Record of Determinations – Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 17/10/2019 - 25/10/2019
Medical Practitioner’s name: Dr Puja KALIA

GMC reference number: 7271076
Primary medical qualification: MB ChB 2012 University of Leeds

Type of case
Outcome on impairment
XXX
New - Misconduct
XXX
Impaired

Summary of outcome
Suspension, 12 months.
Review hearing directed
Immediate order imposed

Tribunal:

<table>
<thead>
<tr>
<th>Role</th>
<th>Name</th>
</tr>
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<tbody>
<tr>
<td>Legally Qualified Chair</td>
<td>Mr Charles Thomas</td>
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<tr>
<td>Lay Tribunal Member:</td>
<td>Mrs Christine Curbishley</td>
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<tr>
<td>Medical Tribunal Member:</td>
<td>Dr Jonathan Davies</td>
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</tbody>
</table>
| Tribunal Clerk:             | Ms Chloe Ainsworth (17 – 18 October 2019)  
                            | Mr Michael Murphy (21 – 25 October 2019) |

Attendance and Representation:

<table>
<thead>
<tr>
<th>Role</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical Practitioner:</td>
<td>Present and represented</td>
</tr>
<tr>
<td>Medical Practitioner’s Representative</td>
<td>Mr Russell Davies, Counsel, instructed by DAC Beachcroft</td>
</tr>
<tr>
<td>GMC Representative:</td>
<td>Ms Shirlie Duckworth, Counsel</td>
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</tbody>
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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 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/Impairment - 24/10/2019

1. This determination will be read in private. However, as this case concerns Dr Kalia’s misconduct, a redacted version will be published at the close of the hearing XXX.

Background

2. Dr Kalia qualified in 2012 and prior to the events which are the subject of this hearing she was undertaking her GP training programme. At the time of the events, Dr Kalia was practising as a GP speciality trainee in year two to three (‘ST2-ST3’) between the Royal Surrey County Hospital, Guilford and St Luke’s Surgery, Guildford (‘the Surgery’) where she remained until July 2018.

XXX

4. Dr D became Dr Kalia’s educational supervisor when Dr Kalia began her three-year GP training programme in August 2014. For the first 16 months, Dr Kalia was hospital based. As Dr D was based at the Surgery, she initially only met with Dr Kalia for her reviews every six months. On 19 October 2015 Dr D met with Dr Kalia in advance of her starting an integrated training post (‘ITP’) at the Surgery in December 2015. Dr D told Dr Kalia that she should apply to go on the National Performers List (‘NPL’) prior to starting this post. On 3 December 2015, Dr Kalia informed Dr D that she had applied to be on the NPL and that she was going to sit the Applied Knowledge Test (‘AKT’) on 27 January 2016. Dr Kalia was granted study leave for 26 January 2016 to prepare for the exam. On 18 February 2016, the AKT results were released and Dr Kalia advised Dr D that she had passed the exam. The results were not listed on Dr Kalia’s e-portfolio, but she informed Dr D that there was an error with the IT system. On 28 July 2016, Dr D texted Dr Kalia and told her that she should chase the AKT result as it was still not showing on her e-portfolio. Dr Kalia XXX without resolving this matter.

5. In July 2017, Dr Kalia returned to practise as a GP ST3. She began working part time at the Surgery and had more frequent contact with Dr D. Dr D advised Dr Kalia that the absence of her AKT result on her e-portfolio would be an issue at the end of her training period.
6. On 1 May 2018, Dr D contacted the exams department at the Royal College of General Practitioners (‘the College’) expressing concern that Dr Kalia’s AKT result was still not visible on her e-portfolio. Following the telephone conversation, on the same day, Dr D emailed the College. Within this email, Dr D attached the following:

- An email from Dr Kalia to Dr D, dated 26 April 2018;
- An email from Dr Kalia to the exams department at the College, dated 17 February 2016, stating that she was having trouble accessing her AKT results;
- An email from the College to Dr Kalia, dated 17 February 2016, purporting to be sent from Mr E, a member of the College’s exams department. The email appeared to give a summary of Dr Kalia’s AKT results.

