Record of Determinations – Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 08/10/2019 - 10/10/2019

Medical Practitioner’s name: Dr Syed Muhammad Ali IMAM

GMC reference number: 6100654

Primary medical qualification: MB BS 2002 University of Karachi

Type of case
Restoration following disciplinary erasure

Outcome on impairment

Summary of outcome
Restoration application refused. No further applications allowed for 12 months from last application.

Tribunal:

<table>
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<tr>
<td>Lay Tribunal Member (Chair)</td>
<td>Mr David Urpeth</td>
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<td>Lay Tribunal Member:</td>
<td>Mrs Debbie Hill</td>
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<td>Medical Tribunal Member:</td>
<td>Dr Marta Babores Raset</td>
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Tribunal Clerk: Ms Lauren Duffy

Attendance and Representation:

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<td>Medical Practitioner:</td>
<td>Present and represented</td>
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<tr>
<td>Medical Practitioner’s Representative:</td>
<td>Ms Catherine Stock, Counsel, directly instructed</td>
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<tr>
<td>GMC Representative:</td>
<td>Mr Christopher Hamlet, 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.
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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 Restoration - 10/10/2019

1. Dr Imam has applied to the General Medical Council (GMC) for the restoration of his name to the Medical Register following his erasure in November 2010.

2. The Tribunal has considered Dr Imam’s application in accordance with the provisions set out in Section 41 of the Medical Act 1983 (as amended) and Rule 24 of the Fitness to Practise Rules 2004.

3. Dr Imam’s first application for restoration was rejected following a Medical Practitioners Tribunal in November 2017.

The Outcome of Applications Made

4. On behalf of Dr Imam, Ms Stock made an application to recall Dr A to give further evidence. Mr Hamlet did not oppose this application. The Tribunal granted this application and the full decision on the application is included in Annex A.

Background

5. Dr Imam’s case was first considered by a fitness to practise Panel in November 2010 (‘the 2010 Panel’). The 2010 Panel determined that his fitness to practise was impaired by reason of misconduct and deficient professional performance. It determined to erase Dr Imam’s name from the Medical Register.

6. Between 7 November 2008 and 2 February 2009, Dr Imam was employed by Salford Royal Hospital NHS Foundation Trust (‘Salford Royal’) and worked as a Specialist Trainee Neurosurgeon. On 30 December 2008, Dr Imam was suspended from Salford Royal, on full pay, pending an investigation into his behaviour and practice and he was referred to the National Clinical Advisory Service (‘NCAS’). In November 2008, Dr Imam applied for a position at King’s College Hospital NHS Foundation Trust (‘King’s College’) and subsequently attended an interview on 19 January 2009. Dr Imam was employed by King’s College from 16 February 2009 to 24 April 2009. The 2010 Panel found that Dr Imam had not disclosed, either his exclusion from Salford Royal, or the referral of his case to NCAS, during the interview or whilst working at King’s college.
7. The 2010 Panel determined that this information was highly relevant during the application process. It was satisfied that, at the time of Dr Imam’s interview at King’s College, he was aware that the information in the job application did not reflect the true position and it determined that his decision not to disclose this information was misleading. Once Dr Imam started working for King’s College, a Consultant Neurosurgeon contacted Dr Imam’s former educational supervisor at Salford Royal. This was following a number of complaints from Dr Imam’s colleagues at King’s College; it was only then that King’s College became aware of the concerns that had been raised whilst Dr Imam was working at Salford Royal.

8. The 2010 Panel determined that Dr Imam’s conduct amounted to misconduct. It found that he did not yet have insight into the significance of his misleading behaviour and as a result it determined that his fitness to practise was impaired by reason of misconduct.

9. Prior to the 2010 hearing, on 31 March 2009, the GMC received a referral from the Medical Director of Salford Royal regarding the standard of Dr Imam’s professional performance. Dr Imam was invited to undertake a performance assessment, which was carried out in September 2009 in two stages (a peer review followed by tests of competence).

10. Dr Imam admitted and the 2010 Panel found proved that in the peer review phase of the assessment, his practice was unacceptable in the following areas;

   • assessment of patient’s condition; and
   • providing or arranging investigation.

