General Pharmaceutical Council

Fitness to Practise Committee

Restoration Hearing

Remote Videolink

29 November 2024

Applicant's name:	Sanjeev Patel
Part of the register:	Seeking to be restored as a Pharmacist
Committee Members:	Alastair Cannon (Chair) Hannah Fleetwood (Registrant member) Fahmina Begum (Lay member)
Legal Adviser:	Morag Rea
Secretary:	Sameen Ahmed
Applicant:	Present, represented by Christopher Saad
General Pharmaceutical Council:	Represented by Ayshe Sevdan Case Presenter
Outcome:	Application approved

DETERMINATION

Introduction

1. This is a Restoration Hearing regarding Sanjeev Patel ("the Applicant"). The Applicant was first registered with the Royal Pharmaceutical Society of Great Britain on 29 July 1996 following which the Applicant's registration transferred to the General Pharmaceutical Council ("the Council") with registration number 2045156.

2. On 29 April 2013 the Council's Fitness to Practise Committee ordered the Applicant's name to be removed from the Register following a hearing to consider his misconduct.

Background

3. The background to the Applicant's removal from the register is set out in detail in the Statement of Case and Skelton argument form the Council and from which the background below is drawn.

4. The Applicant was removed from the Council's register due to his misconduct which concerned the submission to GlaxoSmithKline of 92 invalid prescriptions for quantities of Votrient 400mg and Tyverb 250mg over six months. Both are drugs used in the treatment of cancer. The 92 prescription forms submitted by the Applicant had a label stuck over the section of the prescription where the name of the patient would appear, which was designed to give the impression that the name had been redacted for confidentiality, but in fact was to conceal that there was no patient's name on the prescription form. The prescriptions had been signed by a doctor who was suspended by the GMC, and the Applicant knew they were not valid.

5. Votrient and Tyverb at that time were drugs in short supply. To ensure that patients could be supplied, the manufacturer, GlaxoSmithKline, operated a system whereby they would only supply a pharmacy with the drugs on production of a prescription. The Committee was given an indication at the Principal Hearing that the value of the drugs ranged between £804 - £1,540 per course. The Committee at the Principal Hearing was clear that the Applicant was manipulating, for his commercial gain, the market that GlaxoSmithKline were seeking to manage via a system of rationing.

6. When first questioned about the prescription forms, the Applicant claimed that they were valid prescriptions for patients in Africa and gave invented reasons as to why no documentation could be shown to the inspector to support that contention. However, the Applicant subsequently made full admissions including at the Principal Hearing, and on that basis, the Committee found the facts of the misconduct proved.

7. The Committee found that the Applicant's sustained dishonesty in his dealings with the manufacturer over a substantial time period, and the public interest in upholding professional standards and public confidence in the profession, required a finding that the Applicant's fitness to practise was currently impaired at the date of the Principal Hearing.

8. The Committee identified several aggravating factors; that he had abused his position of trust to order valuable drugs for patients; that the misconduct was repeated and premeditated nature; that the Applicant had disregarded the profession's standards of conduct and ethics ; that he had initially attempted to conceal his wrongdoing, and the fact that the misconduct was committed by a person in charge of pharmacy premises. The Committee considered the lack of evidence of actual harm caused by the Applicant's actions, the Applicant's full admissions, and his genuine remorse to be mitigating factors.

9. The Committee found it "inescapable" that the Applicant committed a continuing fraud to obtain drugs that he would not otherwise have been able to obtain so as to be able to sell them at a profit and in a way that might have interfered with the regular supply of the medication to the UK market. The Committee also noted that the Applicant would not have been able to commit the fraud in the way that he did if he had not been a pharmacist, and that his initial instinct was to lie about what he had done when he was discovered. The Committee considered whether a suspension could adequately meet the facts of this case or whether the Applicant's behaviour was fundamentally incompatible with continued registration and public confidence demanded removal. The Committee found that, in circumstances of sustained and repeated fraud committed to acquire valuable medication to sell on at a profit, only a removal from the Register could meet the public interest to maintain public confidence in the profession and maintain standards in the profession. The Committee ordered a removal accordingly.