7. The College was immediately concerned about the authenticity of the email containing Dr Kalia’s alleged AKT results, dated 17 February 2016, as the College would not allow trainees to be notified of their results by email. The College investigated and was unable to verify that Dr Kalia had ever applied for the AKT or that she had sat the exam. Further, it had no record of the two emails dated 17 February 2016 and the College was therefore also unable to verify them. The email containing Dr Kalia’s alleged AKT results, dated 17 February 2016, was investigated further and it was found to contain several errors, which would not have been made by the College staff.

8. On 25 May 2018, the College contacted Dr D and requested that she ask Dr Kalia to forward a copy of her booking confirmation and the certificate of attendance for her AKT exam. On 12 June 2018, Dr D emailed the College asking for an update on the missing AKT result. She stated that she believed that Dr Kalia had sent in the requested documentation. The College found no record of any communication from Dr Kalia about this issue. During this period, the College did find an email, which was sent by Dr Kalia to the College on 10 March 2016 explaining that she had forgotten about the AKT deadline and asking for guidance on how to make an application to sit the AKT in April 2016. She had received a response from Mr E on 11 March 2016.

9. On 21 June 2018, the College contacted Professor F, Head of the General Practice School and Deputy Head of Primary and Community Education for Health Education England (‘HEE’), regarding its concerns about Dr Kalia. On 26 June 2018, Professor F invited Dr Kalia to a meeting to discuss these concerns. The meeting took place on 6 July 2018, during which Dr Kalia admitted that she had not taken the AKT in January 2018 and had subsequently fabricated an email, purporting to be from Mr E containing her results. At the end of the meeting Dr Kalia was advised to carry out several actions, including completing a self-referral to the GMC. It was decided that the College would continue to support Dr Kalia in her GP training placement.

10. On 9 July 2018, Dr Kalia completed a self-referral to the GMC. She explained that she had failed to meet the deadline to apply for the AKT and lied to her educational
Record of Determinations –
Medical Practitioners Tribunal

supervisor about doing so. Dr Kalia also informed the GMC that she had ‘constructed’ an email from the College.

11. As a GP ST3, Dr Kalia was required to complete 72 hours of out-of-hours (‘OOH’) sessions as part of her work place based assessments. On 1 May 2018 it was noted in Dr Kalia’s e-portfolio that she said she had undertaken eight hours of OOH but that no evidence had been supplied. In July 2018, knowing that a GMC investigation would soon commence, Dr D encouraged Dr Kalia to complete this component of her training as soon as possible. Dr Kalia informed Dr D that she had completed some OOH sessions, but that she had not submitted the clinical supervisor sheets. Dr D requested that Dr Kalia send her the sheets and recorded a note of this conversation on Dr Kalia’s e-portfolio on 31 July 2018. On 7 August 2018, Dr Kalia gave Dr D two completed OOH sheets, dated 18 November 2017 and 10 February 2018, which bore comments and signatures purportedly from her Care UK clinical supervisors.

12. On 9 August 2018, the practice manager at the Surgery received a phone call from Miss G from NHS England for Surrey asking the Surgery to confirm Dr Kalia’s status on the NPL. Following this telephone call, Dr D was unable to locate Dr Kalia’s name on the NPL. Dr D contacted Dr Kalia to enquire as to whether she made the NPL application. Dr Kalia replied saying that she had applied, but that it may have changed XXX. On the same day, Dr Kalia then sent Dr D another message notifying her that she was not on the NPL as the initial application submitted was not complete.

