

Health Professions Council
Conduct and Competence Committee–22nd November 2006

Review Cases

Introduction

At the last meeting of the Conduct and Competence Committee, the Committee asked to be provided with a report into fitness to practise cases where a review hearing had been held.

Article 30 of the Health Professions Order 2001 provides that a review hearing will take place before the expiry date of any case where a suspension or conditions order has been imposed.

Since April 2006 review hearings have taken place in 23 cases. 13 registrants were physiotherapists, 3 biomedical scientists, 2 speech and language therapists, 2 occupational therapists and one chiropodist, radiographer and paramedic.

Of the 23 cases, 13 registrants were subject to a suspension order, and 10 subject to a conditions of practice order.

In two cases, the registrants were struck off following a review hearing. Both were cases where striking off was an option for the original panel. (see Matthew Smith-convictions for making indecent photographs of children and Natasha Gorrington – falsification of patient records).

In 5 cases, the conditions of practice that were imposed on the registrant were further extended. This power of extension is set out in Article 30(1)(a) of the HPO 2001. The panels concerned felt that further periods of conditions were required to adequately protect the public (see Fiona Drew – a health case, Gordon Mendy, Julie Pring – a health case, Christina Reyburn and Palewatte Ratnasiri).

In 10 cases, the suspension order imposed was further extended. In competence and health cases where the registrant has been suspended, the registrant has to be continuously suspended or subject to a conditions of practice order for a period of two years before the striking off option in Article 29 becomes available (see Sarah Turgoose – health case, Gaynor McAllister - competence case, Fadayome Alade – competence case, Shirley Fogarty – competence case, Rabea Yousaf – competence case, Esther Randall – health case, Minette Magno – competence case, Richard Adams, Asarath Aliyar – competence case and Baldev Mehra – competence case).

In 3 cases, the panels revoked the conditions of practice order that had been imposed on the registrant and replaced it with a suspension order (see Joe Osmond, Fraymond Mayunga and Douglas Sinclair). In all three cases, a suspension order was the highest available sanction for the panel to impose. A suspension order was imposed because the registrants had either breached or not adhered to their conditions of practice order.

In two cases, the suspension orders that had been imposed were revoked and the registrants were allowed back on to the register unrestricted (see Merlin Jose and Jennifer Moy). The registrants had reflected and taken steps to improve their practice whilst subject to the suspension order.

In two final cases, the conditions of practice orders that had been imposed were revoked and the registrants allowed back on to the register unrestricted (see Ian Carville and Timothy Hulley). It was felt that both registrants had met the conditions that had been ordered by the original panel.

Between April and October 2006 a further 11 registrants have had a suspension order imposed and 3 have had a conditions of practice order imposed.

Decision

The Committee is asked to discuss this report

Background information

At the end of October 2006, 57 registrants were subject to either a conditions of practice or a suspension order. Review hearings will take place over the course of the remainder of 2006/2007 and into 2007/2008.

In cases where the allegation is that fitness to practise is impaired by reason of competence or health, the highest available sanction panels can impose is a suspension order. The Committee has previously considered a paper outlining an interpretation issue with Article 30 of the Order.

It is important to ensure that cases are appropriately particularised as misconduct and or lack of competence before they are considered by a case to answer panel. Case law (Crabbie) suggests that if a panel is likely to want to strike a registrant from the register the case should be particularised as misconduct. Health cases should only be particularised as such, if health is the issue rather than a mitigating factor in the case.

Resource implications

With effect from 17th November 2006 there will be 3 hearings officers in the FTP department. Their role is to clerk and fix all fitness to practise hearings. Between 4th September 2006 and 17th November 2006 there has been a further 4 temps fixing FTP hearings.

FTP hearings are now scheduled and fixed until the middle of May 2007.

There are 17 review hearings scheduled to take place before the end of this financial year.

Financial implications

Convening a panel normally incurs an average cost of £1770. The average cost of a shorthand writer is £550. If a hearing takes place outside of London, the costs of venue hire has to be paid – this is approximately £1000.

The costs of lawyers to present and prepare the review case for the HPC is also incurred.

If possible two review hearings will be scheduled for one day.

Appendices

Notices of Decision and Order in the review cases of:

Merlin Jose, physiotherapist
Jennifer Moy, physiotherapist
Julie Pring, physiotherapist
Natasha Gorringe, chiropodist
Matthew Smith, radiographer
Sarah Turgoose, biomedical scientist
Christina Reyburn, speech and language therapist
Palewatte Ratnasiri , physiotherapist
Fraymond Mayunga, physiotherapist
Gaynor McCallister, occupational therapist
Fadayome Alade, physiotherapist
Shirley Fogarty, occupational therapist
Douglas Sinclair, physiotherapist
Rabea Yousaf, biomedical scientist
Timothy Hulley, biomedical scientist
Ian Carville, paramedic
Esther Randall, physiotherapist
Fiona Drew, physiotherapist
Minette Magno, physiotherapist
Joe Osmond, speech and language therapist
Asarath Aliyar, physiotherapist
Baldev Mehra, physiotherapist
Gordon Mendy, physiotherapist

Article 30 of the Health Professions Order 2001.

Date of paper

6th November 2006

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE REVIEW HEARING

Notice of Decision and Order

Date of Hearing: Tuesday 21st February 2006

Name of Registrant: Mrs Merlin Jose

Registration No.: PH63972

Panel: Elizabeth Carmichael - Chair

John MacKenzie – Lay Partner

Alison Larthe De Langladure - Physiotherapist

Audrey Watson - Legal Assessor

Hearing Officer: Zoe Maguire

Representation:

The Council was represented by John Harding of Kingsley

Napley Solicitors. The Registrant was in attendance and represented by Sue Sleeman, instructed by Thompsons Solicitors

Review of a one year Conditions of Practice Order imposed on the 1st February 2005

DECISION:

The Panel is undertaking a review of a Conditions of Practice Order made on 1st February 2005 by a differently constituted panel which found an allegation that Mrs Merlin Jose's fitness to practise was impaired by reason of her lack of competence whilst employed by Lincolnshire Hospitals NHS Trust. The reasons for that decision are as set out in the Notice of Decision issued that day.

The task of the Panel today is to review this order under Article 30 (1) or (2) of the Health Professions Order 2001 and to decide what, if any, action it should take under this Article.

The Panel has considered all of the oral and written evidence presented and has looked closely at the Conditions of Practice Order imposed.

The Panel found that condition (1) as set out in the order has been satisfied.

In relation to condition (2) the Panel was satisfied with the training undertaken in manual handling.

In relation to training in record keeping and documentation the Panel noted that the only evidence of training is in the incident recording detailed on the Barchester Health and Safety Training Certificate dated 7th December 2005. However, the Panel also took into account Mrs Jose's efforts to attend a suitable course with the CSP which unfortunately did not take place. The Panel considered this aspect particularly carefully, bearing in mind the public interest. Overall, taking into account her efforts and general experiences in the interim, the Panel was reassured by her stated commitment to continue her efforts in this area to fulfil the condition.

Finally in relation to training in clinical reasoning, whilst disappointed that she had not completed the final essay (which the Panel would encourage her to do at the earliest opportunity) it otherwise believed that she had substantially met this condition.

The Panel has concluded that the Conditions of Practice Order has now been substantially met and as such the Panel has decided to confirm the above order and allow it to continue until its expiry on the 28th February 2006.

ORDER:

The Conditions of Practice Order imposed on 1st February 2005 is confirmed

Right of Appeal:

You may appeal against the Committee's decision and the order it has made against you.

Articles 30(10) and (11) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the Court of Session.

Elizabeth A Casimichael,
Chair.

Health Professions Council

CONDUCT AND COMPETENCE – REVIEW OF SUSPENSION ORDER

Notice of Decision and Order

Date of Hearing: Thursday 23rd February 2006
Name of Registrant: Miss Jennifer Moy
Registration No.: PH58366
Panel: Raymond Pattison – Chair
Catherine Simpson – Physiotherapist
Val Morrison – Lay Partner
Legal Assessor: Audrey Watson
Hearing Officer: Gemma Lee

Representation:

The Council was represented by John Harding of Kingsley
Napley Solicitors
Miss Jennifer Moy attended and was represented by Sue Sleeman,
instructed by Thompsons Solicitors

ALLEGATION

Your fitness to practise as a registered health professional is impaired by reason of your misconduct whilst in the employ of United Lincolnshire Hospitals NHS Trust in that you breached patient confidentiality in a letter published in the Lincolnshire Echo on 11th October 2004.

