

PHARMACEUTICAL SOCIETY OF NORTHERN IRELAND

PROCEEDINGS

at a

HEARING

of the

STATUTORY COMMITTEE

held

on Monday 21 September 2020

by Zoom Videoconference

Present:

Michael Wilson (Chair)

Jayne Laughlin (Registrant Member)

Carol Ackah (Lay Member)

Case of:

Michelle McCorry

Reg No: 3276 IP R

Issue

In accordance with paragraph 34 (12) of the Council of the Pharmaceutical Society of Northern Ireland Regulations (Fitness to Practice and Disqualification) Regulations (NI) 2012 ('the Fitness to Practice and Disqualification Regulations') these are the findings and reasons of the Statutory Committee on the question of whether the fitness to practice of the registered person, Michelle McCorry is impaired, by reason of deficient professional performance.

Covid-19

Due to the Covid-19 public health emergency this matter proceeded to a virtual hearing on 21 September 2020. The arrangements for the virtual hearing were confirmed by the Chair, with the agreement of the parties, at a case management meeting held on 28 August 2020.

Paragraph 41 (1) of the Fitness to Practice and Disqualification Regulations provide that hearings of the Statutory Committee are to be held in public. In order to satisfy this requirement, the Society, at the request of the Chair, noted on its website that the hearing on 21 September 2020 would use online technology and that any member of the public who had an inquiry about the hearing should contact the Secretary to the Statutory Committee. In addition, the Chair directed that the transcript of the public element of the hearing should be made available to any member of the public who sought access to it.

Attendance of Registrant

The Registrant attended by video link and confirmed her name. She was represented by Alistair Wilson of Tughans, Solicitors, Belfast who also confirmed her identity.

Counsel for the Pharmaceutical Society of Northern Ireland ('the Society') was Jonpaul Shields BL instructed by Cleaver Fulton Rankin, Solicitors.

Description of allegations

The allegations are those contained at paragraphs 1 to 6 of the Notice of Hearing dated 7 May 2020 and are as follows:

That, being registered on the register of pharmaceutical chemists pursuant to the Pharmacy (Northern Ireland) Order 1976, and whilst you were employed as a practice based pharmacist with the Federation of Family Practices Ards, based in Donaghadee Health Centre, Donaghadee and Loughview Medical Centre, Kircubbin:

1. On and between 17 September 2018 and 10 May 2019, your professional performance was deficient, pursuant to Paragraph 4(1)(b) of Schedule 3 to the Pharmacy (Northern Ireland) Order 1976.

Particulars of deficient professional performance are as follows:

- (i) A review of 9 incident reports at Donaghadee Health Centre, Donaghadee relating to patients dealt with by you revealed errors and competence issues;
- (ii) A review of 63 patients dealt with by you at Loughview Medical Centre, Kircubbin revealed 43 examples demonstrating errors and competence issues;
- (iii) Potential or actual patient safety issues were identified;
- (iv) Errors were detected with your practice as a GP practice based pharmacist with such frequency and to such an extent that basic competencies expected of a practice based pharmacist were lacking. In particular, it is alleged that you -
 - failed to adhere to the basic principles of medication reconciliation in accordance with training and guidance;
 - failed to adhere to a medicines reconciliation agreement between you and the GP practice;
 - made basic errors in relation to the supply of medication and the provision of pharmaceutical services;
 - failed to display sufficient competence to practise as a practice based pharmacist; and
 - failed to report near misses and adverse incidents, as required.
- (v) Taken individually and collectively, the errors and competence issues detected have given rise to a cumulative concern about your ability to practise safely and effectively as a pharmacist; and
- (vi) Particular concerns are extant with respect to you practising as a pharmacist within a GP practice based setting and offering services as an independent prescriber (IP).

2. For the purposes of paragraph 1(3) of Schedule 3 to the Pharmacy (Northern Ireland) Order 1976 as amended and regulation 26(11) of the Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012, the following principles and standards (contained in the Pharmaceutical Society of Northern Ireland's Code of Professional Standards of Conduct, Ethics and Performance for Pharmacists in Northern Ireland (2016)) are regarded by the Pharmaceutical Society of Northern Ireland as relevant to the proceedings. Further, the Pharmaceutical Society of

Northern Ireland alleges that you are in breach of these principles and associated standards by reason of the deficient professional performance particularised above.

- Principle 1, Standard 1.2 - Uphold the duty of candour and raise concerns appropriately and in particular standard 1.2.1.
- Principle 2, Standard 2.1 - Provide safe, effective and quality care and in particular standard 2.1.6.
- Principle 5, Standard 5.1 - Maintain and develop your knowledge, skills and competence and in particular standards 5.1.1, 5.1.3, and 5.1.4.