13. On 10 August 2018, Dr D spoke with Miss G who advised her that she would look at Dr Kalia’s OOH work to check if she had ticked that she was on the NPL. Miss G informed Dr D that she had checked with Care UK, the OOH provider, and Dr Kalia had not completed any OOH sessions with them since 2016. As such, Dr D sent the OOH sheets, dated 18 November 2017 and 10 February 2018, to Miss G, who discovered that the OOH forms had been falsified and that Dr Kalia did not complete any OOH sessions on these dates. Dr Kalia had requested some blank worksheets from Care UK on 6 August 2018.

14. Professor F organised a second meeting to discuss these further concerns that were raised regarding Dr Kalia’s probity. During this meeting, Dr Kalia admitted that she had failed to apply to enter the NPL and she had falsified the OOH reports. Following this meeting, it was decided that Dr Kalia’s training would be paused.

15. XXX.

The Allegation and the Doctor’s Response

16. The Allegation made against Dr Kalia is as follows:

1. On one or more of the occasions set out in Schedule 1, you told your educational supervisor that you had sat and passed the Applied Knowledge
Record of Determinations –
Medical Practitioners Tribunal

Test (‘AKT’). **Admitted and found proved**

2. You knew that:
   a. you had not sat and passed the AKT;  
      **Admitted and found proved**
   b. your comments as set out at paragraph 1 were untrue. 
      **Admitted and found proved**

3. Your conduct as set out paragraph 1 was dishonest by reason of paragraph 2.  
   **Admitted and found proved**

4. On 26 April 2018 you forwarded to your educational supervisor an email dated 17 February 2016 (‘the Email’) which:
   a. purported to be from the Royal College of General Practitioners (‘RCGP’);  
      **Admitted and found proved**
   b. showed that you had passed your AKT.  
      **Admitted and found proved**

5. You knew that the:
   a. Email had:
      i. not been composed and/or sent to you by the RCGP;  
         **Admitted and found proved**
      ii. been created by you;  
         **Admitted and found proved**
   b. information contained within the Email was untrue.  
      **Admitted and found proved**

6. Your conduct as set out at paragraph 4 was dishonest by reason of paragraph 5.  
   **Admitted and found proved**

7. On one or more of the occasions set out in Schedule 2, you told your educational supervisor that you had applied to join NHS England’s National Performers List (‘NPL’).  
   **Admitted and found proved**

8. You knew that you:
Record of Determinations – Medical Practitioners Tribunal

a. had not submitted an application to join the NPL;  
   **Admitted and found proved**

b. were working as a GP in training whilst not being on the NPL.  
   **Admitted and found proved**

9. Your conduct as set out at paragraphs 7 and 8 b. was dishonest by reason of paragraph 8 a.  
   **Admitted and found proved**

10. On 6 August 2018 you obtained from Care UK a blank record of Out of Hours sessions (‘OOH record’) and on 7 August 2018 you submitted to your educational supervisor a completed OOH record for Care UK for work carried out on:

   a. 18 November 2017 which:

      i. included a claim for 8 hours’ work;  
         **Admitted and found proved**

      ii. purported to have been signed by Dr A as authorisation of your Out of Hours work;  
         **Admitted and found proved**

   b. 10 February 2018 which:

      i. included a claim for 4 hours’ work;  
         **Admitted and found proved**

      ii. purported to have been signed by a Dr B as authorisation of your Out of Hours work.  
         **Admitted and found proved**

11. You knew that:

   a. you had not undertaken the Out Of Hours work as set out at paragraph:

      i. 10 a. i.;  
         **Admitted and found proved**

      ii. 10 b. i.;  
         **Admitted and found proved**
b. the OOH record for 18 November 2017 had:
   i. not been signed by Dr A;  
      **Admitted and found proved**
   ii. been created by you;  
      **Admitted and found proved**

c. the OOH record for 10 February 2018 had:
   i. not been signed by Dr B;  
      **Admitted and found proved**
   ii. been created by you.  
      **Admitted and found proved**

12. Your conduct as set out at paragraph 10 was dishonest by reason of paragraph 11. **Admitted and found proved**

13. XXX.

**The Admitted Facts**

17. At the outset of these proceedings, through her counsel, Mr Davies, Dr Kalia made admissions to all of the 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.