DECISION: The panel is undertaking a review of a Suspension Order made on 2nd August 2005 by a differently constituted panel which found an allegation

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that Miss Jennifer Moy's fitness to practice was impaired by reason of her misconduct whilst employed by United Lincolnshire Hospitals NHS Trust. The reasons for that decision are set out in the Notice of Decision issued that day.

The Panel heard an application from Miss Sleeman for the hearing to be held in private. The panel approved this application as they felt it maintained the privacy of the patient.

The task of the panel today is to review this order (under Article 30 (1) or (2) of the Health Professions Order 2001) and to decide what, if any action, it should take under this Article.

The panel noted that the Health Professions Council presented no adverse reports with reference to the suspension period.

The panel has considered the transcript of the previous hearing together with all the written and oral evidence and submissions from both parties. Ms Moy gave evidence and the panel noted her genuine remorse in relation to her actions which led to her suspension from the register. Ms Moy demonstrated to the panel that she has been diligent in her efforts to ensure that she has current and up to date knowledge in relation to the diverse area of confidentiality. The panel noted in addition that Ms Moy has demonstrated her commitment to continual professional development.

The panel are of the opinion that the period of suspension was clearly appropriate to ensure public confidence that the Health Professions Council takes a serious view of breaches of confidentiality by registrants. The panel has decided that the period of suspension already ordered was both appropriate and sufficient and it therefore follows that it is not necessary, in order to ensure public confidence in the regulation of health professionals, to order any further sanction beyond the expiry of the present suspension order. For these reasons, the panel has decided to confirm the above order and allow it to continue until its expiry on 28th February 2006.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 30(10), (11) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court.

ORDER

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The Suspension Order imposed on 2nd August 2005 is confirmed under Article 30(2) of the Health Professions Order 2001.



Health Professions Council

**HEALTH COMMITTEE HEARING – REVIEW OF A CONDITIONS OF
PRACTICE ORDER**

Notice of Decision and Order

Date of Hearing: Tuesday 2nd May 2005

Name of Registrant: Miss Julie A Pring

Registration No.: PH35659

Panel: Sandy Yule - Chair

Eleanor Main – Physiotherapist

Michael Nicholls– Registered Medical Practitioner

Matthew McManus – Lay Partner

Legal Assessor: Simon Russen

Hearing Officer: James Bryant

Representation: The Council was represented by John Harding of Kingsley

Napley Solicitors

The Registrant was not present and was not represented.

Allegation(s)

Your fitness to practise as a registered health professional is impaired by reason of your physical or mental health.

Review of a Conditions of Practice Order

DECISION:

The Panel is engaged in the review of a Conditions of Practice Order made on 26th May 2005. On that occasion the Panel restored Miss Pring to the register but imposed a number of conditions. One of the conditions was that before returning to work Miss Pring should undertake a returners to practice course. The Panel today has no evidence that Miss Pring has undertaken such a course or even attempted to attend one. It follows that she has not returned to practice.

This Panel agrees that Miss Pring should attend such a course before returning to practice. It also agrees that the other conditions imposed in May 2005 were appropriate, and they are repeated. On this occasion the length of the order will be for a period of 2 years.

The current Conditions of Practice Order expires on 2nd June 2006. With effect from that date there will be a Conditions of Practice Order for a period of 2 years. The Panel is satisfied that the making of this Order provides proper protection of the public whilst at the same time affording Miss Pring an opportunity to return to practice.

The conditions are as follows:


1. You shall not return to practice until you have first completed a returners to practice course;
2. If, having successfully completed a returners to practice course, you return to practice within the 2 year period of this Order, the Health Professions Council must receive a letter from any employer in that period confirming that it knows of this Conditions of Practice Order.
3. By the next review date you will provide the Health Professions Council with the following documents:
 - a. If you have successfully completed a returners to practice course, a letter or report from the course supervisor(s) stating that you have successfully completed this course.
 - b. An up-to-date letter from your General Practitioner dealing with your fitness to work, specifically addressing the problems of alcoholism and depression.
 - c. If you have returned to practice, a letter from your current (or most recent) employer stating that you are (or have) successfully discharged your duties in that employment.

- d. If you have returned to practice, a letter from your current (or most recent) employer's Occupational Health Department confirming satisfactory mental and physical health.

Right of Appeal

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice in England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.



2nd. MAY 2006

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Tuesday 2nd May 2006

Name of Registrant: Miss Natasha Gorringe

Registration No.: CH14687

Panel: Sandy Yule - Chair

Robin Crawley - Chiroprapist

Matthew McManus – Lay Partner

Legal Assessor: Andrew Glennie

Hearing Officer: Gemma Lee

Representation:

The Council was represented by John Harding of Kingsley

Napley Solicitors

Allegation(s)

Your fitness to practise as a registered health professional is impaired by reason of your:

DECISION:

ORDER:

Right of Appeal

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice in England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Thursday 4th May 2006

Name of Registrant: Mr Matthew Smith

Registration No.: RA34977

Panel: Clare Reggiori - Chair
Rachel Picton - Radiographer
Christine Mogridge – Lay Partner

Legal Assessor: John McMahon

Hearing Officer: Gemma Lee

Representation:

The Council was represented by Nicola Hill of Kingsley

Napley Solicitors

Mr Smith did not attend and was unrepresented

Allegation(s)

Your fitness to practise as a registered health professional is impaired by reason of your conviction at Norwich Crown Court on 22nd November 2004 on 11 counts of 'Making indecent Photograph or pseudo photograph of child'.

DECISION: On the 22nd April 2005, the conduct and competence committee panel found that Mr Smith's fitness to practise as a Radiographer was impaired by reason of his conviction on 11 counts of making indecent photographs or pseudo photographs of children. As a result of his conviction he was sentenced to a total of 28 days imprisonment and was placed on the sex offenders register for a period of 5 years. That period

does not expire until 2009. The sanction the panel imposed was that his registration was suspended for a period of 1 year.

Due to his conviction he was redeployed as a systems administrator with the Norfolk and Norwich University Hospital NHS Trust and was given a final written warning by them for making indecent photographs. In about July/August 2005, Mr Smith accessed, or attempted to access, websites which contained 'adult and sexually explicit material' and 'tasteless' and 'offensive' material. As a result of this he was dismissed by the trust.

The purpose of today's hearing is to review the order made on 22nd April 2005. We have heard oral evidence from Mr Fisher, head of IT for the trust. We found his evidence persuasive and we accept it. Mr Smith did not attend but submitted written evidence.

Having considered all of the evidence, including Mr Smith's submissions, we are satisfied that Mr Smith had offensive images on his trust computer, that he spent excessive hours on the website 'madbadorsad.org', which deals with cases of child pornography, and that he admitted that he had typed in the web address of kontraband.co.uk which has links to pornography. All this gives lie to the conclusions in the pre-sentence report dated 13/12/04 on which the last panel relied when making their decision on which sanction to impose. The panel on the 22nd April gave serious consideration to a striking off order, but took the view that this was not necessary for public protection or for protecting the reputation of the profession because of Mr Smith's insight into the consequences of his actions.

Mr Smith was given, in effect, a second chance not only by the Health Professions Council but by the trust. His behaviour has shown a deplorable lack of insight into the severity of his situation, and as our first duty is to protect the public, the panel considers that the only justifiable option is to strike Mr Smith from the register.

ORDER: The panel directs the Registrar to strike Mr Smith from the register.

Right of Appeal

You may appeal against the Committee's decision and the order it has made against you.

Articles ~~29(9), (10)~~ ³⁰⁽¹⁰⁾ and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice in England and Wales. The order set out above will not take effect until that appeal period

has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

Interim Order

The panel decided to impose an interim suspension order for a period of 18 months on the ground that it was necessary for public protection.

