

General Pharmaceutical Council

Fitness to Practise Committee

Principal Review Hearing

27 July 2023

Remote videolink hearing

Registrant name: Genevieve Boateng

Registration number: 2212407

Part of the register: Pharmacist

Committee Members: Mr Alastair Cannon (Chair)
Mr Raj Parekh (Registrant member)
Ms Nalini Varma (Lay member)

Legal Adviser: Mr Ralph Shipway

Secretary: Ms Gemma Staplehurst

Registrant: Present, represented by Marc Walker, of Counsel, 'What Rights'

General Pharmaceutical Council Ms Wafa Shah, Case Presenter

Order being reviewed: Order of Conditions for a period of 12 months.

Outcome: No longer Impaired. Order to lapse on 16 August 2023

Introduction

1. This is a Principal Review Hearing before the Fitness to Practise Committee ("the Committee") in respect of Genevieve Boateng, ("the Registrant"), a pharmacist first registered with the General Pharmaceutical Council ("the Council") in 2016 with the registration number 2212407. The hearing is conducted in accordance with The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010, ('The Rules').
2. This hearing was conducted using remote technology. Care was taken and there were no issues experienced with the technology during the hearing which impacted on the fairness of proceedings.

The Allegations

3. The allegations which were proved, some found proved by admission, against the Registrant at the Principal Hearing held in May and July 2022 were as follows:

You, a registered pharmacist, and the Responsible Pharmacist (RP), Superintendent Pharmacist (SI) and the Director/person with significant control of Maiden Consult Ltd 1.38 160 London Road, Barking IG11 8BB (the pharmacy), between 18 February 2019 and 20 November 2019, were responsible for the safe and effective delivery of services from the pharmacy. In relation to the dispensing and supply of high-risk drugs, containing codeine, dihydrocodeine, zopiclone and zimovane:

1. *You failed to ensure that the pharmacy had robust procedures in place:*
 - a. *to ensure that sufficient checks were made when supplying medications, in that:*
 - i. *You failed to audit the system which ensured patient identity was verified accurately;*

e. *you did not audit the process for receiving responses back from patients' regular doctors*

f. *you did not ensure prescribers*

i. *followed UK national guidelines (including GMC guidance);*

3. *You did not ensure all services, including for prescribers, were covered by appropriate indemnity insurance.*

By reason of the matters above your fitness to practise is impaired because of your:

a) Misconduct

Background

4. The circumstances of the case are evident from the allegations and are further set out in the Determination from the Principal Hearing which is appended to this Determination as Annex 1.
5. At the Principal Hearing the Committee found that the Registrant had breached the following standards expected of pharmacists:
 - Standard 1: pharmacy professionals must provide person centred care;
 - Standard 5: Pharmacy professionals must use their professional judgement; and
 - Standard 9: Pharmacy professionals must demonstrate leadership.
6. The Committee also found that *'the Registrant's conduct would be regarded with a degree of opprobrium by members of the public and would be deplored by other pharmacists. It is fundamental to the role of being a pharmacist that they put patient's first and ensure their actions are designed to protect patients, particularly vulnerable patients. The Registrant's conduct did not meet this fundamental expectation.'*

7. The Committee acknowledged that the Registrant had demonstrated some insight into risks to which she had exposed patients and the public. However, the Committee concluded it was *'not satisfied that [the Registrant] yet has the skills, understanding and judgement that would enable her to avoid repeating her failings'*
8. The Committee found that the Registrant therefore had not fully remediated her misconduct and found her fitness to practise impaired by reason of her misconduct, on both public protection and wider public interest grounds. The Committee went on to determine that the appropriate sanction was an Order of Conditions for a period of 12 months.