**Witness Evidence**

18. The Tribunal 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:
   - Dr A, Clinical Director at Surrey Out of Hours for Care UK;
   - Dr J, Chief Examiner at the College;
   - Professor F, Head of General Practise School;
   - Dr D, GP partner and GP trainer at the Surgery;
   - Ms K, Regional Medical Director for Care UK;
   - Ms G, Programme Manager for NHS England South East;
   - Mr E, Knowledge Test Manager at the RCGP.
19. Dr Kalia provided a witness statement dated 16 September 2019 and also gave oral evidence at the hearing.

XXX

Documentary Evidence

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

- A timeline prepared by Dr D;
- Notes made by Dr D in Dr Kalia’s e-portfolio;
- Emails between Dr Kalia and RCGP exams;
- Records of Out of Hours sessions;
- Letter from RCGP to Professor F at Health Education England;
- GMC self-referral form with accompanying letter dated 6 July 2018;
- Initial account of Dr A;
- Letters to Dr Kalia from Health Education England;
- Letter from Care UK to GMC;
- Remediation bundle containing reflective notes, references and continuing professional development (‘CPD’) carried out by Dr Kalia;
- Receipts relating to revision courses Dr Kalia had signed up to;
- A 2005 reference for the purposes of Dr Kalia’s medical school application.

Submissions

28. On behalf of the GMC, Ms Duckworth submitted that the admitted dishonesty in this case amounts to misconduct as it was deliberate, planned and persistent. The conduct was in breach of several of the standards set out in GMP. She stated that the misconduct was repeated which gives cause for concern about Dr Kalia’s probity. Ms Duckworth argued that Dr Kalia’s fabrication of evidence to cover up her actions, and the prolonged period of deception was a matter of further concern. She noted that Dr Kalia’s misconduct may be out of character, but that the admitted allegations created a risk to patient safety. XXX.

29. Ms Duckworth informed the Tribunal that Dr Kalia has expressed remorse, regret and some insight. She submitted that these remedial steps are encouraging but that they are not sufficient for a determination that her fitness to practise is not currently impaired.

30. On behalf of Dr Kalia, Mr Davies XXX informed the Tribunal that Dr Kalia covered up her failure to undertake routine administrative tasks, after which a pattern of lying and deception appears to begin. Mr Davies argued that there is no rational reason why Dr Kalia would not conduct that administrative task and that her failure to sit the AKT followed a similar pattern. Dr Kalia felt shame in not being able
to complete the tasks expected of her. On the day of the AKT Dr Kalia drove to the exam location, having studied for this exam, despite her not being able to sit the test. This demonstrates irrational behaviour but makes it clear that she still intended to sit the test. Mr Davies reminded the Tribunal that Dr Kalia expressed in her evidence that her mindset, during the events of the Allegation, was of someone who was acting irrationally.

31. Mr Davies submitted that Dr Kalia’s behaviour XXX was out of character for an otherwise honest and trustworthy doctor. He stated that her motivation was not to avoid sitting the AKT, avoid undertaking the OOH work or to avoid applying to be on the NPL but was to buy herself more time to complete these tasks. Mr Davies argued XXX that she is ashamed of her actions.

The Relevant Legal Principles

32. 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.

33. 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.

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

35. The Tribunal considered whether the facts found proved amounted to misconduct which was serious.

36. The Tribunal first had regard to Dr Kalia’s behaviour up until 29 July 2016 which related to paragraphs 1 to 3 of the Allegation. This behaviour involved Dr Kalia informing her educational supervisor that she was going to sit the AKT and had passed it, when she was aware this was untrue. It bore in mind the submission of Mr Davies, that Dr Kalia had nothing to gain from this claim, but took an opposing view. The Tribunal considered that Dr Kalia did have something to gain by claiming to have passed the AKT and that was the protection of her own professional reputation.
37. The Tribunal bore in mind paragraphs 65, 66 and 68 of Good Medical Practice (2013) (‘GMP’) which state:

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

66) You must always be honest about your experience, qualifications and current role.