Clare Pegg

CLARE PEGG

4 May 2006

Health Professions Council
Review of Suspension Order
Notice of Decision and Order

Date of Hearing: 10th May 2006

Name of Registrant: Sarah Turgoose

Registration No.: BS24272

Panel: Ray Pattison – Panel Chair
Norman Jacobs – Lay Partner
Ian McNeil – Registered Medical Practitioner
David Evans – Biomedical Scientist

Legal Assessor: Christopher Smith

Hearing Officer: James Bryant

Representation:

The Council was represented by Nicola Hill of Kingsley
Napley Solicitors
The Registrant

ALLEGATION(S)

DECISION:

ORDER:

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the [] The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

INTERIM ORDER

Health Professions Council

HEARING

Notice of Decision and Order

Date of Hearing: 15th May 2006

Name of Registrant: Cristina Reyburn

Registration No.: SL07520

Panel: Colin Allies
Lesley Hawksworth
Martin Duckworth

Legal Assessor: Simon Russen

Hearing Officer: Sabrina Adams

Representation:

The Council was represented by John Harding of Kingsley
Napley Solicitors
The Registrant

ALLEGATION(S)

DECISION:

ORDER:

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the [] The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

INTERIM ORDER

Health Professions Council

HEARING

Notice of Decision and Order

Date of Hearing: 30th May 2006

Name of Registrant: Pallewatte Ratnasiri

Registration No.: PH28157

Panel:

John Williams – Panel Chair

Gilbert Cox – Lay Partner

Judith Chappell - Physiotherapist

Legal Assessor: Christopher Smith

Hearing Officer: Sabrina Adams

Representation:

The Council was represented by Ella Blackburn of Kingsley

Napley Solicitors

The Registrant was represented by Amanda Hart

Review of a Conditions of Practise Order

DECISION:

This is a review of a Conditions of Practice Order in terms of Article 30(1) of the Health Professions Order 2001. Mr. Ratnasiri attended the hearing and was represented by Ms. Hart of Counsel.

On 21 June 2005, a differently constituted Panel of the Conduct and Competence Committee found that Mr. Ratnasiri's fitness to practice was impaired by reason of his lack of competence and imposed a Conditions of Practice Order for a period of 12 months.

The Panel noted the findings and reasons given by the Panel on 21 June 2005 and also considered the submissions of Ms. Blackburn on behalf of the Health Professions Council and Ms. Hart on behalf of Mr. Ratnasiri. The Panel also noted that Mr Ratnasiri had admitted the facts in relation to four specific incidents and that he had admitted that his fitness to practice in the field of acupuncture was impaired by lack of competence.

The Panel also noted the guidance given by the Panel on 21 June 2005 in regard to the conditions which it had imposed and considered the evidence supplied by Mr. Ratnasiri today confirming that he had complied with those conditions.

The Panel has today considered all the powers of disposal available to it on review under Article 30 in the context the protection of the public, and is of the view that Mr Ratnasiri has demonstrated that he has followed the guidance of the previous panel. The Panel has decided that he should be allowed to resume the practise of acupuncture under supervision for a period of six months.

In terms of Article 30 (1) (b) of the Health Professions Order 2001, the Panel has decided, with effect from the date of expiry of the existing Conditions of Practise order, to make an order which it could have made at the time it made the order being reviewed. The order is in the following terms:

ORDER:

The Conditions of Practice Order imposed on 21 June 2005 will expire on 20th July 2006. Thereafter, immediately upon the expiry of that order, a further Conditions of Practise order will take effect for a period of six months to the following effect in terms of Article 30(1)(b) of the Health Professions Order 2001:

Mr Ratnasiri is permitted to resume his practise of invasive acupuncture subject to the condition that his practise must be supervised by a named physiotherapist who is also qualified in acupuncture. Such supervision will be as set out in the Acupuncture Supervision Plan set out at page 13 of the documents supplied to the Panel by Mr Ratnasiri today, and will be for a continuous period of not less than six months. Mr Ratnasiri should submit written evidence from his supervisor of satisfactory performance three months from the date from which this order takes effect and thereafter immediately prior to the next review hearing.

RIGHT OF APPEAL:

You may appeal against the Panel's decision and the Order which it has made against you.

Article 30(10) of the Health Professions Order 2001 provides that you have 28 days from the date that this notice was served on you to make an appeal to the appropriate court. In this case, the appropriate court is the High Court of England and Wales.

Signed.....

Date.....

Health Professions Council

HEARING

Notice of Decision and Order

Date of Hearing: 30th May 2006

Name of Registrant: Fraymond Mayunga

Registration No.: PH45841

Panel: John Williams – Panel Chair
Gilbert Cox – Lay Partner
Judith Chappell – Physiotherapist

Legal Assessor: Christopher Smith

Hearing Officer: Mick Calligy

Representation: The Council was represented by Ella Blackburn of Kingsley
Napley Solicitors
The Registrant was not present and was not represented

ALLEGATION(S)

Review of conditions of practise order initially imposed on 5th December 2003

DECISION:

The Panel is undertaking a review of a conditions of practise order in terms of Article 30 of the Health Professions Order 2001. On 5 December 2003, a differently constituted Panel found that Mr Mayunga's fitness to practise was impaired by reason of lack of competence for the reasons set out in the notice of decision issued that day.

That Panel imposed a conditions of practise order for a period of 12 months, which was subsequently reviewed on 23 November 2004 and was extended for a further 13 months and again on the 13 December 2005 where the order was extended for a further 6 months. The task of the Panel today is to determine what, if any, order should be made.

There was no appearance by the registrant today and we were advised that he had returned to Tanzania shortly after the original hearing. However, we were satisfied that notice had been served on Mr Mayunga at his address as it appeared on the register and agreed to proceed in his absence in terms of rule 11 of the Conduct and Competence Procedure Rules.

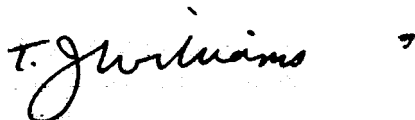
The Panel note the findings and reasons of the previous panels and also considered the submission of Ms. Blackburn today. A letter dated 20 May 2006 from Mr. Ieuan Ellis, Associate Dean of the Faculty of Health of Leeds Metropolitan University was produced to the Panel. In that letter Mr. Ellis, who formerly represented Mr. Mayunga in his appeal, stated that Mr. Mayunga has told him that he has no intention of complying with the Conditions of Practice Order and urged the Panel to remove Mr. Mayunga's name from the Register. The Panel noted that there had been no direct communication from Mr Mayunga in relation to compliance with the conditions imposed and expressed concern that he had again failed to engage with the review process.

The Panel considered the powers of disposal available to it and were concerned that, although Article 29(6) of the Health Professions Order 2001 allowed a registrant who had been subject to a conditions of practice order for a period of not less than two years to be struck off, the review powers contained in article 30(1) limited the power of disposal to the making of an order which it could have made at the time it made the order being reviewed. In all the circumstances the Panel decided that the most appropriate method of disposal to ensure public confidence in the profession is to suspend Mr. Mayunga's registration for a period of twelve months. The Panel viewed the failure of Mr. Mayunga to engage with the appeals and review process, as well as the comments of Mr. Ellis that Mr. Mayunga had no intention of complying with the Order, as an extremely serious matter. Mr. Mayunga appears to the Panel to be falling below the standards expected of a health professional. The Panel therefore invite the Health Professions Council to urgently consider the steps which might be taken to prevent the review process continuing indefinitely.

ORDER:

The order made on the 13 December 2005 will expire on 1 July 2006. Thereafter, a suspension order is made for a period of one year from the date of expiry in terms of Article 30(1)(b) of the Health Professions Order 2001.

Signed:



30th May 2006

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Article 30(10) of the Health Professions Order 2001 provides that you have 28 days from the date that this notice was served on you to make an application to the appropriate court. In this case the appropriate court is the High Court of England & Wales.