In addition, the 2010 Panel found that, in the peer review phase of the assessment, Dr Imam’s practice was also unacceptable in the following areas:

   • record keeping;
   • constructive participation in audit, assessment and appraisal;
   • relationships with colleagues/ GPs/ teamwork; and
   • arranging cover, delegation and referral.

11. Dr Imam admitted, and the 2010 Panel found proved that, in the applied knowledge tests his knowledge was unacceptable in that, in the extended matching questions test, he scored 67.5% which was below the minimum acceptable score of 69%. The 2010 Panel also found that, in the applied knowledge tests, his knowledge base was unacceptable in that in the single best answer test he scored 62.5% which was below the minimum acceptable score of 68%.
12. Dr Imam admitted, and the 2010 Panel found proved, that in the observed structured clinical examination (‘OSCE’) test, Dr Imam’s performance was unacceptable in the following stations:

- scrubbing and gowning;
- trauma assessment; and
- fluid balance.

In addition, the 2010 Panel also found that Dr Imam’s performance was unacceptable at the following station:

- knotting with a jig.

13. The 2010 Panel found that the performance assessors had concluded that the standard of Dr Imam’s professional performance had been deficient. The Panel was concerned by the extent and nature of the unacceptable findings. It was satisfied that its findings amounted to deficient professional performance and it noted that Dr Imam had not provided any evidence of remediation. This, coupled with his considerable lack of insight, led it to conclude that Dr Imam’s fitness to practise was impaired by reason of deficient professional performance.

14. The 2010 Panel was of the view that Dr Imam did not fully appreciate the seriousness of his actions. It was not satisfied that he had any insight into his misconduct and deficient professional performance and noted that, even during the hearing, he had demonstrated a lack of insight by trying to blame others. It determined that his actions amounted to a serious departure from the 2006 edition of ‘Good Medical Practice’ (‘GMP’). In light of all the evidence, the 2010 Panel determined to erase Dr Imam’s name from the Medical Register in order to protect public safety.

First restoration application – November 2017

15. Dr Imam’s first application for restoration was considered by a Medical Practitioners Tribunal in November 2017 (‘the 2017 Tribunal’). The 2017 Tribunal determined to refuse Dr Imam’s application.

Misconduct

16. The 2017 Tribunal remained concerned that Dr Imam still did not appear to accept responsibility for his dishonest behaviour which led to his misconduct. Although Dr Imam told the 2017 Tribunal that his non-disclosure to King’s College was a “gross mistake”, it found that he still tended to transfer blame to others.
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Tribunal found inconsistencies between Dr Imam’s oral evidence and the documentary evidence he had provided. It also determined that Dr Imam had not demonstrated an adequate understanding of the principles in GMP. The 2017 Tribunal was also concerned that Dr Imam had not attended any courses relating to probity during the period since his name was erased from the Medical Register and determined that there was a lack of evidence to demonstrate that he had remediated his misconduct. The Tribunal concluded that his significant lack of insight into his misconduct had inhibited him from remediating it.

Deficient Professional Performance

17. The 2017 Tribunal was satisfied that Dr Imam had some insight into his deficient professional performance, albeit that his insight was not fully developed. It was concerned with the testimonials provided by Dr Imam, in that, they were opinion-based about the standard of his clinical competency and were not supported by any independent and objective evidence. It also had regard to the Continuing Professional Development (CPD) evidence that Dr Imam provided. It determined that his CPD was not targeted to his speciality of neurosurgery and that the type of CPD he had provided was that which any doctor should be doing on a regular basis. The Tribunal took the view that the limited reflection that Dr Imam had provided was superficial in the context of the 2010 Panel’s findings. Whilst the voluminous amount of CPD documentation demonstrated an effort to try and remediate, the Tribunal remained concerned that Dr Imam had not undertaken any voluntary work in the UK healthcare sector or made any contact with relevant authorities to try and establish a structured strategy for him to remediate his deficient professional performance.

18. In light of its serious and profound concerns about Dr Imam’s lack of insight, the 2017 Tribunal determined that a further assessment of his professional performance would serve no useful purpose.

19. The 2017 Tribunal concluded that Dr Imam had not satisfied it that he was fit to return to unrestricted practice. The Tribunal therefore determined not to grant his application for restoration in order to protect the health, safety and wellbeing of the public, to maintain public confidence in the profession, and to declare and uphold proper standards of conduct and behaviour for members of the profession.