68) You must be honest and trustworthy in all your communication with patients and colleagues. This means you must make clear the limits of your knowledge and make reasonable checks to make sure any information you give is accurate.

71) You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading’

38. In this period Dr Kalia told a number of direct lies to her educational supervisor about her progress, including providing some detail regarding an IT failure to explain why her non-existent AKT result did not appear on her e-portfolio. The Tribunal takes the view that, even in the context of what was going on in her life in early 2016, such conduct does amount to serious professional misconduct.

39. The Tribunal therefore concluded that paragraphs 1 to 3 of the Allegation amounted to misconduct which was serious.

40. The Tribunal next had regard to paragraphs 4 to 6 of the Allegation and those parts of paragraphs 1 to 3 that related to the same time period in 2018. Paragraphs 4 to 6 of the Allegation relate to Dr Kalia forwarding an email to her education supervisor in April 2018 which purported to be from the RCGP showing that she had passed the AKT when she herself created the email and knew it to be untrue. At this point XXX and Dr D had requested the email to confirm she had passed the AKT numerous times. Dr Kalia’s actions amounted to a deliberate forgery that included inventing, not only the results of the exam but also an email from herself to the exam board requesting the results. Her actions led to a considerable amount of extra work for both Dr D and the exam board. The Tribunal bore in mind that these actions and the continued assertions to Dr D that she had passed the exam, took place at a time XXX and that Dr Kalia may well have felt that there was no other way out.

41. However, the Tribunal bore in mind the evidence that Dr Kalia would have known that what she was doing was wrong XXX. The Tribunal concluded that these acts of dishonesty were clear breaches of GMP and amounted to serious misconduct.
Record of Determinations –
Medical Practitioners Tribunal

42. The Tribunal next considered paragraphs 7 to 9 of the Allegation which related to Dr Kalia informing her educational supervisor that she had applied to join the NPL, when she knew she hadn’t and was working as a GP in training. Dr Kalia had a meeting with her educational supervisor, on 3 December 2015, during which she stated she was on the NPL when she knew she was not. Despite this she continued to work as a GP in training. In 2018 Dr Kalia was aware that she should have been on the NPL but continued to work anyway.

43. On 3 December 2015, when Dr Kalia first lied to her educational supervisor about having applied to be on the NPL, XXX. The Tribunal saw evidence from Dr D that Dr Kalia had already demonstrated a tendency for administrative disorganisation going back to the start of her ST1 year in August 2014. The Tribunal concluded that her lie to Dr D on the 3 December 2015 may have been considered by Dr Kalia to be a minor lie that could be subsequently easily rectified. However, it considered that to lie in this way to your educational supervisor amounted to serious misconduct.

44. The Tribunal concluded that Dr Kalia’s further behaviour by continuing to practise when not on the NPL but nonetheless asserting that she was so in the summer of 2018 was serious professional misconduct. XXX. However, her actions meant that she was breaching an important part of the regulatory framework she was subject to. It may have put colleagues in a difficult position and may have impacted upon her indemnity insurance, if indeed this had been renewed and was in place at that time.

45. The Tribunal next considered paragraphs 10 to 12 of the Allegation which related to Dr Kalia’s submission of an OOH record to her educational supervisor when the work had not been undertaken. The background to these acts was that Dr Kalia had previously stated on 1 May 2018 that she had completed eight hours of OOH training when she had not. Dr D was now pressing her for the documentation as she was anxious to ensure that Dr Kalia’s e-portfolio was in order, given that the GMC investigation had commenced by this time.