10. This is the first application by the Applicant to be restored to the Register. In preparation for the hearing the Committee was furnished by the Council with a 'Restoration' bundle of 277 pages which included the notice for this hearing, the determination from the 2013 hearing along with an Evaluator's Assessment form following an examination of the material provided by the Applicant seeking to show how he had retained the clinical knowledge and skills sufficient to be readmitted to the register. The bundle contained also the Council document 'Restoration to the register: guidance for Applicants and Committees' dated April 2022.

11. The Council's bundle contained also the documents provided by the Applicant for the restoration process. These included details of educational courses undertaken; a self-assessment of his readiness to work in UK community pharmacy; and references from two registered pharmacy professionals. The Committee were provided later with a supplemental bundle of 88 pages which contained a number of testimonials, a large number of additional training certificates and three reflective reports and a signed statement from the Applicant dated 15 November 2024.

12. In addition, the Committee received the Council's combined Skeleton Argument & Statement of Case running to 17 pages and dated 15 November 2024 and with a Skelton Argument on behalf of the Applicant dated 26 November 2024.

13. Article 57 of the Order sets out the powers of the Committee when dealing with an application for restoration. If the application is granted, the Committee may direct one of the following:

    - that the Applicant should be restored to the Council's register without conditions;
    - that the Applicant should be restored to the Council's register with conditions not exceeding 3 years as confirmed by Article 57(6) of the Order.

14. An Applicant carries the burden at a restoration hearing to persuade the Committee of their suitability for readmission to the register. The procedure for restoration application hearings is set out in Rule 35 of The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010 ("the Rules").

15. The Council addressed the Committee as to the circumstances of the Applicant's removal from the register, after which the Applicant gave evidence under affirmation.

The Applicant's evidence

16. The Applicant adopted his signed statement as his evidence in chief. The Council indicated that it had no questions they wished to put to him in cross-examination. The Applicant then faced questions from the Committee.

17. The Applicant was asked, given the changes in pharmacy practice in the decade or so since he had been erased from the Register, how he would meet that challenge and what gaps in his knowledge he might have identified and how he would address those.

18. The Applicant responded by pointing out that he had been working in a pharmacy setting in his business every single day since his erasure, working with the Responsible Pharmacists at every location within the business: that he worked "within earshot" of pharmacists going about their business; that he had, with permission of patients, sat in on patient consultations with pharmacists; he had become a trained vaccinator and vaccinated patients; and had been active in the pharmacy blood pressure service.

19. As to the challenges, he had recognised that because he was not on the register he had been unable to undertake the necessary courses in order for him to deliver Pharmacy First services but had plans to undertake these courses. However, he would take the appropriate time to do so and would not rush that. He knew that there would be a Superintendent Pharmacist only a phone call away if he required assistance. He pointed also to the fact that he had been reapproved as a Responsible Person by the MHRA in respect of the business's Whole Distribution Authorisation and had been working in that role, which included the safe control of medications, since being re approved in August 2022. He recognised that he had been out of practice for a long time, so, if permitted to come back as a pharmacist, to operate only as a second pharmacist, not as a Responsible Pharmacist in order to help relieve the burden on the Responsible Pharmacists in the business.

20. The Applicant was asked about the context in which his misconduct had come about leading to his erasure and what the motivation for that had been. He replied that it was “a horrendous error” that had come about because he simply did not have the necessary insight of the consequences. He had justified it to himself at the time on the basis that he did not think there would be any direct patient harm and had failed to recognise the impact that his conduct would have on the public's confidence in the pharmacy profession. He had considered it as “an easy transaction”. The medications concerned were sold on to another UK wholesaler and he had made a small percentage commission financial gain. He stated that he thoroughly regretted the action and was thoroughly ashamed of it but had taken full responsibility for it.

21. The Applicant was asked about his relationship with the business in which he worked at the time of the erasure and in which he remained to the present day. He replied that at time of the erasure he had been a director and a Superintendent Pharmacist and was the owner of the business. However, once he came under investigation by the GPhC he had relinquished his roles as Director and Superintendent but continued to work within the business in an operational support role.