Evidence

20. The GMC provided the Tribunal with the determinations of the 2010 Panel, as well as the transcripts from that hearing. The determination of the 2017 restoration hearing, transcripts from that hearing and a copy of Dr Imam’s application for restoration, dated 1 April 2019 was also provided.
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21. The Tribunal was also provided with supporting documentation submitted on Dr Imam’s behalf, which included (but was not limited to):

- Certificate of good standing – Pakistan Medical & Dental Council, dated 15 March 2019;
- Reflective statement by Dr Imam, dated 8 October 2019;
- UD8 – completed by Mr B, Consultant in Neurosurgery at Aga Khan University Hospital in Pakistan, dated 1 April 2019;
- UD8 – completed by Mr B, covering 3 October – 5 December 2016, dated 23 April 2019;
- Dr Imam’s Professional Development Plan (‘PDP’);
- Various CPD certificates; and
- Various references in support of Dr Imam’s application for restoration.

22. In addition, Dr Imam gave oral evidence, at the hearing and was subject to cross examination by GMC Counsel. The Tribunal found Dr Imam’s evidence to be repetitive, unfocused and pre-rehearsed. The Tribunal had sympathy with the 2017 Tribunal who found that Dr Imam had a tendency to tell the Tribunal what he thought it wanted to hear. Further, the Tribunal felt Dr Imam simply made assertions rather than provide objective evidence. In conclusion, the Tribunal took the view that Dr Imam’s written and oral evidence was poor and lacked objectivity.

23. The Tribunal also received oral evidence from Dr A, a Neurosurgery Senior Clinical Fellow, who was Dr Imam’s supervisor during his clinical observership at the Royal London Hospital. The Tribunal did not consider Dr A’s evidence to be compelling. It considered that Dr A had taken what Dr Imam had told him at face value rather than seeking objective evidence. The Tribunal noted that, despite Dr A accepting it was troubling that he had not been made aware of certain things by Dr Imam until they arose during the hearing, he was unwavering in his support for Dr Imam. The Tribunal found Dr A’s evidence inconsistent and found him to be an unreliable witness.

Submissions

On behalf of the GMC

24. Mr Hamlet submitted that Dr Imam’s application for restoration should be refused. He reminded the Tribunal of the reasons for Dr Imam’s erasure and noted that Dr Imam had been found impaired by reason of his misconduct and deficient professional performance.

25. Regarding Dr Imam’s deficient professional performance, Mr Hamlet reminded the Tribunal that Dr Imam has been out of practice for 9 years. He submitted that a gap of this nature represents a significant concern, particularly given the speciality in which Dr Imam is intending to return to practise. Mr Hamlet acknowledged that Dr
Imam had made a significant effort to maintain his knowledge in his chosen field by securing clinical observerships and supervised placements. However, he submitted that Dr Imam has not however adduced any objective evidence that he has analysed all of the areas of concern with the 2009 Performance Assessment or that he has addressed these in full. Further, he submitted that his PDP does not adequately address the performance issues.

26. In relation to the issues surrounding Dr Imam’s misconduct, Mr Hamlet submitted that Dr Imam does not have genuine insight or remorse into his dishonest behaviour. He reminded the Tribunal that Dr Imam had told the 2017 Tribunal that he was remorseful and had full insight, however he now says that he did not have full insight back in 2017. He said that Dr Imam asserted that, due to his attendance at a three-day ethics course, he now has full insight. Mr Hamlet submitted that Dr Imam is again telling the Tribunal what he thinks it wants to hear. He referred to the inconsistencies in the oral evidence of Dr A and submitted that one has to question whether Dr Imam has been fully honest and frank with Dr A regarding the reasons for his erasure.

On behalf of Dr Imam

27. Ms Stock submitted that Dr Imam’s restoration application should be granted. She referred to the 2017 determination in which that Tribunal determined that Dr Imam had not developed full insight or remediated his misconduct or deficient professional performance. She also referred to the fact that the 2017 Tribunal were critical of his ”scattergun“ approach to remediation. She submitted that Dr Imam has done everything the 2017 Tribunal had asked him to do; obtained a clinical attachment in the UK, documented every patient and his discussions, focused on his speciality of neurosurgery and attended a course on probity.