46. Dr Kalia invested considerable time into producing the false OOH sheets. She went to the effort of obtaining blank OOH forms and filling them in, knowing that the documents could be accepted at face value and would have an impact on the total amount of OOH training she was required to do. The mandatory training was for a doctor to complete 72 hours of OOH work. It was not inevitable that these forgeries would have been discovered. Indeed, they would not have been discovered if Dr D had not carried out the further enquiries that she did.

47. XXX. It noted that the evidence indicates that Dr Kalia would have been aware that forging documents is not acceptable. Dr Kalia undertook the forgeries at the time her previous dishonesty, regarding the AKT, had already become apparent. Her response to this was to commit further dishonesty whilst already under
investigation by the GMC. The Tribunal was of the view that this constituted serious misconduct.

48. The Tribunal therefore concluded that paragraphs 10 to 12 of the Allegation amounted to misconduct which was serious.

49. The Tribunal has determined that Dr Kalia’s conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct. Having found this, it went on to consider whether, as a result of that misconduct, Dr Kalia’s fitness to practise is currently impaired.

50. In respect of her dishonesty in each case it began as a result of Dr Kalia’s inability to admit her administrative mistakes or her failure to carry out a necessary part of her training. Although much of her dishonesty is explained XXX some is related to her personality trait of being unable to accept her own failings and a belief that others would not accept anything less than complete success on her part. The Tribunal is concerned that if there had been a clinical failure during the same period, Dr Kalia might have reacted in a similar manner.

51. Dr Kalia’s behaviour, claiming to have passed the AKT, stating that she was on the NPL when she was not and forging worksheets relating to a mandatory part of her training also have the potential to impact on public confidence in the medical profession. Dr Kalia has not demonstrated, at this hearing, that she has a wider appreciation for the consequences of her actions. Her reflective notes focus on the impact her actions had on herself rather than the impact they could have on the profession as a whole or her patients. Her reflective note also focused predominantly on XXX rather than the extent to which XXX or any personality traits caused her to be dishonest.

52. The Tribunal noted the remediation bundle provided by Dr Kalia. The Tribunal considered that there is insufficient evidence of remediation at this stage. The only CPD directly relevant to her probity issues was an online course that Dr Kalia stated in evidence took about 40 minutes to complete when she was in a coffee shop. The Tribunal accepts that Dr Kalia may well not have been able to develop her insight and carry out the necessary remedial work in the last 15 months to a satisfactory level XXX. However, the Tribunal considered that at present her insight is incomplete and there is some risk of repetition.

53. Dr Kalia’s actions involved several acts of dishonesty over a prolonged period of time. She accepted that she knew at the time that her actions were wrong and a serious breach of GMP. The Tribunal therefore concluded that a finding of impairment was necessary to protect patients, uphold public confidence in the medical profession and proper professional standards and conduct.
Record of Determinations – Medical Practitioners Tribunal

54. The Tribunal has therefore determined that Dr Kalia’s fitness to practice is impaired by reason of misconduct.

XXX

Determination on Sanction - 25/10/2019

1. This determination will be read in private. However, as this case concerns Dr Kalia’s misconduct, a redacted version will be published at the close of the hearing XXX.

2. Having determined that Dr Kalia’s fitness to practise is impaired by reason of misconduct XXX, 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

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

4. The Tribunal received further evidence on behalf of Dr Kalia:

   • XXX;
   • XXX;
   • A testimonial from Mr L, General Surgeon at Queen Elizabeth Hospital, Woolwich, London dated 17 October 2019.

Submissions

5. On behalf of the GMC, Ms Duckworth submitted that it is not appropriate to take no action or to impose conditions in this case. She stated that no proportionate conditions could be formulated as Dr Kalia’s misconduct was of such a serious nature. Ms Duckworth reminded the Tribunal that even after Dr Kalia referred herself to the GMC she still committed further acts of dishonesty. She argued that Dr Kalia’s misconduct was serious, persistent, planned XXX.