22. The Applicant was asked questions about his re-approval by the MHRA and the process that had led to that. He explained that he had made the application to the MHRA and had disclosed to them in his application that whilst he had been professionally regulated previously, he had been erased from the GPhC register and gave an account of why. Before he had been approved there was an inspection of the pharmacy business by the MHRA inspector during which he had been interviewed at length including about the circumstances leading to his erasure. He was subsequently reapproved by the MHRA.

23. Following questions from the Committee, and arising from those, Ms Sevdan, for the Council asked the Applicant, that given that he had told the Committee that he had undertaken the misconduct for essentially financial gain whether he thought the same opportunity would arise in future and if so how he would manage that temptation. He replied that first of all he had taken full responsibility for what he had done. He stated that the opportunity and the incentive both would continue to be present, but he had reflected on this matter and read widely and had

been particularly influenced by learning about what he described as the 'fraud triangle' which had three components, opportunity, incentive and rationalisation.

24. He went on to explain that rationalisation was the key component because incentive and opportunity would always be present. It was rationalisation of his actions at the time, where he had told himself that there was no harm to patients, which had led him to engage in and persist in his misconduct. He stated that he recognised that this was self-deception. He had focused on this in his reflections and reading which had led him to a much deeper insight into what he had done and the extent to which he had let people down which included the public, colleagues and family. He appreciated fully how his actions had impacted upon the public's confidence in the profession.

25. The Applicant went on to relate an experience he had whilst acting as a vaccinator during the COVID pandemic. He had been telling a member of the public about all the services that a pharmacy can provide including vaccination services. He noted how impressed the member of the public had been that pharmacies offered such a service. The member of the public had then asked him whether he was a pharmacist, and he had noted that, when he had said that he wasn't, he saw what he took to be some hesitation by the member of the public to go ahead and have the vaccination. He stated that this was a powerful lesson for him because it was a powerful indication of the regard and trust that the public had in the pharmacy profession.

26. The Applicant went on to say that reflective practice had become very important to him. From it he derived insight, and that provided him with foresight to guide his actions rather than simply hindsight. He went on to say that his experience of erasure meant that now he commended to his staff to read the determinations that arose from GPhC fitness to practise proceedings because they were a helpful guide and source of learning about what to do and not to do.

The Council's submissions

27. Ms Sevdan, on behalf of the Council, submitted that 'the test' which the Committee would have to apply when reaching its decision centred around the need to maintain the reputation of the

profession and in relation to that whether the Applicant was fit to practise in relation to the GPhC's overarching objective which was the protection of the public.

28. Ms Sevdan submitted that, whilst the Council's initial analysis of the portfolio of material supplied by the Applicant about his present knowledge and skills revealed concerns and gaps that would need to be addressed, it had noted the supplemental bundle that he had provided by the Applicant. Following analysis of that material, it was that the Council's position now that this could be considered sufficient to have addressed those concerns and gaps.

29. Ms Sevdan submitted that as to whether the Applicant had truly learned from the circumstances that had led to his removal from the register, that again the initial material supplied suggested that this might be lacking. However, the material within the supplemental bundle, in particular the three reflective written pieces along with the Applicant's statement led the Council to consider now that his insight to be much more well developed and suggested that he has extensively reflected and has learned from the experience.

30. Ms Sevdan submitted that the misconduct that had led to his erasure included dishonesty over a sustained period of time which suggests an attitudinal failing which is considered harder to remediate. However, taking into consideration the insight displayed and noting that the Applicant had been restored to a position of trust by the MHRA which indicated a level of remediation, on balance the Council now considered that the risk of repetition was low.

31. So, it was submitted, in summary the Council's position was that the Committee should carefully consider what the Council considered to be good remediation, a low risk of repetition of the misconduct and consequently a low risk to the reputation of the profession.

