

COUNCIL OF THE PHARMACEUTICAL SOCIETY OF NORTHERN IRELAND
(FITNESS TO PRACTISE AND DISQUALIFICATION) REGULATIONS (NORTHERN IRELAND) 2012

THE PHARMACEUTICAL SOCIETY OF NORTHERN IRELAND

HEARING HELD AT SOCIETY HOUSE ON 18th August 2015 at

73 UNIVERSITY STREET

BELFAST, BT7 1HL

Decision Handed down on 2nd September 2015

PHARMACEUTICAL SOCIETY OF NORTHERN IRELAND

-V-

MS FIONA COLLINS

(4664)

(Registered Person Concerned)

APPEARANCES

COMMITTEE MEMBERS:

MR KEVIN NEARY (CHAIR)

MS JAYNE LAUGHLIN

MR EOIN DOYLE (18th August 2015)

MS MIRIAM KARP (2nd September 2015)

COMMITTEE SECRETARY:

MS CLAIRE WILLIAMSON

ON BEHALF OF THE SOCIETY:

MR JONPAUL SHIELDS, BL

Instructed by:

MS ANNA McCLIMONDS

CLEAVER, FULTON RANKIN

ON BEHALF OF THE REGISTRANT:

The Registrant did not appear and was not represented
but written submission was considered

DETERMINATION FOLLOWING HEARING ON

17th August 2015

Service

The Committee is satisfied that service of the Notice of Hearing has been properly effected and/or that all reasonable efforts have been made to notify the Registered Person Concerned of the hearing.

The Committee further determined that it would be appropriate for the hearing to proceed in the Registered Person Concerned's absence for the following reasons ;

1. The Committee had before it a letter dated 14th August 2105 from the Registrant to her Solicitors Cleaver Fulton and Rankin enclosing a written submission to the Statutory Committee
2. The Registered Person concerned (The Registrant) as communicated through her solicitors has made it clear in her submission that she does not feel that she can usefully add to the comments set out in her submission
3. This case has been under review for a period of over two years and that it was now appropriate to deal with the matter without a further period of review

Prior History of this matter

The original Hearing took place on 19th and 21st of June 2013. There was an agreed set of facts which was again considered at this hearing which was the factual basis of the case back in June 2013 and essentially there was a Department investigation between January 2010 and October 2010, The Registered Person concerned was in charge of Pharmacy premises and was supervising the completion of a multiple dosage system. There were errors that were uncovered in relation to 32 patients and it would appear from the investigation that the Registrant was dispensing from patient medication records rather than the prescriptions and that the patient medication records were then not updated whenever the prescriptions were received so that errors crept in and patients, 32 patients were identified, didn't

receive the appropriate medication.

The Registrant stopped working in October or November of 2010 and then she was prosecuted, there were 13 offences relating to breaches of the Medicines Act, which prosecution took place on 8th of May 2012.

The Prosecution file was produced to this hearing was again produced to the Committee as part of the hearing bundle along with the notification from the Department concerning the convictions.

That is essentially the factual background to the Hearing in June 2013.

Now, as a result of that Inquiry the Committee gave a direction that the Registrant's registration should be subject to conditions and these are fully listed in the original order in this matter which were felt to be, by the Committee, important and appropriate and proportionate at that time given the attitude taken by the Registrant at the Hearing.

A review of those conditions became necessary on 10th of July 2014. In essence the Registrant disputed the interpretation of the Society as when direct supervision of the Registrant was to commence

Under Condition 10 of its original decision the registrant was to undergo s related to 12 months direct supervised practice The review on 10th of July was necessary because the supervised practice condition had not commenced by that stage so it was over a year after the original Hearing and it had been the Society's understanding at that stage that the Committee expected that to be finished and completed within 15 months of the original Hearing. At the original hearing the present Chair stated that *"... I think as an observation I can say to both sides that the Committee were not happy with an open ended untimetabled supervision and so the final condition is the raison d'être of what was intended here. And that's where we weren't prepared to let things drift."*

The Committee confirmed at that hearing that it had expected the direct supervision to be completed withing 15 months of the original decision .

At the Hearing in July 2014 evidence was given of a job offer with Mr Farquharson which was at that

stage commencing on 12th of August 2014. The Committee persuaded then to extend the period for compliance with the conditions by 13 months, essentially following representations by the Registrant that she wanted to take up this job offer and she wanted to start essentially the supervised practice with Mr Farquharson and his business . At that time it was represented to the Committee that the Registrant was eager to become fully fledged and condition free, as a pharmacist and to that end has had secured a position working under the supervision of Deborah Wilson, who is a trained pharmacist who works within the pharmacy practice of Sean Farquharson which trades as Fegan's Pharmacy on the Andersonstown Road, Belfast.

