

PHARMACEUTICAL SOCIETY OF NORTHERN IRELAND

PROCEEDINGS

at a

HEARING

of the

STATUTORY COMMITTEE

held at

73 University Street, Belfast, BT7 1HL
on Friday 6 December 2019

and

by Zoom Videoconference
on Friday 29 May 2020

Present:

Michael Wilson (Chair)
Jayne Laughlin (Registrant Member)
Paul Archer (Lay Member)

Case of:

Stephen Joseph McClelland
Reg No: 6802

Issue

In accordance with paragraph 34 (12) of the Council of the Pharmaceutical Society of Northern Ireland Regulations (Fitness to Practice and Disqualification) Regulations (NI) 2012 ('the Fitness to Practice and Disqualification Regulations') these are the finding and reasons of the Statutory Committee on the question of whether the fitness to practice of the registered person, Stephen Joseph McClelland is impaired, by reason of misconduct and relevant convictions for criminal misconduct.

Covid-19

The hearing into this matter commenced on 6 December 2019 at 73 University Street, Belfast, BT7 1HL. It was not concluded on that date and it was adjourned to 25 February 2020; subsequently it was further adjourned by consent to 27 March 2020. Due to the Covid-19 public health emergency this date was vacated by the Chair and the matter proceeded to a virtual hearing on 29 May 2020. The protocol for the virtual hearing was agreed between the Chair and the legal representatives of the parties at a case management meeting on 27 March 2020.

Paragraph 41 (1) of the Fitness to Practice and Disqualification Regulations provide that hearings of the Statutory Committee are to be held in public. In order to satisfy this requirement, the Society, at the request of the Chair, noted on its website that the hearing on 29 May 2020 would use online technology and that any member of the public who had an inquiry about the hearing should contact the Secretary to the Statutory Committee. In addition, the Chair directed that the transcript of the full hearing should be made available to any member of the public who sought access to it.

Attendance of Registrant

The Registrant attended and confirmed his name. He was represented by Ivor McAteer BL instructed by Clarendon Legal Solicitors.

At the virtual hearing on 29 May 2020 the Registrant joined the hearing in the company of his solicitor, Patrick McDaid, by video link from Mr McDaid's office. Counsel for the Pharmaceutical Society of Northern Ireland ('the Society') was Jonpaul Shields BL instructed by Cleaver Fulton Rankin, Solicitors.

Description of allegations

The allegations are those contained at paragraphs 1 to 6 of the Notice of Hearing dated 6 September 2019.

The particulars are as follows:

1. On 18 December 2014, at Londonderry Magistrates' Court, you pleaded guilty to and were convicted of the following offences:

i. Between in and around 14 July 2012 and 20 February 2013, in contravention of Regulation 46(1) of The Human Medicines Regulations 2012, you did sell, supply, or offer to sell or supply unauthorised medicinal products, contrary to Regulation 47(1) of The Human Medicines Regulation 2012.

ii. On about 19 September 2012, in contravention of Regulation 214(1) of The Human Medicines Regulation, you sold or supplied prescription only medicine namely Domperidone Motilium 100 tabs, except in accordance with a prescription given by an appropriate practitioner, contrary to section 225(1) of The Human Medicines Regulation 2012.

iii. On about 4 February 2013, in contravention of Regulation 214(1) of The Human Medicines Regulation 2012, you sold or supplied a prescription only medicine namely Nasobec (Beconase) 200 dose, except in accordance with a prescription given by an appropriate practitioner, contrary to section 255(1) of Regulation 214(1) of The Human Medicines Regulation 2012.

iv. On or about 23 August 2012, in contravention of Regulation 220(1) of Regulation 214(1) of The Human Medicines Regulation 2012, you sold or supplied or offered for sale or supplied medicinal product namely Imodium 2mg caps 20 caps, that was not subject to general sale, contrary to section 255(1) of The Human Medicines Regulation 2012.

v. On or about 3 November 2012, in contravention of Regulation 220(1)1 of The Human Medicines Regulation 2012, you sold or supplied, or offered for sale or supply, a medicinal product namely Daktarin powder for fungal infections, that was not subject to general sale, contrary to section 255(1) of The Human Medicines Regulation 2012.

vi. On or about 14 November 2012, in contravention of Regulation 284(1) of The Human Medicines Regulation 2012, you published an advertisement that was likely to lead to the use of prescription only medicine, contrary to regulation 303(1) of The Human Medicines Regulation 2012.