6. Ms Duckworth submitted that the appropriate sanction in this case is one of erasure as Dr Kalia is unable to accept her own failings. She stated that if there had been a clinical failure Dr Kalia might have reacted in the same manner. Ms Duckworth argued that Dr Kalia has committed a serious departure from GMP, breached fundamental tenets of the medical profession with her persistent dishonesty and has shown a lack of insight which indicates a high risk of repetition. As such, Ms Duckworth submitted that Dr Kalia’s misconduct is fundamentally incompatible with continued medical registration.
7. On behalf of Dr Kalia, Mr Davies conceded that taking no action or imposing conditions in this case would be inappropriate due to Dr Kalia’s dishonesty. He submitted that the context in which Dr Kalia’s misconduct occurred should be considered in relation to the appropriate sanction. Mr Davies stated that XXX is no excuse for her misconduct but that mitigation is critical at this stage when considering proportionality. Mr Davies argued that Dr Kalia’s insight can be addressed with further remedial work and that she has insight into XXX now and so will be able to recognise if further issues arise in the future.

8. Mr Davies submitted that a sanction of suspension would be appropriate and proportionate as it would mark the seriousness of Dr Kalia’s misconduct and would allow her a period of further reflection. Accordingly, he also submitted that a review hearing would be necessary in this case.

The Tribunal’s Determination on Sanction

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

10. In reaching its decision, the Tribunal has taken account of the Sanctions Guidance (2018) and 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.

11. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Kalia’s interests with the public interest. The Tribunal has already given a detailed determination on impairment and has taken those matters into account during its deliberations on sanction.

12. The Tribunal considered the aggravating factors in this case. It bore in mind that Dr Kalia’s dishonesty spanned a period of two years eight months and that it persisted after her self-referral to the GMC. Her dishonesty included creating forgeries to cover up her previous lies. The dishonesty related to her performance as a doctor as the AKT and the OOH work were necessary parts of her training programme. The Tribunal was of the view that Dr Kalia has not demonstrated sufficient insight at this hearing or produced sufficient evidence of remediation for her dishonest conduct.

13. The Tribunal next considered the mitigating factors in this case. It noted that Dr Kalia is a young doctor at a relatively early stage in her career and had not had the opportunity to develop the relevant coping strategies for stressful situations arising during her medical training. It is clear from the evidence that she is of previous good character and was a good clinical practitioner. XXX. The Tribunal was of the view that Dr Kalia has demonstrated a degree of insight by making full admissions at this hearing. XXX. The Tribunal bore in mind that Dr Kalia’s ability to
**Record of Determinations – Medical Practitioners Tribunal**

develop full insight and carry out remedial work would have been adversely affected by XXX in the last 15 months.

**No Action**

14. 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.

15. The Tribunal determined that there were no exceptional circumstances to justify taking no action.

**Conditions**

16. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Kalia’s registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable.

17. The Tribunal had regard to Mr Davies’ concession that conditions would not be appropriate in this case as it involves dishonesty. It was of the view that the misconduct displayed in this case is too serious for conditions to be appropriate. The Tribunal also considered that Dr Kalia’s limited insight and lack of remediation at this stage also mean that conditions would not be appropriate in this case.

18. The Tribunal therefore concluded that conditions are insufficient to maintain public confidence and uphold standards within the medical profession.

**Suspension**

19. The Tribunal then went on to consider whether imposing a period of suspension on Dr Kalia’s registration would be appropriate and proportionate. It was of the view that the following paragraphs of the SG apply in this case:

‘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 unbefitting 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.

92) Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession)’
Record of Determinations – Medical Practitioners Tribunal

20. During its deliberations, the Tribunal bore in mind that Dr Kalia is at an early stage in her medical career. She has cooperated fully XXX with these proceedings XXX. The Tribunal is of the view that XXX she is capable of developing fuller insight and remediating her behaviour. The Tribunal takes the view that these proceedings and the sanction it is imposing will be part of that process.