Health Professions Council

**CONDUCT AND COMPETENCE COMMITTEE HEARING – REVIEW OF
SUSPENSION ORDER**

Notice of Decision and Order

Date of Hearing: 23rd June 2006

Name of Registrant: Miss Gaynor L McAlister

Registration No.: OT26548

Panel: Ray Pattison – Panel Chair
Jackie Landman – Lay Partner
Denise Perrett – Occupational Therapist

Legal Assessor: Siobhan Goodrich

Hearing Officer: James Bryant

Representation: The Council was represented by Nicola Hill of Kingsley
Napley Solicitors.
The Registrant was not present and was not represented.

REVIEW OF SUSPENSION ORDER

DECISION:

Miss McAlister was neither present nor represented at the hearing today. We were satisfied that she had been properly served at her registered address. We understood from Miss Hill that the bundle of documents served upon Miss McAlister were returned with an indication that she was no longer living at that address. Miss McAlister has not, however, advised the Health Professions Council of any change of address as is her obligation. In these circumstances we are satisfied that all reasonable steps have been taken to serve the notice of hearing and we decided to proceed under Rule 11 of the

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Health Professions Council (Health Committee) (Procedure) Rules Order Of Council 2003.

The Panel is undertaking a review under Article 30 of the Health Professions Order of the suspension order made on 17th June 2004. That order was last reviewed on 6th July 2005.

Although it is no part of our function today to substitute our views for those of the original panel it may be appropriate to say that we entirely agree with the decision made that Miss McAlister's fitness to practise is impaired due to lack of competence.

The suspension order made on 17th June 2004 did not take effect until 15th July 2004. It was reviewed on 6th July 2005 on which occasion the Panel decided to continue the period of suspension for a further period of 12 months. We note in particular that the Panel clearly stated that before the next review hearing they expected Miss McAlister to show evidence that she has taken steps to address the identified shortcomings in her practice if she wished to return to practice as an Occupational Therapist. Regrettably Miss McAlister has not attended and has not taken any other opportunity to indicate that she has taken any steps to improve her competence.

In these circumstances we consider that the appropriate order is to extend the period of suspension for a further period of 12 months from the expiry of the current order. We would again reiterate that if Miss McAlister wishes to return to practice as an Occupational Therapist it is open to her to present evidence that she has taken steps to improve her competence at the next review hearing. We would also advise Miss McAlister that she is also able to make an application under Article 30 (2) for review at any time prior to the expiry of the order made today. The order we have made today will be reviewed in any event prior to its expiry.

ORDER:


Suspension order for 12 months from the expiry of the current period of suspension, that is to say, 12 months commencing on 14th July 2006.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 30 (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court in England and Wales.

SIGNED:


23rd June 06

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Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Monday 17th July 2006

Name of Registrant: Mr Fadayomi E Alade

Registration No.: PH42997

Panel: Christine Mills – Chair
Barry Picken – Lay Partner
Susan Evans - Physiotherapist

Legal Assessor: Chris Smith

Hearing Officer: Gemma Lee

Representation: The Council was represented by Nicola Hill of Kingsley Napley Solicitors

This is a review of a suspension order made on 24th January 2006

DECISION:

This is a mandatory review under Article 30 (1) of the Health Professions Order 2001. The panel considered a letter from the registrant dated 7th July 2006 which included an application for an adjournment. The panel refused that request on the basis that the registrant had been aware since 24th January 2006 of the requirement for a further review and had been notified of the date of the hearing on 5th June 2006. Furthermore, it is open to him to apply for a review at any time under Article 30 (2) of the Order.

The panel noted that the registrant intended to undertake an adaptation course in physiotherapy and that he had been unable to undertake the course because of an injury to his left ear on 21st September 2005. No documentary evidence has been supplied by the registrant to confirm that he had applied to attend such a course or that he had been accepted to do so. In the circumstances the

panel decided, for the protection of the public, to extend the suspension order for a further period of 12 months from the date of expiry of the existing order to allow the registrant to commence the course and also to allow a further period to recover from his injury.

RIGHT OF APPEAL

You may appeal against the panel's decision and the order it has made against you.

Articles 30 (10) and (11) of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice of England and Wales.

Christine Mills

CHRISTINE MILLS

17TH JULY 2006

Health Professions Council
CONDUCT AND COMPETENCE COMMITTEE
REVIEW HEARING

Notice of Decision and Order

Date of Hearing: Wednesday 26th July 2006

Name of Registrant: Mrs Shirley Fogarty

Registration No.: OT 20222

Panel: Martin Ryder – Panel Chair
Denise Boardman – Occupational Therapist
Roy Norris – Lay Partner

Legal Assessor: Siobhan Goodrich

Hearing Officer: Mick Calligy

Representation: The Council was represented by Nicola Hill of Kingsley Napley Solicitors
The Registrant was not present nor represented

Review of a Suspension Order previously imposed on the 5th July 2005

ALLEGATION:

Your fitness to practise as a registered health professional is impaired by reason of misconduct whilst in the employ of Pennine Care NHS Trust.

DECISION:

The Panel has heard the submissions of Miss Hill for the HPC and has considered the written documentation from the original hearing on the 5th July 2005, including the decision of the previous Panel.

The Panel has considered the sanctions available to it under Article 30 of the Health Professions Order 2001. The Panel considers in the absence of any evidence from Mrs. Fogarty about her fitness to practise, it would be inappropriate and against the public interest to revoke the order, or to impose as an alternative, a Conditions of Practise Order: or make any other order that could have been made on the previous occasion.

The Panel draws Mrs. Fogarty attention to the fact that she can apply for a review of this order under Article 30(2) of the Health Professions Order 2001, at any time.

ORDER:

The Panel has therefore decided to extend the suspension order for a period of one year from the date of the expiry of the current order.

Signed:

26th July 2006

Right of Appeal

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice in England and Wales. The order set out above will take effect upon the expiry of the previous order namely, 4th August 2006 in the case if you appeal, until that appeal is withdrawn or disposed of.

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: 28th July 2006

Name of Registrant: Douglas Sinclair

Registration No.: PH41025

Panel: Ray Pattison – Panel Chair

Kathryn Kloet – Physiotherapist

Sheila Hollingworth – Lay Partner

Legal Assessor: Angela Hughes

Hearing Officer: Mick Calligy

Representation: The Council was represented by John Harding of Kingsley

Napley Solicitors

The registrant was not present and was not represented

A review of a Conditions of Practise order imposed on the 9th November 2004.

DECISION:

The Panel is undertaking a review of a conditions of practise order made on 9th November 2004, by a differently constituted panel which found an allegation that the registrants fitness to practise was impaired by reason of lack of competence in relation to poor record keeping was substantiated and imposed a conditions of practise order for a period of 18 months.

The task of the panel today is to review this order under Article 30 of the Health Professions Order 2001, and to determine what, if any, further action should be taken. The registrant was not present or represented and the Panel were satisfied that notice was properly served on the registrant and determined to proceed in his absence in terms of Rule 11 of the Conduct and Competence Procedure Rules 2003.

The Panel heard from Mr. Harding that there had been no contact from the registrant since the original hearing and there was no information as to whether or not the registrant had complied with the terms of the order.

The panel heard from Mr Harding and from the legal assessor as to the options available to them and were also referred to the indicative sanctions policy.

The panel were concerned that there was no evidence of compliance with the order and that there had been no contact from the registrant since the date of the original hearing. The panel considered all of the options available to them and determined that in the particular circumstances, the most appropriate sanction for the protection of the public was a suspension order for a period of one year in terms of rule 30 (1) (b) of the Health Professions Order 2001.

The suspension order will be reviewed at a further hearing before it expires and the panel would suggest that the registrant provide evidence of current continuous professional development to assist any future panel in its decision.

ORDER:

That the Registrar be directed to suspend the registration of Mr. Douglas Sinclair for a period of one year.

Right of Appeal

You may appeal against the Committee's decision and the order it has made against you.

Article 30(10) of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the Court of Session.