The Applicant's submissions

32. Mr Saad submitted on behalf of the Applicant that that the misconduct had occurred some time ago in 2011, that that the Applicant had not rushed into seeking a return to the register; that the Applicant had made admissions at the investigation stage after an initial panicked response, and at the hearing in 2013 he had been found to be genuinely remorseful. He had been found

impaired at that hearing only on the grounds of necessity in relation to the upholding of the public's confidence in the profession.

33. Mr Saad submitted that that Committee was right to have done so on that ground which has been proved by the absence of any subsequent issues. The Applicant had been restored to a professional position of trust since 2022 by the MHRA having undergone a careful process during which the Applicant had been fully open and transparent. The MHRA determined that it could rely upon his integrity in the role.

34. It was submitted that the Applicant had undertaken extensive remediation and that his answers to the questions put to him whilst giving evidence, in particular his answer to the question put by Ms Sevdan about how he would avoid any repetition, revealed extensive reflection and demonstrated that the courses he had undertaken as regards probity and ethics at not been 'tick box' exercises.

35. As regards his absence from the profession and whether he was now safe to practise, it was submitted that he had continued to work in a pharmacy setting and around pharmacists, whilst working in his business. He had undertaken appropriate clinical roles, for example becoming a vaccinator. It was submitted that the Committee could draw comfort from the Applicant's cautious plan about how he would return to practise, if permitted, in particular that he only intended to be a second pharmacist not a Responsible Pharmacist or a Superintendent Pharmacist,

36. It was submitted that, as regards public confidence, this had been upheld by the fact that he had been erased for the behaviour he had engaged in, and the public would note what he had done since to return to the profession_ the determination and resilience he had displayed, the insight that he had gained and they would know too that he had been restored to his role as Responsible Person by the MHRA, and he had then waited a couple of years after that before making this application.

37. Mr Saad submitted that the Applicant could be restored to the register without conditions and that this was the primary submission. However, if the Committee felt it was truly necessary, they

could, for example, make a condition that he not return as a Superintendent or Responsible Pharmacist for a period of time.

The Committee's decision on restoration

38. The Committee received advice from the Legal Adviser, which is a matter of record. The Committee accepted that advice in full.

39. The Committee also took into account all the documentation before it, which included the Council Guidance dated April 2022 regarding Restoration hearings. It took into account the oral evidence it had heard from the Applicant and the submissions on his behalf and those of the Council.

40. The Committee began by observing that whilst proven misconduct which has dishonesty as a component is inherently difficult to remedy, it is not impossible to do so.

41. A key question which a fitness to practise Committee must address at a restoration hearing, given that conduct was found so serious as to require removal, is 'what has changed in the period since those findings that would allow the restoration of the Applicant without undermining the integrity of the profession and the public's confidence in the profession?'

42. The integrity of a profession is what supports and allows the public to have confidence in that profession and to place their trust in all the individual members of the profession. The integrity of a profession requires that only those individuals whose integrity can be relied upon be permitted to enter and be readmitted to the profession. Professional integrity can be described as always doing the right thing even in challenging situations, whether those circumstances are personal or professional. That essential integrity underpins the Standards for Pharmacy Professionals.

43. The Applicant was erased from the register in 2013 because of his dishonest conduct. The mere passage of time since erasure from the register, of itself, does very little or nothing to remediate

any dishonest conduct that was considered sufficiently serious to warrant removal from the register.

44. The Committee gave very careful consideration to what the Applicant had told the Committee whilst giving evidence.

45. It is clear to the Committee that the Applicant has taken a number of steps to seek to remediate his misconduct. He has continued to work in a pharmacy setting. It might be thought that he was in a fortunate position to be able to do so given that he owned the business. Nevertheless, he had taken full advantage of that opportunity. He has taken the opportunity to work alongside the pharmacists working in his business observing how they operate, he has trained to become a vaccinator and vaccinated during the COVID pandemic, he deals with patients in the delivery of blood pressure services within the business and when appropriate has sat in on patient consultations. He has also re- registered with the MHRA as a Responsible Person and had spent two years in that role of trust and responsibility.

