting during the course of the discussion that a person could collect a prescription on behalf of a relative.

27. The Tribunal were of the opinion that Mr B was also a witness attempting to give an honest account of events. However, having regard to all the evidence the Tribunal is not satisfied on the balance of probabilities that Dr Stefanova stated to Mr B that Patient C was a relative. It therefore finds paragraph 2b of the allegation not proved.

**Paragraph 3**

28. The Tribunal determined that, by virtue of its findings above, it finds paragraph 3 of the allegation, not proved.

**Paragraph 4 a and b**

29. As the Tribunal has found paragraph 1 and 2 of the Allegation not proved, it therefore followed that it found paragraph 4 of the Allegation not proved.

**The Tribunal’s Overall Determination on the Facts**
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30. The Tribunal has determined the facts as follows:

1. On 21 November 2017 you issued a prescription for Nitrofurantoin (‘the prescription’) for Patient [C] when you:
   a. did not issue the prescription for Patient [C]’s use; **Determined and found not proved**
   b. knew that you did not issue the prescription for Patient [C]’s use. **Determined and found not proved**

2. On 21 November 2017 you presented the prescription to Boots Pharmacy, Drakes Circus and:
   a. you stated to Ms A that you were Patient [C], or words to that effect; **Determined and found not proved**
   b. you stated to Mr B that the prescription was for a relative, or words to that effect. **Determined and found not proved**

3. You knew that your statements in paragraph 2 above were untrue. **Determined and found not proved**

4. Your actions at:
   a. paragraph 1 a were dishonest by reason of paragraph 1 b; **Determined and found not proved**
   b. paragraphs 2 a and 2 b were dishonest by reason of paragraph 3. **Determined and found not proved**

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct. **Determined and found not proved**

31. As the Facts have not been found proved it therefore follows that Dr Stefanova’s fitness to practise is not impaired.

Confirmed
Date 25 September 2019

Mr Patrick Cox, Chair
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ANNEX A – 23/09/2019

Application to Amend Allegation

1. Prior to commencing, the Tribunal requested that amendments be made to paragraphs 2(a) and 2(b) of the allegation as follows:

   2. On 21 November 2017 you presented the prescription to Boots Pharmacy, Drakes Circus and: you stated that:

      a. you stated to Ms A that you were Patient [C], or words to that effect; To be determined

      b. you stated to Mr B that the prescription was for a relative, or words to that effect. To be determined

2. Mr Usher did not oppose the suggested amendments.

3. Mr Stott did not oppose the suggested amendments.

4. The Tribunal has considered Rule 17(6) of the Rules which states:

   "Where, at any time, it appears to the Medical Practitioners Tribunal that—

   (a) the allegation or the facts upon which it is based and of which the practitioner has been notified under rule 15, should be amended; and

   (b) the amendment can be made without injustice, 

   it may, after hearing the parties, amend the allegation in appropriate terms.

5. The Tribunal was satisfied that it would cause no injustice to grant the application to amend. Accordingly the Tribunal determined to amend allegations 2(a) and 2(b).