The present Order of Conditions

1. You must:

- *tell the GPhC before you take on any position for which you must be registered with the GPhC*
- *give the GPhC details of the role and the hours you will work each week, including locum or relief work*
- *give the GPhC the contact details of your employer, superintendent pharmacist and/or pharmacy owner.*

2. You must tell the following people in writing about the restrictions imposed on your pharmacy practice, if you are doing any paid or unpaid work for which you must be registered with the GPhC. You should do this within two weeks of the date this order takes effect:

- *all employers or contractors*
- *agents acting on behalf of employers and locum agencies*
- *superintendent pharmacists*
- *responsible pharmacists*
- *line managers*
- *workplace supervisors*
- *accountable officers for controlled drugs.*

You must send the GPhC a copy of this notification.

If you are applying for work, you must tell any prospective employer about the restrictions imposed on your pharmacy practice when you apply.

3. *You must tell the GPhC if you apply for work as a pharmacist or pharmacy technician outside Great Britain.*

4. *You must:*
 - *find a workplace supervisor for each place of work (who must be a registered Pharmacist or GMC registered Doctor) and put yourself, and stay, under their remote supervision*
 - *ask the GPhC to approve your workplace supervisor(s) within 4 weeks of the date this order takes effect. If you are not employed, you must ask us to approve your workplace supervisor before you start work*
 - *give the GPhC your permission to exchange information with your workplace supervisor(s) about your efforts to improve your pharmacy practice.*

5. *You must arrange for your workplace supervisor(s) to send a report on your progress with regard to the development of your safe and effective clinical practice to the GPhC every 4 months, with a minimum of three reports prior to a review hearing, or when the GPhC requests one. The GPhC will act reasonably in how often reports are requested.*

6. *You must not work as a sole practitioner or superintendent pharmacist or responsible pharmacist.*

7. *You must not provide mail-order or online pharmacy services.*

The Present Review Hearing

9. In advance of this Review Hearing the Committee was provided with a bundle of documentation from the Council which included: the determination from that Principal Hearing; a statement from a Council Monitoring Officer regarding the Registrant's compliance with the Order of Conditions and which had appended to it two reports, one dated March 2020 another June 2023, from the Supervisor nominated under Condition 5; and the Council's skeleton argument and statement of case for this hearing.
10. The Committee received from the Registrant a bundle which included a reflective report by her, several references, several reports from supervisors at Medacy (her current employer), a CV, and certificates from a number of training courses attended since August 2021.
11. The Committee's powers regarding this Principal Hearing Review are contained within Article 54(3)(a) of the Pharmacy Order 2010 ("the Order"), which provides that the Committee may:
 - (a) *where the entry in the Register of the person concerned is suspended, give a direction that—*
 - (i) *the entry be removed from the Register,*
 - (ii) *the suspension of the entry be extended for such further period not exceeding 12 months as may be specified in the direction, starting from the time when the period of suspension would otherwise expire,*
 - (iii) *the entry be suspended indefinitely, if the suspension has already been in force throughout a period of at least two years,*
 - (iv) *in the case of an indefinite suspension, terminate the suspension, provided that the review takes place in the circumstances provided for in paragraph (4), or*
 - (v) *on expiry or termination of the period of suspension (including a period of suspension that was expressed to be indefinite), the entry be conditional upon that person complying, during such period not exceeding 3 years as may be specified in the direction, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or otherwise in the public interest or in the interests of the person concerned;"*

12. The task of this Committee at this hearing is to consider whether the Registrant's fitness to practise remains impaired taking into account what has happened since the principal hearing and taking into account the following:
- whether the level of insight improved since the last hearing;
 - whether effective remediation of the Registrant's misconduct has taken place;
 - Whether there has been a record of safe practice without further incident since the last hearing;
 - Whether the Registrant now is safe to practise unrestricted, or whether some restriction of practice remains necessary.
13. The first step is to consider whether the Registrant's fitness to practise is impaired. And if it is, secondly to decide what sanction to impose.