On the basis of this representation and given that she did appear and she was represented and she did indicate that she wanted to essentially work the supervised practice the Committee made an Order extending the Order by 13 months In its decision the Committee indicated that a review Hearing which was going to be necessary after the conditions were satisfied:

'The reviewing Committee will need to be satisfied that the registered person concerned has fully appreciated the gravity of the offence, has not reoffended and has maintained his or her skills and knowledge and that the registered person concerns patients will not be placed at risk by resumption in practice over the imposition of conditional registration'.

A further review took place on 22nd of September 2014 This took place because there had been a failure to commence the workplace supervision which had been indicated. The Committee considered at that time an e-mail from Mr Farquharson who had indicated that, on 8th of August 2014, he had been informed by a telephone call from The Registrant "... *that she will not be taking my offer to work in my Pharmacy as we had agreed. She will therefore not be starting her 12 months supervised work placement in August as agreed at the Statutory Committee Hearing.*"

The Society brought the matter back by way of a review because clearly there was an anticipated breach of the conditions which she had indicated to this Committee that she was going to be starting the workplace supervision on 12th of August and four days before the Committee then, the Society is then advised that there will be a problem with that.

At the hearing which then on 22nd of September and Ms Collins then made representations which were again considered by this Committee as part of the Hearing bundle which were by way of an explanation

from Ms Collins as to what her position was and why she did not take up the workplace supervised role that had been offered to her. In her submission the Registrant stated "*However, at this moment in time I do not feel ready to face the stress that this intensive framework would place me under*", and that she believed that a return to full-time "*... supervised work in a pharmacy now would be both a risk to my own health and preclude me from providing the best service possible to my patients.*" Furthermore she indicated that: "*It would still be my hope to return to practice*"

No medical evidence to support any medical reason for the Registrant not undertaking direct supervised practice was submitted

The Committee also considered the Registrants statement as follows which acknowledged that requirement of direct supervised practice and the risk of progressive deskilling

"I accept the Statutory Committee's ruling that, if I was ever in the future to return to practice, I would first have to complete twelve months of supervised practice. I would also welcome the opportunity to be able to continue to participate in CPD training and to ensure that I do not become de-skilled."

Given the failure of the conditions that had been imposed the Committee then considered the next level of sanction which was the minimum necessary which was the imposition of a suspension can counsel of the Society drew to its attention the comments of the Chair at that time that "*The Committee has considered the facts and notes the concerns of the Society that the respondent, in failing to commence practice under direct supervision, will become permanently less competent in the absence of practical experience.*" . A period of 12 months suspension was imposed with a review to take place at 4 to 5 weeks before the end of that 12 month period .

The Committee were also reminded by Counsel for the Society that at the last hearing "The Committee still does not consider ...", in their judgment, "... it is appropriate in the present case for the Registrant to be erased from the Register. The Registrant should be aware, however, that this issue will be revisited at any subsequent review Hearing and will be considered in the context of the facts as they are at that time."

The Registrant in her submission to the Committee stated that she had used the 12 month period of suspension to "take a complete break from the profession to consider my options" She confirmed that she had completed her minimum 30 hours of Continued Professional Development but did not give details of same for the Committee to consider. She also stated that she had "met with Professor Adair on a number of occasions , these were informal meetings but were an opportunity for me to speak with him about my current position ."

The Registrant stated that she did not “yet feel ready to commit to a twelve month period of direct supervised practice”. Further she acknowledged that “the Society may have concerns at what might appear to be a lack of Commitment on my part “

She requested a further period of suspension of 12 months and indicated a “hope” to participate in a structured format of CPD training under Professor Adair using a new agreed Personal Development Plan which would be hoped include a period of work shadowing and that with increased confidence she would “commit to whatever period of direct supervised practice was considered appropriate at that time “

Further the Registrant suggested that a further period of suspension was sufficient to protect patients and the public interest and envisaged further review of the case and that it was proportionate fair and reasonable to do so

DETERMINATION

Admissions in relation to the particulars of the allegation

The Registered Person Concerned has admitted the original allegations in this matter .

At the original hearing in this matter the Committee found that the Fitness to Practice of the Registrant was impaired.

It has reconsidered the position and considered all of the original information presented to it and at the subsequent hearings and is of the opinion that the Fitness to Practice of the registrant remains impaired

The reasons for this , pursuant to Regulation 34(12) are as follows ;

- The Registrant has failed to comply with the conditions imposed on her at the original hearing and has failed to undertake the period of direct supervised practice that was imposed as a condition .
- The Registrant in failing to undertake the period of direct supervised practice has accordingly not worked as a pharmacist since the date of her original suspension and has become deskilled
- At Present the Registrant presents an actual or potential risk to patients or to the public due to her failure to address the deficiencies in her practice that led to her conviction
- In failing to undertake that period of direct supervised Practice as mandated by the Committee she has brought the profession of pharmacy into disrepute

- The present conduct of the Registrant demonstrates that the original issues which gave rise to the complaint cannot be addressed
- That a finding of present impairment is needed to declare and uphold proper standards of behaviour and maintain public confidence in the profession

The Committee has made it clear at previous hearing that in considering that was the minimum sanction

Sanction

The Committee has heard submissions on behalf of the Society and the Registrant .The Committee considered the sanctions available to it from the least necessary to the most severe which start at imposing no sanction, conditional registration, suspension, striking off the name of the person concerned).