28. Ms Stock recognised that it is difficult to sufficiently address performance issues whilst not being on the Medical Register, however she submitted that Dr Imam has done all that he possibly can. She submitted that he has demonstrated remorse, he understands where and why he went wrong and he has taken steps to ensure it never happens again. Further, she submitted that the likelihood of repetition is low as Dr Imam has been on a very difficult journey and would not put his career at risk again.

The relevant legal principles

29. The Tribunal reminded itself that its power to restore a practitioner to the Medical Register in accordance with Section 41 of the Act is a discretionary power. This power is to be exercised in the context of the Tribunal’s primary responsibility to act in accordance with the statutory overarching objective.
30. The Tribunal has borne in mind that, should it determine to restore Dr Imam’s name to the Medical Register, there is no provision for this to be on the basis of anything other than unrestricted registration. The onus of persuading the Tribunal that he is fit to practise and should be returned to the Medical Register is on Dr Imam.

The Tribunal’s Decision

Deficient professional performance

31. The Tribunal had regard to the circumstances which led to Dr Imam’s name being erased from the register in 2010. It noted that the 2010 Panel found Dr Imam to be impaired by reason of his deficient professional performance. It also had regard to the 2017 Tribunal’s determination that Dr Imam did not have full insight into his deficient professional performance, nor had he fully remediated.

32. The Tribunal noted that Dr Imam has been out of practice for nine years. It noted that the Performance Assessors and the 2010 Tribunal had concerns about his basic skills as a doctor. The Tribunal noted the 2017 Tribunal’s concerns, namely that Dr Imam had not targeted his CPD to his speciality of neurosurgery. Whilst it is apparent that Dr Imam has taken on board the 2017 Tribunal’s comments and has focused on courses around neurosurgery, the Tribunal remain concerned that Dr Imam has still yet to address the findings of the Performance Assessment in 2010. The Tribunal recognised that Dr Imam has made some efforts and has tried to maintain his medical skills and knowledge both in Pakistan and in the UK under his clinical observerships. However, it determined that Dr Imam is still yet to focus on the core performance issues from the initial Performance Assessment and he has not provided any objective evidence that he is fit to return to unrestricted practice.

33. The Tribunal had regard to the testimonials it has received in support of Dr Imam. It also had regard to Dr A’s oral evidence in relation to Dr Imam’s clinical skills and competence. Whilst it took into account Dr A’s comment that he has no concern about Dr Imam’s clinical competency, it was clear the Dr A did not have a full understanding of the performance issues that were raised in Dr Imam’s initial Performance Assessment. The Tribunal took the view that this was an assertion made by Dr A and was not supported by any objective evidence.

34. The Tribunal noted that there had been a Performance Assessment in 2009. It noted the 2017 Tribunal’s comments that a Performance Assessment had not been possible and considered this to be unusual. It determined that there are no cogent reasons as to why a Performance Assessment would not be possible. Whilst this Tribunal is not directing a Performance Assessment, Dr Imam might wish to consider undertaking one to demonstrate objective evidence of his competence. Given the passage of time since erasure, and the results of the Performance Assessment
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Assessment, the Tribunal determined that Dr Imam needs to demonstrate the basic skills of a doctor before applying himself to his speciality.

Misconduct

35. The Tribunal had regard to Dr Imam’s 2017 restoration hearing where Dr Imam told the Tribunal that he was “deeply ashamed”. In Dr Imam’s oral evidence to this Tribunal, he told the Tribunal that he did not have full insight when he appeared before the 2017 Tribunal. This Tribunal found, as a matter of fact, that Dr Imam had tried to mislead the 2017 Tribunal and therefore, it remains concerned that Dr Imam is yet to develop insight into his misleading actions. The Tribunal considered this to be evidence of further misleading behaviour and considered the likelihood of repetition to be high. Dr Imam told the Tribunal that he has been “open and frank” with everyone he has met since the 2017 restoration hearing about the reasons that led to his name being erased from the medical register. In his oral evidence, Dr Imam referred to conversations that he had with Dr A, confirming that he had given full details of the reasons for his erasure. Whilst it is clear that Dr Imam had provided copies of his 2017 determination to Dr A, the Tribunal remain concerned that Dr A did not know any detail of the 2010 Performance Assessment and took the view that Dr Imam had not been as “open and frank” with Dr A as he says he was. The Tribunal again determined that this was representative of a lack of transparency by Dr Imam.