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Friday 28th July 2006

Name of Registrant: Miss Rabea Yousaf

Registration No.: ML41561

Panel: Raymond Pattison – Chair
Sheila Hollingworth – Lay Partner
Thomas Cavanagh – Biomedical Scientist

Legal Assessor: Angela Hughes

Hearing Officer: Mick Calligy

Representation: The Council was represented by John Harding of Kingsley Napley Solicitors
The registrant was not present and was not represented

This is a review of a suspension order made on 10th August 2005

DECISION:

The panel is undertaking a review in terms of article 30 of the Health Professions Order 2001 of a suspension order made on 10th August 2005 by a differently constituted panel which found an allegation that the registrant's fitness to practice was impaired by lack of competence and misconduct was substantiated and imposed a suspension order for a period of twelve months.

The task of the panel today is to determine what, if any, order should be made. The registrant was not present or represented and the panel were satisfied that notice of these proceedings had been properly served and agreed to proceed in the absence of the registrant in terms of rule 11 of the Conduct and Competence Procedure Rules 2003.

The panel heard from Mr Harding that there had been no contact from the registrant since the original hearing other than a recent telephone call from a Mr Brian McDonald at the registrant's address, following service of notice of today's hearing, advising that he would not be in attendance.

The panel were advised of the options available to them by Mr Harding and by the legal assessor. The panel were also advised that they should take account of the indicative sanctions policy.

Having considered all of the options available to it, the panel are of the view that, in the circumstances, the most appropriate sanction is a further suspension order for a period of twelve months in terms of rule 30(1) (b) of the Health Professions Order 2001. The panel noted the concerns at the original hearing in relation to the scale and frequency of the registrant's clinical errors and her apparent inability to appreciate the consequences of these errors. In the absence of any further evidence being presented today, the panel believe the protection of the public would be maintained by the continuation of the suspension order.

ORDER:

The panel directs that the Registrar continues the suspension order in relation to the registration of Rabea Yousaf for a further period of twelve months in terms of rule 30(1) (b) of the Health Professions Order 2001.

RIGHT OF APPEAL

You may appeal against the panel's decision and the order it has made against you.

Articles 30 (10) and (11) of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice of England and Wales.

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Friday 4th August 2006

Name of Registrant: Mr Timothy P Hulley

Registration No.: BS32221

Panel: Elizabeth Carmichael – Chair
Thomas Bingham – Lay Partner
Ron Templeton – Biomedical Scientist

Legal Assessor: Christopher Smith

Hearing Officer: Gemma Lee

Representation: The Council was represented by Emily Carter of Kingsley Napley Solicitors
The registrant was present and supported by Martin Bullerwell

This is a review of a conditions of practice order made on 8th February 2005.

DECISION:

This is a review of a Conditions of Practice Order in terms of Article 30 of the Health Professions Order 2001.

On 8 February 2005, a Panel of the Conduct and Competence Committee imposed a Conditions of practice Order for a period of 18 months. The Order was in the following terms:

1. Mr Hulley should not work alone taking sole responsibility for the provision of the service for the full period of the order.
2. Mr Hulley should not work unsupervised until all the requisite competencies have been signed off by a manager.
3. At the review hearing of this order, Mr Hulley is to provide a report from a

senior manager confirming that Mr Hulley meets the Health Professions Council's Standards of Conduct, Performance and Ethics, in particular part 1, to act in the best interests of your patients, clients and users; and part 3, to maintain high standards of personal conduct.

4. Mr Hulley shall advise the Health Professions Council if he changes employment at any time during the continuation of this order.

Mr. Hulley attended the hearing today and was supported by Martin Bullerwell, his trade union representative. The Panel was satisfied that notice of the hearing had been properly served.

The Panel considered the written and oral evidence presented at the hearing including the findings and reasons given by the Panel on 8 February 2005. The Panel also considered all the powers of disposal available to it on review under Article 30. The Panel considered a letter dated 10 July 2006 from Mr. Clinton Blackburn, the Lead Biomedical Scientist at County Durham and Darlington NHS Acute Hospitals NHS Trust (the "Trust") as well as an undated letter from Melanie Kidd, a BMS2 with the Trust. The Panel carefully considered whether each of the Conditions of Practice had been complied with. In regard to the first and second conditions, it was confirmed by Mr. Blackburn that Mr. Hulley had not worked alone or taken sole responsibility and had worked throughout the period under supervision. In regard to the third condition, the letter from Mr. Blackburn served as confirmation that Mr. Hulley had met the relevant standards of the HPC's Standards of Conduct Performance and Ethics. Finally, in regard to the fourth condition, it had been confirmed that Mr. Hulley had not changed his employment throughout the period.

Having been fully satisfied that all of the conditions of practice had been met, and taking into account Mr Hulley's desire to resume his professional development and career path, the Panel decided to exercise its power under Article 30 (4) (e) of the Health Professions Order 2001 to revoke the conditions of practice order imposed on 8th February 2005.

ORDER:

The order made on 8th February 2005 is hereby revoked with immediate effect in terms of Article 30 (4) (e) of the Health Professions Order 2001.

RIGHT OF APPEAL

You may appeal against the panel's decision and the order it has made against you.

Articles 30 (10) and (11) of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice of England and Wales.

Elizabeth A Carmichael.

panel chair .

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Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Wednesday 23rd August 2006

Name of Registrant: Ian S Carville

Registration No.: PA05545

Panel: John Williams – Panel Chair
Rotimi Jaiyesimi - Lay Partner
John Creek - Paramedic

Legal Assessor: Andrew Glennie

Hearing Officer: Gemma Lee

Representation: The Council was represented by John Harding of Kingsley Napley Solicitors
The registrant was present and represented by Ray Carrick

This is a review of a conditions of practice order imposed on 7th February 2005

DECISION:

The Panel read all of the documentation provided for the initial hearing and the later bundles submitted as part of today's hearing. The Panel heard from Mr Harding representing the HPC that their position regarding the conditions of practice order is neutral. The Panel noted Mr Harding's point about how the Ambulance Trust had not provided evidence concerning condition 2 in relation to joint working. The Panel heard the submissions of Mr Carrick who represented Mr Carville which emphasised that Mr Carville had complied with the two conditions of practice and in particular that he had in fact observed the condition requiring joint working. Mr Carrick also pointed out that the psychological reports received had been entirely positive. These psychologist's reports have confirmed his rehabilitation. No evidence has been brought before the Panel that Mr Carville has

repeated his wrongful actions nor that he intends to do so. The Panel noted from a psychologist report that Mr Carville does have insight into his earlier wrongdoings. This Panel is therefore able to conclude that Mr Carville does not present a risk to the public.

The Panel takes the view that Mr Carville has learnt valuable lessons from his history and we do not take the view that there will be further actions to bring the reputation of the profession into disrepute.

ORDER:

The period for which the conditions of practice order has effect shall be reduced so that it expires today. This means that the order ceases to have effect as from today.

RIGHT OF APPEAL

You may appeal against the panel's decision and the order it has made against you.

Articles 30 (10) and (11) of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice of England and Wales.

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Health Professions Council

HEALTH COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Wednesday 30th August 2006

Name of Registrant: Esther Randall

Registration No.: PH53062

Panel: Elizabeth Carmichael – Panel Chair
John Mackenzie - Lay Partner
Alison Larthe de Langladure - Physiotherapist
Dr Iain McNeil – Registered Medical Practitioner

Legal Assessor: Michael Taylor

Hearing Officer: Gemma Lee

Representation: The Council was represented by Nicola Hill of Kingsley Napley Solicitors

The registrant was not present and was not represented

This is a review of a suspension order made on 26th September 2005

DECISION:

The registrant was neither present nor represented. The Panel undertook a review of the suspension order under Article 30 of the Health Professions Order 2001 which was initially imposed on 1st October 2004 and extended for a period of 12 months on 26th September 2005. At the initial hearing, the Panel found that the registrant's fitness to practise was impaired by reason of her physical and/or mental health and for the reasons set out in the notice of decision issued that day.

Ms Randall was not present at today's hearing and the Panel had a sight of a letter of Messrs Thompsons Solicitors dated 30th August 2006 in which they indicated they were without instructions and therefore unable to make any representations on her behalf or represent her.