The Registrant's evidence and submission from the parties

14. The Registrant elected to give evidence and was cross-examined and answered questions from the Committee.
15. Ms Shah for the Council submitted that the concerns identified at the Principal Hearing as regards the acquisition and embedding of sound clinical judgement, which led to a finding of impairment, remained, despite the good level of insight acquired and that accordingly there should be an extension of the present order of conditions for a further 12 months.
16. Mr Walker for the Registrant submitted that the Registrant no longer was impaired having addressed all of the findings and concerns of the Committee at the Principal Hearing.

Decision on impairment

17. The Committee received and accepted in full appropriate legal advice from the Legal Adviser.

18. The Committee has taken into account the evidence provided to it by the Council, the Registrant's evidence and the submissions from both parties. This Committee has also examined the reasoning and decisions of the Committee at the Principal Hearing. It also took into account the Council's Good Decision-Making guidance on sanctions.
19. The Committee further considered the fitness to practise criteria, which are set out in rule 5.2 of the General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010. This requires a committee to determine:

'In relation to evidence about the conduct or behaviour of the registrant ... [to] have regard to whether or not that conduct or behaviour—

- (a) presents an actual or potential risk to patients or to the public;*
- (b) has brought, or might bring, the profession of pharmacy into disrepute;*
- (c) has breached one of the fundamental principles of the profession of pharmacy; or*
- (d) shows that the integrity of the registrant can no longer be relied upon.'*

20. The Committee commenced its deliberations by considering whether the Registrant fitness to practise remains impaired. The Committee concluded that the misconduct identified at the Principal Hearing, in principle, was of a nature that was readily remediable, being matters of performance.
21. The Committee at the Principal Hearing made a number of key points in its reasoning leading to its conclusion that the Registrant's fitness to practise was impaired that are pertinent to the decision this Committee's is called upon to make. The Committee at the Principal Hearing stated:

'For the Committee to be satisfied that the Registrant has remediated her failings, the Committee would need to be assured that she had not only undertaken learning, and had

opportunities to gain experience, but that there is reliable independent evidence that she has put that learning and experience into practice and demonstrated safe practice’.

And

‘In the absence of significant up-to-date evidence of the Registrant’s practice, and with the limitations of the testimony from the pharmacist who provides locum work, the Committee cannot be assured that the Registrant has remediated her failings. The Committee remains concerned that she lacks judgment not only with regard to the risks and challenges of running an online pharmacy but also in her clinical skills given that the clinical risks presented by the short-comings of her pharmacy should have been obvious to her’.

And

‘...the Committee is concerned that the registrant’s misconduct demonstrated a lack of clinical judgement in not acting on the risks in supplying high-risk medication to patients’.

And

‘Thus, while the Committee is satisfied that the Registrant has shown some insight, and has taken steps to start remediating her failings, it remains concerned that she has not fully remediated her failings and could repeat the same or similar failings again whether she is in the role of a pharmacist responsible for running a pharmacy, or as a front-line pharmacist prescribing or supplying medication’.

And

‘The Committee’s concerns about the Registrant’s capabilities and short-comings in her judgement give rise to a risk of serious harm in the event that she fails to identify the risks in individual cases or in the systemic procedures adopted when prescribing, dispensing or reviewing medication’.

22. With the above in mind this Committee considered the evidence and submissions that it had heard.
23. The Committee noted that the Registrant had complied fully with the Order of Conditions in force. The Committee noted that the Committee at the Principal Hearing had listed various documents that it then did not have or have sight of. This Committee noted that the Registrant now had provided evidence in relation to all these areas. In particular she had provided details about, and certificates for, courses undertaken since August 2021; she had supplied a full CV; she had provided references from both her current employer, Medacy (through which she is engaged to provide Clinical Pharmacist services to GP practices) and the GP practice to whom she is presently providing services, and from a previous employer.
24. In addition, the Registrant has provided a reflective report dated 14 July 2023 in which she addressed 'head on' without equivocation her failings which had been identified at the Principal Hearing and linked these reflections explicitly to the failings as they related to the three Professional Standards for Pharmacy Professionals which the Committee at the Principal Hearing had found to have been breached by her.
25. The Committee carefully examined this submitted documentation, and the oral evidence given by the Registrant, and it found it to be both credible, cogent and reliable. Indeed, it considered it to be of high quality. In particular, it noted the work that the Registrant had undertaken on the boundaries of her competence and her scope of practice. The Committee considered that the evidence given orally demonstrated that the Registrant fully understood the importance of ensuring that she operated only within the bounds of her competence at any point in time, and noted too that she had a developed plan for expanding that competence in ways appropriate to and tailored to her current role. The Registrant satisfied the Committee that her present approach, and future approach, would be to err on the side of caution and to check, and seek the views of suitably experienced and qualified colleagues, rather than simply assume competence on the basis that she was a registered Pharmacist.