In considering whether a further period of suspension was appropriate the Committee decided

- a) The Registrant has failed to demonstrate any insight as to her behaviour and the serious consequences that could have arisen as a consequence from same
- b) The Registrant had failed to avail herself of the opportunities given to her as a route to full time practice
- c) The Registrant had failed to submit any support any supporting documents to address concerns as to her deskilling as a consequence of failure to practice
- d) The Registrant had alleged health issues as a reason for not availing of the opportunities afforded to her but provided no supporting documentary evidence for same
- e) The Registrant , notwithstanding the deficiencies in her impaired fitness to practice had taken a "complete break from the profession" and effectively ignored the warnings of this committee as to the consequences if progress was not made to address it concerns
- f) The Registrant had been afforded but had not availed of the opportunity to make oral representations to the Committee or to make herself available to answer questions or to agree and alternative timetable for action to address the impaired fitness to practice

The Committee had referred to it the decision of Dr Abrahaem –v-GMC (High Court England CCO/52896/2006) and finds persuasive the comment of Mr Justice Blake that “*placed a burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past performance was deficient and through insight , application , education , supervision or other achievement , sufficiently addressed past impairments* “. We find nothing in the present case to indicate that the Registrant has met this burden

It is the decision of this Committee that the Registrants name be removed from the Register for the following reasons ;

1. At each stage of these proceedings to date the Committee has imposed the minimum sanction that it considered necessary and on two occasions. In July 2013 Conditions were imposed which were not complied with. Thereafter a suspension was imposed and at this review the Committee was invited to extend this suspension in the hope that the confidence of the registrant would at a future date be sufficient for her then to undertake direct supervised practice at that time
2. The Registrant original conduct in this matter could have had serious consequences for patients and the Registrant shows no insight in to the gross deficiency of her performance that gave rise to these proceedings . In the present case this has been a key factor in the Committee reaching its decision . There had been an expectation that a registrant would accept and understand that they should have behaved differently, and would take steps to prevent a reoccurrence, and this has not happened. At most the Registrant has expressed a vague hope to address this vital issue at some time in the future which is a matter of vital concern to this Committee and no doubt to patients and the general public
3. The Registrant remains a continuing risk to the public and her failure to address the deficiencies in her performance call in to question her ability to practice safely
4. The Committee has weighed the interests of the Registrant and the public interest in this matter and feels that in the absence of satisfactory evidence that a further suspension will be of benefit feels that it must then consider the next higher and ultimate sanction of striking off
5. Aggravating factors in the present case are the failure of the Registrant to undertake the period of direct Supervised Practice has led to the Registrant becoming deskilled . Further the

Registrant was made aware that in the absence of progress in addressing deficiencies as identified would lead this Committee to revisit the issue of Striking Off as it has now been forced to do

Immediate order

The Committee orders as follows ;

1. That the Registrants name be removed from the Register with immediate effect
2. The committee pursuant to Regulation 12 (2) makes a further interim order that the registrant be suspended until the period for appeal in this matter has expired or in the event of an appeal against this decision being made
3. The Committee in light of the limited means of the Registrant makes no further order as to costs

Advice

The Committee also wishes to give advice to Registrants where conditions are imposed as a consequence of a finding of impairment that failure to comply with those conditions or a subsequent suspension may lead to a striking off as in this case

Chairman of the Committee: Kevin Neary

Signed

A handwritten signature in blue ink, appearing to be 'Kevin Neary', written over a horizontal line.

Date 02/09/2015

FURTHER INFORMATION

Transcript

A full transcript of the hearing is available

Appeal

Any appeal against an order of the Committee must be lodged with the relevant court within 28 days of the service of this notification. If no appeal is lodged, the order will take effect at the end of that period.

Professional Standards Authority

This decision will be reported to the Professional Standards Authority (PSA) under the provisions of section 29 of the NHS Reform and Healthcare Professions Act 2002. PSA may refer this case to the High Court of Justice in Northern Ireland as appropriate if they decide that a decision has been unduly lenient and/or should not have been made, and if they consider that referral is desirable for the protection of the public. PSA is required to make its decision within 40 days of the hearing (or 40 days from the last day on which a registrant can appeal against the decision, if applicable) and will send written confirmation of a decision to refer to registrants on the first working day following a hearing. PSA will notify you promptly of a decision to refer. A letter will be sent by recorded delivery to your registered address (unless PSA has been notified by the Society of a change of address).

Further information about the PSA can be obtained from its website at www.professionalstandards.org.uk or by telephone on 020 7389 8030.

Effect of orders for suspension or erasure

To practise as a pharmacist in Northern Ireland, or to take or use a description which implies registration or entitlement to undertake any activity which the law restricts to a registered person, may amount to a criminal offence once an entry in the register has been suspended or erased.

Contact

If you require any further information, please contact xxxx