Other than specifically identified as part of the criminal prosecution, the particulars associated and relevant misconduct is set out hereafter.

2. On dates on or between 14th July 2012 and 14th August 2012, you did sell, supply, or offer to sell or supply unauthorised medicinal products.

3. On dates on or between 14th July 2012 and 20th February 2013, you sold or supplied various prescription only medicines except in accordance with a prescription given by an appropriate practitioner.

4. On dates on or between 14th July 2012 and 20th February to 2013, you sold or supplied, or offered for sale or supplied medicinal products that were not subject to general sale.

5. For the purposes of Paragraph 1(3) Schedule 3 of the Pharmacy (Northern Ireland) Order 1976 as amended and Regulation 26(11) of The Council of Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualifications) Regulations (Northern Ireland) 2012, the following principles and obligations (contained in the Pharmaceutical Society of Northern Ireland's Code of Ethics (2009) are regarded by the Pharmaceutical Society of Northern Ireland as relevant to the proceedings. Further, the Pharmaceutical Society of Northern Ireland alleges that you are in breach of these principles and associated obligations by reason of the impairment particularised above.

- The general principle of Registration as a Pharmacist that requires you to act to promote and maintain public confidence in the pharmacy profession.
- Principle 1 – Make the safety and welfare of your patients your prime concern and in particular the following obligation
 - Obligation 1.1 – Act in a manner that promotes well being and safeguards the health and welfare of patients
 - Obligation 1.6 – Promote the safe, effective, and rational use of medicines by controlling the sale or supply of all medicinal and related products, especially those with a potential for abuse or dependency.
- Principle 4 – Exercise professional judgement in the interests of patients and the public and in particular, the following obligations:
 - Obligation 4.1 – Consider and act in the best interests of individual patients and the public.
 - Obligation 4.2 – Ensure that your professional judgement is not impaired by personal or commercial interests, incentives, targets or similar measures

- Principle 7 – Act with honesty and integrity and in particular, the following obligations:
 - Obligation 7.1 – Maintain public trust and confidence in the profession by acting with honesty, integrity and professionalism.
 - Obligation 7.2 – Demonstrate high standards of personal and professional conduct at all times.

- Principle 8 – Provide a high standard of practice and care at all times.

6. By your acts or omissions, it is alleged that you (a) brought the profession into disrepute, (b) failed, on a professional basis, to observe the principles and obligations set out above and (c), undermined public confidence in the profession.

Facts

The Statutory Committee’s decision is based upon the agreed facts presented to us and which have been formally entered onto the record of these proceedings together with the contents of the agreed Hearing bundle, including an agreed supplemental bundle.

Facts Found

On the balance of probabilities, the Statutory Committee determined the following facts:

1. The Registrant first registered as a pharmacist with the Society in August 1999. He left the register in October 2005.
2. Between September 2001 and February 2004 the Registrant worked as a member of the Pharmacy Team at Altnagelvin Hospital in Derry, initially as a Rotational Pharmacist and subsequently as the hospital’s MacMillan Palliative Care Pharmacist.
3. The Registrant registered as a pharmacist in the Republic of Ireland in September 2004, and subsequently opened a community pharmacy in Convoy, County Donegal.
4. On 28 August 2018 the Registrant made an application to be re-registered with the Society (this application was received on 3 September 2018).
5. At the time of his application to re-register with the Society the Registrant declared that he had received a fine around three and a half years previously because he had “sold excessive amounts of a pharmacy medicine online”.
6. On or about 18 September 2018 the Registrant was restored to the register, but was informed by the Society that he would be subject to a fitness to practise investigation.