26. The Committee was similarly impressed by the Registrant having structured her reflective report around the domains identified in the Royal Pharmaceutical Society's Leadership Development Framework. The Committee considered that this indicated a full comprehension of the degree to which her past conduct had fallen below the required standard and how these deficiencies had to be, and had been, addressed in a systematic, open and fully reflective manner.
27. The Committee noted the considerable detail in the reports of her frequent and regular supervision reports from her employer Medacy which clearly mapped a journey of improved clinical judgement which culminated, despite only working part-time on the role since February 2023, in passing her probation to the full satisfaction of her employer.
28. The Committee noted that the Council in its submissions had not pointed to anything that the Registrant ought or could have done but had not done to remediate her professional shortcomings. The Committee could not identify any for itself. The Council's submissions equally did not consider that there was any deficiency in her insight, only that insufficient time had elapsed to have allowed the Registrant to demonstrate that she no longer poses a risk to members of the public.
29. As regards that point, the Committee found force in the submission on the Registrant's behalf that whilst the Order of Conditions had been put in place for 12 months, the journey to acquire insight and remediate her misconduct had started prior to the Principal Hearing, as the training undertaken prior to that hearing indicated. In addition, the Committee accepted the submission on her behalf that a Committee setting an Order of Conditions would have taken into account that a period of time likely would be necessary within that 12 months in order to acquire employment, cognisant that the fact of the restrictive order itself may make that a challenge.
30. The Registrant when questioned by the Committee had shown a commendable – and necessary – degree of realism as to which roles and responsibility she presently was fitted to undertake she stated that she was not ready to take on the role of Superintendent Pharmacist. However, citing her several years of prior locum experience and the Responsible Pharmacist refresher training which she had recently undertaken, the Registrant indicated that she was ready to take on the role of Responsible Pharmacist in a retail setting, although had no immediate plans to do so.

31. The Committee considered the Registrant's remorse to be genuine. It was in no doubt that she fully appreciates the potential impact of her misconduct upon the public's confidence in the Pharmacy profession and the disrepute she likely had brought upon the profession through her misconduct. The Committee was in no doubt either that her experience of these proceedings and the findings against her would be a salutary lesson that she would not forget.
32. The Committee, concluded that, despite being in her present post only since February this year, in light of the documentation submitted and the oral evidence given the Registrant had the insight necessary and had demonstrated that she had acquired the necessary clinical judgement – and importantly knew well the extent and limits of her safe judgement – such that she no longer posed a threat to the safety of patients and the public. In the Committee's judgement, there was now no likely risk of repetition of her misconduct.
33. Consequently, the Committee concluded that the Registrant's fitness to practise no longer is impaired.
34. The Committee noted that, notwithstanding that it had found no impairment, the Rules allowed that it may deliver either a formal warning or advice to the Registrant. The Committee saw no reason or purpose to be served in doing so. It considered that the public interest in seeing professional standards maintained and public confidence in the profession upheld had been served already through the Registrant's full compliance with the Order of Conditions.
35. Accordingly, that concludes this hearing. The Registrant will be permitted to resume unrestricted practise when the present Order of Conditions expires on 16 August 2023.