Record of Determinations – Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 09/08/2019 - 09/08/2019

Medical Practitioner’s name: Dr Ryan CHAU

GMC reference number: 4645823

Primary medical qualification: BM BS 1999 University of Nottingham

Type of case: Outcome on impairment
Review - Misconduct
Not Impaired

Summary of outcome
Conditions revoked

Tribunal:

<table>
<thead>
<tr>
<th>Role</th>
<th>Name</th>
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<tbody>
<tr>
<td>Legally Qualified Chair</td>
<td>Mr Robin Ince</td>
</tr>
<tr>
<td>Lay Tribunal Member:</td>
<td>Mrs Michele Clare</td>
</tr>
<tr>
<td>Medical Tribunal Member:</td>
<td>Dr Anjali Ahluwalia</td>
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<tr>
<th>Role</th>
<th>Name</th>
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<tr>
<td>Tribunal Clerk:</td>
<td>Ms Chloe Ainsworth</td>
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Attendance and Representation:

<table>
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<tr>
<th>Role</th>
<th>Description</th>
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<tr>
<td>Medical Practitioner:</td>
<td>Present and not represented</td>
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<tr>
<td>Medical Practitioner’s Representative:</td>
<td>N/A</td>
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<tr>
<td>GMC Representative:</td>
<td>Mr Tom Orpin-Massey, 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 partly in public and partly in private.
Background

1. The Tribunal had regard to the background of Dr Chau's case, which was first considered by a Medical Practitioners Tribunal ('MPT') in January 2018 ('the January 2018 Tribunal'). At the time of the events, Dr Chau was employed as a core specialty trainee in trauma and orthopaedic surgery at University Hospitals of Leicester NHS Trust ('the Trust'). After falling behind in his training, on 11 May 2015 the Annual Review of Competence Progression ('ARCP') panel considering Dr Chau’s progress informed him that his national training number would be withdrawn unless he appealed the decision. At the end of the appeal period (which he did not take up) Dr Chau was sent a letter from the Director of Education and Quality and Postgraduate Dean, on 19 June 2015, which confirmed the outcome of the review and the withdrawal of his national training number.

2. In 2014 Dr Chau had begun the process of registering with ID Medical Recruitment Agency ('ID Medical'); however, he did not complete his registration. In early 2016, Dr Chau emailed ID Medical and provided documents which were required to continue with his registration. The recruitment agency’s compliance team assessed these documents and found the appraisal letter to be suspicious. The matter was escalated and the Trust commissioned an investigation into Dr Chau's conduct and behaviour. During the investigation, Dr Chau was interviewed on 30 June 2016 and admitted to changing the date and contents of a letter to show that his progress was satisfactory. He said that he had been under family and financial pressure. The matter was subsequently referred to the GMC and the falsification of the document formed the basis of the Allegation that the January 2018 Tribunal considered.

The January 2018 Tribunal

3. Dr Chau was not present at the hearing in January 2018. The January 2018 Tribunal was of the view that Dr Chau's actions breached the fundamental tenets of GMP, damaged the confidence of the public and went against the standards of members of the profession. However, it found it to his credit that Dr Chau had made admissions at the early stage of the investigation process by the Trust.

4. The January 2018 Tribunal determined that whilst Dr Chau’s misconduct was deplorable and his fitness to practise was impaired, it was possible that he could demonstrate remediation after a period of suspension. It determined that imposing a
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period of suspension for six months would strike the right balance between the interests of the public and Dr Chau's interests. It further determined that this would be sufficient for Dr Chau to develop further insight and demonstrate remediation of the misconduct.

The July 2018 Tribunal

5. Dr Chau’s case was reviewed on 26 July 2018 (‘the July 2018 Tribunal’). Once again, Dr Chau did not attend. The July 2018 Tribunal was satisfied with the level of CPD that Dr Chau had undertaken, but was concerned that this had only started on 25 June 2018, following service of the notification of the hearing date. The July 2018 Tribunal noted that there was no reflection of Dr Chau’s learning on the courses and of how he would incorporate it into his future practice and/or conduct. It was further concerned about the large number of CPD hours acquired on some days. The Tribunal concluded that Dr Chau could not have absorbed the information contained within each CPD area.

6. The July 2018 Tribunal noted that Dr Chau, notwithstanding his absence from the hearing, had otherwise engaged with the process and had made some progress in his development of insight and remediation during the period of suspension. The July 2018 Tribunal also noted that Dr Chau’s behaviour was an isolated incident compounded by Dr Chau’s stress levels and that the misconduct had not been repeated. The July 2018 Tribunal determined that imposing conditions on Dr Chau’s registration for a period of 12 months would give him sufficient time to fully remediate and reflect on his misconduct and undertake clinical practice whilst being adequately supported.

7. The July 2018 Tribunal determined that the reviewing Tribunal would be assisted by the following:

- Evidence that Dr Chau has kept his medical skills and knowledge up-to-date;
- Evidence he has learned how to cope with personal stress and developed strategies to combat this;
- Attendance on any relevant courses, such as the MDU ethics course;
- A reflective statement;
- A report from his mentor and/or workplace supervisor;
- His personal development plan;
- Any other information that may assist the tribunal reviewing his case.
8. The Tribunal has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended (‘the Rules’) whether Dr Chau’s fitness to practise is impaired by reason of his misconduct.

The Evidence

9. The Tribunal took account of all the evidence received, both oral and documentary.

10. The Tribunal received the following documentary evidence:

   - Correspondence from Dr A, Holt Doctors, Responsible Officer for Dr Chau, dated 16 April 2019;
   - CPD certificates;
   - GMC report form completed by Dr B, dated 14 July 2019;
   - Patient feedback survey.