Having heard submissions from Miss Hill on behalf of the HPC, the Panel were satisfied that it was in the interest of justice or for the protection of the private life of the health professional, the complainant, any person giving evidence or of any

patient or client for the matter to proceed in private. The Panel was further satisfied that service had been properly effected on the registrant and therefore determined to proceed with the review hearing in her absence.

Miss Hill gave the Panel a background to the case and advised that the registrant had not submitted any fresh information or a medical report. She outlined to the Panel the options open to it. The Panel noted the advice of the Legal Assessor.

Given the severity of the case the Panel did not consider a caution to be appropriate and in the absence of any fresh information the Panel were of the view that a conditions of practice order would not afford sufficient protection to members of the public. The Panel were therefore of the view that the only appropriate sanction in the current circumstances was to extend the existing suspension order for a period of 12 months in terms of paragraph 30 (1) (a) of the Health Professions Order 2001.

ORDER:

That the Registrar be directed to extend the suspension of Ms Randall's registration for a period of 12 months, in terms of Article 30 (1) (a) of the Health Professions Order 2001.

RIGHT OF APPEAL

You may appeal against the panel's decision and the order it has made against you.

Articles 30 (10) and (11) of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice of England and Wales.

Health Professions Council

HEALTH COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Wednesday 30th August 2006

Name of Registrant: Fiona Drew

Registration No.: PH58723

Panel: Elizabeth Carmichael – Panel Chair
John Mackenzie - Lay Partner
Alison Larthe de Langladure - Physiotherapist
Dr Iain McNeil – Registered Medical Practitioner

Legal Assessor: Michael Taylor

Hearing Officer: Gemma Lee

Representation: The Council was represented by Nicola Hill of Kingsley Napley Solicitors
The registrant was present and represented by Sue Sleeman, Counsel instructed on behalf of Thompsons Solicitors

This is a review of a conditions of practice order imposed on 8th September 2004

DECISION:

The Panel is undertaking a review of a conditions of practice order under Article 30 of the Health Professions Order 2001. On 8th September 2004, following a three day hearing, a differently constituted Panel found that Ms Drew's fitness to practise was impaired by reason of her physical or mental health and for the reasons set out in the notice of decision dated 8th September 2004.

Ms Sleeman, Counsel for the registrant, applied for today's hearing to be heard in private pursuant to Rule 10 (1) of the Health Committee Procedure Rules. The Panel was advised that the initial hearing had been held in private. The Panel acceded to this request as it was satisfied that it was in the interest of justice or for the protection of the private life of the health profession.

Miss Hill, on behalf of the HPC, outlined the case and directed the attention of the Panel to certain passages of the bundle having first ascertained that the Panel had had an opportunity of considering the entirety of the bundle prior to the hearing.

Ms Drew, the registrant, took the oath before reading out a prepared statement which detailed her work experience and training courses since the original order was made. She clarified certain issues raised by Miss Hill and in particular admitted that she had not undertaken any period of supervised training in respect of work relating to respiratory care in an intensive care unit. She explained that she has been working for some 18 hours per week in the field of learning disabilities.

The Panel heard submissions from Ms Sleeman on behalf of Ms Drew that Ms Drew had no intention of returning to work in an intensive care unit and that should she find herself in a position where this may occur she would ensure that she undertook further training. The Panel was advised that Ms Drew had suffered a relapse last year in relation to her health problems but noted that no current medical evidence had been provided.

Miss Hill set out the options open to the Panel under Article 30 of the Health Professions Order 2001. The Legal Assessor confirmed to the Panel that the statement of the law was correct.

The Panel has today reviewed all the information before it including the testimonial from Ms Whelan. It has reminded itself to give due regard to protect the public interest. Given the seriousness of the case, the Panel did not consider that a caution would be an appropriate sanction. The Panel has taken into account the principal of proportionality. Whilst it notes that Ms Drew has no present intention to practice outside of the field of 'Learning Disabilities' the Panel feel it would be inappropriate to allow her to practise without restrictions. In the circumstances the Panel is minded to impose a conditions of practice order for a period of three years in that Ms Drew is not to work in any setting where patients may receive acute respiratory physiotherapy unless and until she has undergone a period of training such that she is able to demonstrate the core competencies as identified in the NHS Knowledge and Skills Framework (or any subsequent competency framework) for such a post. The period of three years will enable Ms Drew to continue her recovery from ill health and to undertake further professional development without causing undue stress.

ORDER:

That the Registrar be directed to impose a Conditions of Practice Order for a period of three years namely that Ms Drew should not work in any setting where patients may receive acute respiratory physiotherapy unless and until she has

undergone a period of training such that she is able to demonstrate the core competencies as identified in the NHS Knowledge and Skills Framework (or any subsequent competency framework) for such a role.

RIGHT OF APPEAL

You may appeal against the panel's decision and the order it has made against you.

Articles 30 (10) and (11) of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice of England and Wales.

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: 7th September 2006

Name of Registrant: Minette Magno

Registration No.: PH66295

Panel: Elizabeth Carmichael – Panel Chair
Catherine Simpson - Physiotherapist
Susan Maddocks – Lay Partner

Legal Assessor: Christopher Smith

Hearing Officer: James Bryant

Representation: The Council was represented by John Harding of Kingsley
Napley Solicitors
The Registrant was not present nor represented.

This is a review of a Suspension Order.

ALLEGATION(S)

Your fitness to practise as a registered health professional is impaired by reason of your lack of competence whilst in the employ of North West Wales NHS Trust.

DECISION:

The allegation arises from Ms. Magno's employment as a physiotherapist with North West Wales NHS Trust in Bangor. It was alleged that Ms. Magno required to work under close supervision to a far higher level than would have been expected. On 18th March 2005, a Panel of the Conduct and Competence Committee decided to impose an Interim

Suspension Order for a period of 18 months. That Order was reviewed on 13 September 2005 and, at that hearing, the Panel decided to revoke the Interim Suspension Order and to replace it with a Suspension Order for a period of one year. This is a mandatory review of that Suspension Order in terms of Article 30(1) of the Health Professions Order 2001.

Ms. Magno did not attend the hearing and was not represented. A submission was made on her behalf by Karen O'Dowd of the Chartered Society of Physiotherapy in which it was confirmed that Ms. Magno was currently resident in the Philippines and would not be attending the hearing. In the circumstances, the Panel determined to proceed in her absence in terms of rule 11 of The Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003.

The Panel noted the findings and reasons given by the Panels on 18 March and 13 September 2005 and also all the evidence in the documentation, including the submission made by Karen O'Dowd on Ms. Magno's behalf. The Panel noted that the Panel on 13 September 2005 had concluded that the allegation that Ms. Magno's fitness to practise was impaired by reason of her lack of competence was well-founded. The Panel also noted the guidance given to Ms. Magno by the Panel at the hearing held on 13 September 2005 in recommending to her that a future review panel might want to receive evidence of her ability to recognise health and safety issues pertinent to physiotherapy practice, clinical reasoning ability linking theory to practice and a clearer understanding of multi-professional team working. Ms. Magno had provided certificates of certain courses which she had attended and also outlined the steps which she was taking to improve her knowledge and professional competence. She had also mentioned some of the practical difficulties which she was experiencing in regard to obtaining relevant experience to satisfy the Health Professions Council that she could meet the standards of competence of a registered physiotherapist. The Panel applauded the obvious efforts Ms. Magno had made in seemingly very difficult circumstances to do this. Nevertheless it had reservations about the training which she had undertaken since she had supplied certificates of attendance only, not attainment and there was little or no indication of course content or objectives.

Turning to her ability to recognise health and safety issues pertinent to physiotherapy practice, the Panel noted Ms. Magno's personal view that she had made progress. However, the Panel was reluctant to rely solely on this view without any specific examples or supporting evidence.