46. The Committee found the Applicant's reflections, written and oral, to be in-depth, thoughtful and genuine. The Committee had no doubt that the Applicant understood fully why he had engaged in the conduct which had led him to be erased from the register, that he had fully understood the impact potentially there could have been on patients, and the impact that his conduct and erasure would have had on the public's confidence in the pharmacy profession.

47. The Committee considered that he had explained persuasively and in detail why he would not engage in such conduct again. In particular, the Committee found compelling his analysis of the factors that need to be present when someone in his position had committed a fraud. He recognised fully the opportunity to do so again and indeed the incentive to do so again would remain, but that he had identified the component which was in his control, namely whether he would 'rationalise' any misconduct in the future. The Committee was clear that his comprehensive analysis had led him to identify with great precision the attitude that he held previously which had facilitated his misconduct, namely that he had told himself that it was a 'victimless' act. The Committee considered that identifying this attitude, reflecting on it and correcting it meant that there was a very low risk of repetition of the misconduct he had

engaged in leading to his erasure or indeed any conduct that could adversely impact reputation of the pharmacy profession.

48. Nevertheless, the Committee reminded itself that it had to consider also the impact upon the public's confidence in the profession and regulator, professional standards, and how the public and fellow professionals would view a return to the register of an Applicant who had engaged in the conduct found proved against the Applicant.

49. The Committee is aware, as it must be, of the particular issues and pressures that affect the pharmacy profession and its members at present. It is aware that the supply of medication has become in recent years an issue of considerable concern to patients and the public. The media regularly, almost weekly, reports in the difficulties faced by patients unable to access vital medications. Sometimes these shortages occur because drugs are diverted to others uses, Ozempic, the diabetes medication, for example being used privately as a weight-loss treatment.

50. Community pharmacy professionals and staff now spend considerable amounts of time daily seeking to obtain medications for their patients which for one reason or another are in short supply. The relationship between the public and pharmacy professionals is based upon trust. That trust would be significantly damaged if a patient or patient's relative or indeed any member of the public (we all use pharmacies at some time in our lives) knew or suspected that they were being told their medication was unobtainable when a pharmacist was in fact obtaining and diverting the drug elsewhere for profit. Any such suspicions would be highly corrosive of the trust placed in pharmacy professionals. The profession's reputation and all members of the profession would suffer serious harm as result.

51. The Committee noted the aggravating factors identified at the Applicant's Principal Hearing. The Applicant had abused his position as a pharmacist, indeed as a superintendent pharmacist with wider duties and responsibilities, and had abused his position as a MHRA RP and the associated knowledge those roles gave him to deploy privileged knowledge and opportunity to circumvent systems put in place to ensure fair rationing of medication that was in short supply for commercial benefit. The knowledge that a pharmacy professional could engage in such conduct

and later be welcomed back into the profession could risk serious damage to the public's trust in the profession.

52. The Committee gave this very careful consideration. However, the Committee concluded that the public and fellow professionals, cognisant of the remediation achieved by the Applicant, along with the depth of reflection carried out, would be significantly reassured, and would be reassured further that the Applicant had been restored to his statutory role as a Responsible Person by the MHRA. It would note the testimonials supplied on his behalf, including those from current pharmacy professionals. Consequently, in the Committee's judgement the public's confidence in the profession and the regulator would not be undermined by his restoration to the register. As to upholding professional standards, the Committee accepted the submissions on behalf of the Applicant that his erasure in 2013 had served to uphold those standards.

53. Accordingly, the Committee concluded that the Applicant was fit to return to practise as a pharmacist.

54. The Committee then considered whether the Applicant could be restored to the register without conditions. Noting the material supplied in the initial bundle and the supplemental bundle, the Council's submissions on this issue (in which they did not advocate for conditions if the Committee assented to restoration), but in particular the oral evidence from the Applicant as regards the challenges he would face how he would manage his re-entry to the profession if restored, the Committee considered that there was no necessity to require a conditional restoration to the register.

55. Accordingly, the Committee directs that the Applicant may be restored to the Council's register of Pharmacists upon the payment of the necessary fee.

56. That concludes this hearing.