21. The Tribunal also had regard to paragraph 128 of the SG, which states:

‘Dishonesty, if persistent and/or covered up, is likely to result in erasure’

22. The Tribunal was of the view that Dr Kalia’s dishonesty was persistent and included covering up earlier lies by producing forged documents. XXX. In all the circumstances, the Tribunal concluded that Dr Kalia’s acts were not therefore fundamentally incompatible with being a doctor and that erasure would be a disproportionate sanction.

23. The Tribunal determined that a period of suspension would be an appropriate and proportionate sanction which would protect public confidence in the profession and promote and maintain proper standards of conduct and behaviour.

24. In considering the appropriate period of suspension, the Tribunal was aware that the maximum period of suspension is 12 months. It had regard to the following paragraph of the SG, which it considered to be relevant in determining the length of Dr Kalia’s suspension:

‘100) The following factors will be relevant when determining the length of suspension:

a) the risk to patient safety/public protection
b) the seriousness of the findings and any mitigating or aggravating factors
c) ensuring the doctor has adequate time to remediate’

25. The Tribunal determined that a period of suspension of 12 months was necessary in this case. It was of the view that Dr Kalia would need this amount of time to XXX then develop her insight and gain evidence of remediation. The Tribunal was also of the view that a period of 12 months was necessary to send a strong signal to the profession about the seriousness of Dr Kalia’s misconduct.

26. The Tribunal considered Mr Davies’ submission that it should have regard to the period of time that Dr Kalia was suspended by the Interim Orders Tribunal (IOT) when fixing the length of any suspension. It noted that this period of suspension occurred when Dr Kalia was XXX suspended from her training programme in any event. The Tribunal concluded that the fact that Dr Kalia had been suspended by the IOT did not affect its conclusion that a period of 12 months suspension was appropriate in this case.
Record of Determinations – Medical Practitioners Tribunal

27. Shortly before the end of the period of suspension, Dr Kalia’s case will be reviewed by a Medical Practitioners Tribunal. A letter will be sent to Dr Kalia about the arrangements for the review hearing. At the next hearing, the review Tribunal will be assisted by the following:

- XXX;
- Evidence that she has developed insight, including a further reflective statement dealing with her misconduct and the character traits that led to it;
- Evidence of remediation;
- Any other relevant evidence she wishes to present to assist the Tribunal including evidence that she has kept her clinical knowledge and skills up to date and evidence of her CPD.

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

Determination on Immediate Order - 25/10/2019

1. This determination will be read in private. However, as this case concerns Dr Kalia’s misconduct, a redacted version will be published at the close of the hearing XXX.

2. Having determined to suspend Dr Kalia’s registration, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether her registration should be subject to an immediate order.

Submissions

3. On behalf of the GMC, Ms Duckworth submitted that an immediate order of suspension is necessary in this case to protect public confidence in the medical profession.

4. On behalf of Dr Kalia, Mr Davies had no submissions.

The Tribunal’s Determination

5. The Tribunal was of the view that an immediate order of suspension was necessary to protect the public interest and Dr Kalia’s interests. It concluded that patient safety would be undermined if an immediate order were not made.
Record of Determinations –
Medical Practitioners Tribunal

6. The Tribunal therefore determined to impose an immediate order of suspension.

7. This means that Dr Kalia’s registration will be suspended from today. The substantive direction, as already announced, will take effect 28 days from when written notice of this determination has been served upon Dr Kalia, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

8. The interim order currently imposed on Dr Kalia’s registration will be revoked when the immediate order takes effect.

9. That concludes the case.

Confirmed
Date 25 October 2019

Mr Charles Thomas, Chair
XXX

Schedule 1

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Record of Determinations –
Medical Practitioners Tribunal

Schedule 2

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