Likewise, whilst the Panel was pleased to learn of her ongoing reading and perusal of the internet, there was no evidence supplied of putting this information into practice. Neither

was any evidence produced of a clearer understanding by Ms. Magno of multi-professional team working and the Panel had reservations about the opportunities presented for this by her work in a small private clinic dealing with a limited range of conditions. It is likely that a future Panel would find it helpful to know more about the steps she is taking to demonstrate that she is fit to practice. This is likely to focus on the same areas as the guidance given by the previous Panel but more specific evidence should be supplied. This might include, for example, course content and objectives and how her knowledge has been put into practice. This might be in the form of, for example, case notes or a reflective diary. A statement from a supervisor or an employer, addressing the specific concerns of the Health Professions Council, might also be helpful.

In reviewing the Suspension Order today, the Panel considered carefully all the sanctions available to it. In the context of its duty to protect the public, the Panel did not consider that sufficient progress had been demonstrated to allow Ms. Magno to resume her practice as a physiotherapist and that, accordingly, to take no action or to issue a caution order would not be appropriate. The Panel agreed with the conclusion of the Panel held on 13 September 2005 that it would be difficult to frame conditions of practice which would be appropriate for a registrant who, like Ms. Magno, had fallen well short of the standards of competence expected of a registered physiotherapist. In terms of Article 30 (1) (a) of the Health Professions Order 2001, the Panel has decided, with effect from the date of expiry of the existing Suspension Order, to extend the period of the Order for a further 12 months.

ORDER:

The Panel directs the Registrar to suspend the registration of Ms Magno for a further period of 12 months from the date of expiry of the existing Order on 11 October 2006 in terms of Article 30(1)(a) of the Health Professions Order 2001.

RIGHT OF APPEAL:

You may appeal against the Panel's decision and the Order which it has made against you.

Article 30(10) of the Health Professions Order 2001 provides that you have 28 days from the date that this notice was served on you to make an appeal to the appropriate court. In this case, the appropriate court is the High Court of England and Wales.

SIGNED:

Elysieth A. Cawinched.
Panel Chair.

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: 12th October 2006

Name of Registrant: Joe Osmond

Registration No.: SL05914

Panel: Gordon Sutehall – Chair
Aileen Patterson – Speech & language Therapist
Joyce Struthers – Lay Partner

Legal Assessor: Karen Rea

Hearing Officer: James Bryant

Representation: The Council was represented by Nicola Hill of Kingsley
Napley Solicitors.
The Registrant was not present and was not represented.

Review of a Conditions of Practise Order

DECISION:

This Hearing is a review of the Conditions of Practice Order made originally on the 19th March 2004, which has already been reviewed on 22nd August 2005 and extended for a further 12 months. This would have expired on 19th October 2006. This is the second review.

The original allegations concerned poor practice in the treatment of clients with dysphagia. The conditions thus far have centred around the Registrant updating himself

on a course on dysphagia and approved by the HPC. The Registrant must not work with clients with dysphagia except under supervision.

By a letter dated 4th October 2006 the Registrant has stated that he does not intend to work as a speech and language therapist in the area of dysphagia practice. He indicates he cannot find a suitable course to complete and he refers to a paradoxically cyclical problem of convincing employers that he is employable but whilst still requiring retraining.

Further, the Registrant states that he has not practised as an SLT since March 2004 and that he has not met the conditions imposed at that time and extended in August 2005. He states that he wishes to work as a speech and language therapist with “communication – disabled patients” .

Also he asks for removal of the Conditions of Practice and for a note on the Register to allow him to work in all areas except dysphagia.

In the Panel’s view this raises some serious concerns:-

1. The Registrant has not practised in the area of SLT at all in the previous two and a half years. Therefore the Panel considers it likely that his clinical knowledge and skills generally would now require to be radically updated. The need for public protection remains. The Panel’s concern is that he is likely to be out of date across his entire scope of practice.
2. As he has not met the original conditions, he has clearly not met the earlier Panel’s intentions of facilitating his return to practice. This panel is of the view that as a result of the Registrant’s lack of compliance, his ability to practise safely has been further compromised. This situation may be retrievable if addressed promptly and the panel will address this matter below.

The Panel notes the registrant’s aspirations to return to professional practice in the future but the Panel considers that to do so his overall proficiency must be assured. This must include his ability to apply his knowledge understanding and skills to both communication and swallowing disorders as set out clearly in the Standards of Proficiency.

Clearly the original Panel who heard this case considered Conditions of Practice to be the appropriate sanction. For this Panel to go behind that sanction in the light of the cumulative evidence of non-compliance by the Registrant and to impose a Caution, or Mediation or to take No Action, would be perverse and inappropriate.

In considering the most appropriate action to enable the Registrant to take steps to restore his ability to practise safely and effectively, the Panel has concluded that it is insufficient and unworkable to modify the existing conditions. Furthermore to extend the period of existing conditions or impose additional conditions with which he should comply is also unworkable and impractical. This in effect would require him to retrain as a speech and language therapist. The Panel also notes that by his absence he is unable to agree to any modification of such conditions.

Therefore in order to protect the public and to enable the Registrant to take steps to restore his ability to practise safely and effectively, the Panel has decided to impose a period of Suspension of 12 months. This Suspension Order will be reviewed by another Panel before it expires. That Panel would be greatly assisted if at that review the Registrant provided evidence of how he had updated his knowledge, understanding and skills across the full Standards of Proficiency that the Health Professions Council expects of a Speech and Language Therapist. While this Panel cannot stipulate exactly how the Registrant should provide this evidence, it is likely that the proof of the updating would be at least equivalent to that specified by the HPC for a Returner to Practise and would include dysphagia.

ORDER:

That the Registrar be directed to suspend the Registration of JOE OSMOND for a period of TWELVE MONTHS.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court in England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

SIGNED


12th October 2006

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: 12th October 2006

Name of Registrant: Mr Asarath A Aliyar

Registration No.: PH38326

Panel: Gordon Sutehall – Chair
Susan England – Physiotherapist
Joyce Struthers – Lay Partner

Legal Assessor: Karen Rea

Hearing Officer: James Bryant

Representation: The Council was represented by Nicola Hill of Kingsley
Napley Solicitors.

The Registrant was not present and was not represented.

Review of a one year Suspension order

DECISION:

This is the first review of a Suspension Order 12 months effective from 14th November 2005, which is due to expire on 14th November 2006.

The allegations relate to a lack of competence in relation to lack of communication and poor interpersonal skills, inadequate recording practice and assessment skills, lack of theoretical knowledge to underpin his clinical practice and poor documentation of patient interventions, as well as lack of skill in applying appropriate techniques, his inability to use clinical reasoning to apply appropriate treatments and to take proper discharge

decisions. In addition, the registrant was found to be unable to supervise juniors or students and unable to manage staff at a level expected of a trained physiotherapist. After considerable help to try to overcome these problems, the registrant's practice did not improve. The issues continued to remain the same.

The Panel notes there has been no communication from the registrant. Therefore as there is no evidence of change for this Panel to consider, the Panel concludes that the risk to patients and the public remains unaltered. The Panel thus has no reason to change the rationale of the previous Panel's decisions. That Panel considered all the sanctions available to it: it would be inappropriate and perverse for this Panel to go behind the original decision. Today's Panel, having taken account of the evidence available to it has decided to extend the period of suspension by a further 12 months, as from 14 November 2006, when the current order expires.

ORDER:

The Registrar be directed to suspend the registration of Asarath Aliyar for a period of 12 months.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court in England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

SIGNED

Health Professions Council
CONDUCT AND COMPETENCE COMMITTEE
REVIEW HEARING

Notice of Decision and Order

Date of Hearing: Friday 20th October 2006

Name of Registrant: Mr Baldev Mehra

Registration No.: PH14066

Panel: Elizabeth Carmichael – Chair
Ann Audin – Lay Partner
Susan Thomas - Physiotherapist

Legal Assessor: Sarah Breach

Hearing Officer: Gemma Lee

Representation: The Council was represented by John Harding of Kingsley Napley Solicitors
The registrant was not present and was not represented

This is a review of a suspension order made on 10th November 2005.

DECISION:

The Panel first determined that it could proceed with the hearing in the absence of the registrant under Rule 11 of the Procedure Rules.

For the reasons given by the previous Panel, the Panel today considers that the registrant should remain suspended from the register for a further period of one year.