36. The Tribunal recognised that Dr Imam was unrepresented in 2017 but considered that this did not diminish its concerns about his probity.

37. The Tribunal considered Dr Imams teaching of students, without telling them about his erasure, to be misleading and yet another reason to doubt his probity.

38. The Tribunal noted Dr Imam’s reflective statement in which he states, “I have no excuses but deep regret and remorse” and “I sincerely apologise for my dishonesty... I have learned my lesson”. It also noted Dr Imam’s oral evidence in which he profusely apologised to this Tribunal for his previous probity issues. Whilst the Tribunal considered Dr Imam to be sorry for what he had done and recognised the impact that this has had on his life, the Tribunal considered his expressions of remorse to be somewhat self-serving. The Tribunal took the view that Dr Imam could have put more in his reflective statement about the impact his actions had on the safety of his patients and the reputation of the medical profession. It considered that Dr Imam still does not appreciate the risk he posed to patients or the wider impact his actions had on the profession and its wider reputation. It determined that this needed developing and requires further reflection from Dr Imam.

39. The Tribunal went on to consider what Dr Imam has done to remediate his misconduct. The Tribunal acknowledged that Dr Imam attended a three-day course in “Maintaining Proper Boundaries and Values and Professionalism”. Further, it noted
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Dr Imam’s comments in his reflective statement that, since attending the course he, “now appreciates how boundaries were crossed” and how it helped him gain “better insight”. In his oral evidence to the Tribunal, Dr Imam described the course as “mind-blowing”. The Tribunal was not convinced that a three-day course could have such a big impact upon Dr Imam’s ethical values and it remains concerned that Dr Imam’s misleading behaviour may be a fundamental character flaw. The Tribunal determined that Dr Imam has not done enough to remediate his misleading behaviour which led to his misconduct.

40. The Tribunal determined that Dr Imam does not yet have full insight into his misconduct or his deficient professional performance. Whilst the Tribunal acknowledged Dr Imam’s efforts to attempt to address his performance issues, it determined that he has not yet fully remediated either his deficient professional performance or misconduct. The Tribunal concluded that Dr Imam has not satisfied it that he is fit to return to unrestricted practice. Accordingly, it determined to refuse his application to be restored to the Medical Register at this time.

41. The Tribunal determined that Dr Imam can reapply to be restored to the Medical Register in 12 months’ time. It considered this to be sufficient time to allow Dr Imam to fully remediate his misconduct and deficient professional performance.

42. That concludes this case.

Confirmed
Date 10 October 2019
Mr David Urpeth, Chair
Annex A – 09/10/2019

Application to recall a defence witness

1. Ms Stock made an application to recall defence witness Dr A who had previously given evidence by telephone. Ms Stock reminded the Tribunal that during his evidence Dr A told the Tribunal that he had not been provided with a copy of the 2017 Tribunal’s determination on Dr Imam’s application to restore his name to the Medical Register.

43. Ms Stock provided the Tribunal with an email dated 14 February 2019, which had the 2017 determination attached from Dr Imam to Dr A. Ms Stock stated that she wished Dr A to confirm that he had not only received the email and attachment but that he had read the determination. She reminded the Tribunal that the 2017 determination also contained the reasons why Dr Imam was erased in 2010.

44. Mr Hamlet stated that, on the basis of Dr A’s confused account of events, with regard to the Performance Assessment report and the determinations, he did not object to Ms Stock recalling the witness in order to clarify whether Dr A received the email and whether he read the 2017 determination attached to it.

The Tribunal’s Decision

45. The Tribunal noted that in his oral evidence Dr A stated that he had not seen a copy of the 2017 Tribunal’s determination. It was clear to the Tribunal that Dr Imam sent the email dated 14 February 2019 with the 2017 determination attached to Dr A but it was not clear whether Dr A had received it or read the determination. The Tribunal noted that Mr Hamlet made no objection to the application. The Tribunal was satisfied that it would be in the interests of justice to grant the application to recall Dr A.