Submissions

Submissions on behalf of the GMC

11. Mr Orpin-Massey submitted that Dr Chau’s fitness to practise remains impaired. He submitted that Dr Chau’s underlying conduct, in forging a letter dishonestly, was serious and that this requires proper considered application to remediate. He submitted that the July 2018 Tribunal found Dr Chau’s insight to be in its ‘infancy’ and that his reflective statement before this hearing was brief. Further, he submitted that Dr Chau has not provided any reflection on the CPD or the two ethics courses that he had attended since the incident to demonstrate an understanding into where he went wrong. As such, Mr Orpin-Massey submitted that there remained a risk of repetition and therefore that Dr Chau’s fitness to practise remained impaired.

Dr Chau’s submissions

12. Dr Chau referred the Tribunal to the list of requirements and submitted that he has met them since the July 2018 Tribunal. He submitted that he has had 14 months out of practice and that he has gone into a different specialty and has been promoted, showing he has kept his clinical knowledge and skills up to date. Dr Chau submitted that he has developed strategies to cope with personal stress through attendance on
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relevant courses and at discussion groups. He explained that he was not aware of the length his reflective statement should be and that he had tried to be succinct. Dr Chau submitted that he understands what he did was wrong and that he will not repeat his actions again in the future. He referred the Tribunal to his workplace report and his patient feedback report which he submitted are both satisfactory. Dr Chau submitted that he has accepted the suspension and the conditions, but stated that the six-month suspension has effectively turned into a 14-month suspension due to his difficulty obtaining employment.

The Relevant Legal Principles

13. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal’s judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it has to be satisfied that Dr Chau would be safe to return to unrestricted practice.

14. This Tribunal must determine whether Dr Chau’s fitness to practise is impaired as at today, taking into account Dr Chau’s conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied, the likelihood of repetition and whether he has insight.

The Tribunal’s Determination on Impairment

15. The Tribunal considered whether Dr Chau remains impaired by reason of his misconduct.

16. The Tribunal had regard to the extensive remediation that Dr Chau has undertaken since the January 2018 and July 2018 Tribunals. The Tribunal particularly noted the two medical ethics courses that Dr Chau has attended. During his oral evidence the Tribunal found that Dr Chau was able to apply his learning from the courses that he attended to his misconduct. It noted Dr Chau’s use of the ‘slippery slope ethics’ and his application of this concept to his own situation. He stated that although he acted with one intention, his actions could have had a ‘snowball effect’. The Tribunal was satisfied with the remediation that Dr Chau has undergone and that he has learned to apply this to his professional life.

17. The Tribunal had evidence before it of CPD that Dr Chau has undertaken in the form of attendance certificates. The Tribunal determined that Dr Chau has been
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able to keep his clinical skills up to date and noted that he has been promoted at Grimsby Hospital, where he is currently employed.

18. The Tribunal carefully considered Dr Chau’s level of insight into his misconduct. The Tribunal had regard to Dr Chau’s reflective statement:

‘I am deeply ashamed and extremely remorseful about this incident which has raised questions about my probity. I have accepted the period of licence suspension and the current sanctions as a consequence to my wrong doing. I have been frank and open about my mistake and have volunteered the information on the XXX, at interviews, and to my current employers.’

19. The Tribunal noted that, when asked what he had learned from these proceedings, Dr Chau stated that he had learned: to be honest with everyone; to understand himself as a whole; how to manage his time better; how to manage XXX; that he could not get away from stress, but there were ways to minimise it; the importance of having a mentor with whom to discuss his problems; and the importance of team work with his medical colleagues.

20. Also, during his oral evidence Dr Chau accepted the negative impact that a doctor forging a document could have on the medical profession and the public. This would result in 'a lack of trust' in the profession. The Tribunal noted that Dr Chau stated that a member of the public would think his actions were 'unacceptable'. Further, it noted his detailed explanation of the negative impact that forged documents could have from a medical perspective - he said that the 'least damage' was to lose the trust of the public, but the 'worst damage' would be the risk of incorrect or harmful treatment. In addition, he stated that someone including false information into a CV could result in unqualified people treating patients, which could have particularly severe consequences.

21. The Tribunal considered that, initially, Dr Chau had difficulties expressing himself with regard to his remediation and insight, both in his written reflective piece and in his initial oral evidence. However, it was impressed that, once he had been required (by being questioned) to think about what information the Tribunal was seeking, he became more expressive, confident and voluble. The Tribunal also appreciated his attendance at the hearing, which it considered demonstrated a willingness to better engage with the process than previously.
22. Taking all these factors into account, the Tribunal therefore concluded that Dr Chau has demonstrated sufficient insight into his misconduct.

23. The Tribunal finally considered whether there is a risk of repetition in this case. The Tribunal noted Dr Chau’s oral evidence that he has been honest in disclosing the conditions placed on his registration by the July 2018 Tribunal on all his job applications. The Tribunal noted the positive GMC report form completed by Dr B, dated 14 July 2019, in which states ‘Dr Chau has appeared to be honest, conscientious, hard-working’. The Tribunal determined that the risk of repetition in Dr Chau’s case is minimal.

24. In light of the above, the Tribunal determined that Dr Chau is unlikely to repeat his misconduct in the future.

25. This Tribunal has therefore determined that Dr Chau’s fitness to practice is not impaired by reason of misconduct.

26. In all the circumstances, the Tribunal is satisfied that Dr Chau has fully addressed the previous Tribunals’ concerns; he has demonstrated remorse and gained sufficient insight. The Tribunal has therefore determined that Dr Chau’s fitness to practise is no longer impaired by reason of his misconduct.

27. The order of conditions imposed on Dr Chau’s registration is therefore revoked with immediate effect.

28. That concludes this hearing.

Confirmed
Date 09 August 2019

Mr Robin Ince, Chair