The Panel has taken account of the fact that there has been no response from Mr Mehra in relation to any of the proceedings before the Conduct and Competence

Panel. Accordingly, in the absence of any documentation from Mr Mehra to demonstrate that he has addressed his lack of competence, the Panel determines that a further order of suspension is both proportionate and necessary to protect the public.

ORDER:

That the Registrar be directed to suspend the registration of Mr Baldev Mehra for a period of one year from the 8th December 2006 (the date that the existing order expires).

A Panel will review Mr Mehra's case at a further hearing which will be held before the period of suspension ends. At that hearing it will consider whether any further action needs to be taken in relation to Mr Mehra's registration. He will be informed of the date and venue of that hearing and will be entitled to attend and put his case. It is for him to determine what evidence he wishes to put before that hearing, but it is likely that a Panel will wish to consider evidence of any steps he has taken, including relevant training, to address the shortfalls in his competence.

RIGHT OF APPEAL

You may appeal against the panel's decision and the order it has made against you.

Articles 30 (10) and (11) of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice of England and Wales.

Eyobitch A Casimiro
Panel chair
20th 06.

Health Professions Council

**CONDUCT AND COMPETENCE COMMITTEE HEARING – CONDITIONS OF
PRACTICE REVIEW HEARING**

Notice of Decision and Order

Date of Hearing: Friday 20th October 2006

Name of Registrant: Mr Gordon A Mendy

Registration No.: PH36897

Panel: Elizabeth Carmichael - Chair
Susan Thomas - Physiotherapist
Ann Audin – Lay Partner

Legal Assessor: Sarah Breach

Hearing Officer: Simon Thompson

Representation: The Council was represented by John Harding of Kingsley
Napley Solicitors.
The registrant did not attend and was not represented.

Review of a Conditions of Practice Order

DECISION:

The Panel first determined that it could proceed with the hearing in the absence of the registrant under Rule 11 of the Procedure Rules.

Mr Mendy was given a caution order for 3 years on 28th November 2003 for the allegation of misconduct that he made a false entry in a patient's record card. This will expire next month.

Mr Mendy was given an order of conditions for his lack of competence in his failure to record his physiotherapy intervention in respect of a number of patients. Mr Mendy was required to have his record keeping countersigned as acceptable by a physiotherapist nominated by his employer for 12 months.

The Order was first reviewed on the 10th November 2004 when the Panel gave serious consideration to suspending Mr Mendy because he had provided no evidence of compliance with the Order, but instead the Panel decided to impose a further Conditions of Practice Order from the 27th November 2004 for one year.

The Order was again reviewed on the 17th March 2005. A letter had been received from Mr Mendy dated 15th March 2005 when he informed HPC that he had not sought employment as a Physiotherapist since the decision was first made. He then asked whether, if he sought employment as a Physiotherapist, the Order would start from his first day. The Panel made a further Conditions of Practice Order effective from 27th November 2005, requiring Mr Mendy for the first twelve month period of any recommencement of practise as a Physiotherapist to have his clinical notes signed by another Physiotherapist. The Panel did not specify the length of the Order.

Since this hearing, Mr Mendy wrote to HPC on the 24th May 2006, informing the Council that he was not currently practising as a Physiotherapist and that he would contact the Council again in August 2006. Nothing further has been received from Mr Mendy.

The Panel is disappointed not to have received more detailed information from Mr Mendy regarding his current situation. In the absence of such information from Mr Mendy, the Panel does not know whether he is currently practising as a Physiotherapist or, if not, whether he intends to so practise in the future.

Owing to the uncertainty of the situation, the Panel determines that a further Order of Conditional Registration should be imposed from 27th November 2006, the date when the current Order expires. The Panel considers that a further Order is both proportionate and necessary to protect the public.

ORDER:

That from the date this Order takes effect (27th November 2006) Gordon A Mendy shall comply with the following Conditions of Practice which will be placed on his registration for a period of 3 years:

- 1. The respondent shall, for the first 12 month period of recommencing practice as a Physiotherapist, have his clinical notes countersigned by a Physiotherapist.**
- 2. The respondent shall write to HPC at 3 monthly intervals stating whether or not he is practising as a Physiotherapist and, if he is, to provide a statement signed by a Physiotherapist stating that he or she has conducted an audit of the respondent's clinical notes and found that they comply with HPC Standards of Proficiency.**

A Panel will review Mr Mendy's case at a further hearing which will be held before the period of Conditional Registration ends. At that hearing it will consider whether any further action needs to be taken in relation to Mr Mendy's registration. If Mr Mendy obtains employment as a Physiotherapist and complies with the conditions set out above, a review hearing should be arranged immediately after Mr Mendy's first 12 month's of such employment, on his application to HPC. He will be informed of the date and venue of that hearing and will be entitled to attend and put his case. It is for him to determine what evidence he wishes to put before that hearing, but it is likely that a Panel will wish to consider evidence of any steps he has taken, including relevant training, to address the shortfalls in his competence.

Right of Appeal

You may appeal against the Committee's decision and the order it has made against you.

Articles 30 (10) and (11) of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice in England and Wales.

Signed:**Date:**

Review of orders by the Health Committee and the Conduct and Competence Committee

30. - (1) Before the expiry of an order made under article 29(5)(b) or (c) by the Conduct and Competence Committee or the Health Committee, the Committee which made the order or, if the matter has been referred to the other Committee, that Committee, shall review the order and may, subject to paragraph (5) -

(a) with effect from the date on which the order would, but for this provision, have expired, extend, or further extend the period for which the order has effect;

(b) with effect from the expiry of the order, make an order which it could have made at the time it made the order being reviewed;

(c) with effect from the expiry of a suspension order, make a conditions of practice order with which the practitioner must comply if he resumes the practice of his registered profession after the end of his period of suspension.

(2) Subject to paragraph (1), on the application of the person concerned or otherwise, at any time an order made by the Conduct and Competence Committee or the Health Committee under article 29(5)(b) to (d) is in force, the Committee which made the order or, if the matter has been referred to the other Committee, that Committee, may review the order and may take any of the steps referred to in paragraph (4).

(3) Paragraphs (1) and (2) apply to an order made on a review under paragraph (1) or (2) as they do to an order made under article 29(5)(b) to (d).

(4) The steps mentioned in paragraph (2) are for the Committee to -

(a) confirm the order;

(b) extend, or further extend, the period for which the order has effect;

(c) reduce the period for which the order has effect, but in the case of a caution order not so that it has effect for less than one year beginning with the date on which the order was made under article 29(5)(d);

(d) replace the order with any order which it could have made at the time it made the order being reviewed and the replacement order shall have effect for the remainder of the term of the order it replaces;

(e) subject to paragraph (6), revoke the order or revoke any condition imposed by the order;

(f) vary any condition imposed by the order.

(5) The Committee may not extend a conditions of practice order by more than three years at a time or a suspension order by more than one year at a time.

(6) The Committee may make the revocation of a suspension order subject to the applicant's satisfying such requirements as to additional education or training and experience as the Council has specified under article 19(3) and which apply to him.

(7) Where new evidence relevant to a striking-off order becomes available after the making of the order, the Committee which made the order or, where appropriate, the Committee mentioned in article 33(3)(b) may review it and article 33(4) to (8) shall apply as if it were an application for restoration made under that article.

(8) A striking-off order, conditions of practice order, suspension order or caution order which is in force by virtue of a decision made on appeal to the appropriate court may be reviewed in accordance with paragraph (2) or (7), as the case may be, by the Committee which made the order appealed from and any of the steps mentioned in paragraph (4) may be taken.

(9) Before exercising its powers under paragraph (1), (2), (4), (6), (7) or (8), a Practice Committee shall give the person concerned the opportunity to appear before it and to argue his case in accordance with rules made by the Council which shall include the matters referred to in article 32(2)(b), (g), (i), (j), (k), (m), (n) and (o).

(10) The person concerned may appeal to the appropriate court against an order or decision made under paragraph (1), (2), (4), (6), (7) or (8).

(11) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.

(12) On an appeal under this article the Council shall be the respondent.