3. By your deficient professional performance, it is alleged that you have:

- (a) created a risk to the safety of patients;
- (b) brought the profession into disrepute;
- (c) failed to maintain public trust and confidence in your profession; and

failed, on a professional basis, to observe the principles set out above.

Preliminary Issue

Counsel for the Society informed the Committee that the Registrant had offered undertakings pursuant to Regulation 28 of the Fitness to Practice and Disqualification Regulations, which if accepted, would dispose of the need to hold a Fitness to Practice Hearing. A copy of the proposed undertakings was furnished to the Committee. Mr Shields stated that the Society took the view that the proposed undertakings were appropriate for a number of reasons. In summary he submitted as follows:

1. This was a case involving deficient professional performance case and not one of misconduct; nor was it a health case.
2. There had been Interim Order proceedings in this matter and information that was generated as part of the Interim Order process had helped the Society to adopt the position that it has done regarding the proposed undertakings.
3. The Registrant, who was also an Independent Prescriber (IP), was employed as a practice based pharmacist with the Federation of Family Practices based in Ards and she was associated with two separate health centres. Her period of employment was between 17 September 2018 and 10 May 2019 but effectively because of a precautionary suspension, she had not been in work after 30 January 2019.
4. There were concerns about her competence as a practice based pharmacist.
5. The Registrant had a lot of prior experience but she had not been employed for some

considerable time as a pharmacist dealing directly with the public and issues in a community setting or otherwise.

6. Before her contract as a practice based pharmacist was terminated on 10 May 2019, she was made the subject of an Interim Conditions Order on 18 April 2019. That Order was reviewed in October 2019 and was ultimately discharged on 2 April 2020, and this was done on foot of undertakings given by the Registrant. At that stage the Society took the view that the Registrant was fit to practice in a community pharmacy setting and the upshot of the undertakings that were provided at that time, restricted her practice to a community setting, but not as a practice based pharmacist or IP.
7. The material relating to the Interim Order was important as it allowed both an examination of the reasons that brought the Registrant into an Interim Order process, and also the work that she did over about a period of a year by way of remediation.
8. The documentation from both the investigation and also from the Interim Order process was provided to Dr Duncan Petty¹ whose expert report is included in the Hearing Bundle. In summary, Dr Petty agreed that the Society's position had been correct in relation to allowing the Registrant to go back into a community setting but he also agreed that there was insufficient evidence to show that the Registrant was proficient in relation to either a practice setting in a GP surgery or in relation to using her IP qualification.
9. The concerns that the Society had in relation to the Registrant operating as a practice based pharmacist, or using the IP qualification, still remain. The Registrant had not adduced evidence that would allow the Society, or Dr Petty, to form a different conclusion.
10. The Registrant acknowledges that in respect of those two areas of practice her fitness to practice is impaired.
11. Whilst it is a matter for the Committee to formulate its own view in relation to undertakings the Society's position is that it has already agreed essentially the same undertakings as are now proposed to finalise the Interim Order proceedings.
12. In the context of the regulatory objectives this is a deficient professional performance case rather than one based on misconduct. The objective should be to allow the Registrant an opportunity to remediate her deficiency. The Registrant had been out of patient facing pharmacy practice for a considerable period of time rather than going back to a community pharmacy setting to ensure that her skills were up to the standard that was required, she jumped into a much more pressurised and difficult scenario.
13. There is no concern about the Registrant working (as she is presently doing) in the community pharmacy setting. In relation to working in a practice based pharmacy and IP work however, the proposed undertaking allows the Registrant to continue working in the community setting

¹ Dr Duncan Petty PhD, Dip Clin Pharm, FRPharmS, Expert Report dated 21 April 2020

but effectively prohibits her from engaging in those areas of practice that are of concern. But it does so in a proportionate way because it allows her an opportunity during the period the undertakings are in place to remediate her deficiencies at her own pace and to demonstrate that to the Registrar of the Society in due course.

14. The proposed undertakings are not a punishment on the Registrant, but will protect the public until such times as the Registrant is able to demonstrate suitable proficiency. They are a balance between the Registrant's interests allowing her to address her practise issues, whilst making make sure that the public is kept safe. The undertakings are primarily designed to protect the public until the Registrant can demonstrate safe practice in specific areas of ongoing deficiency.
15. The proposed undertakings will remain in place for seven years. This will allow the Registrant to remediate in her own time but the Society will not automatically presume that she is competent simply by the passage of that time, and should she simply return to practise the Society would be entitled to bring fresh proceedings if their concerns have not been alleviated. However, the Society is hopeful that the Registrant will action a remediation plan sooner rather than later and it will not be a question of waiting to the end of seven years to demonstrate that.
16. Finally, one of the concerns that the Society had was in relation to the Registrant's registered IP status, which the Society could not simply remove of its own volition. The Registrant has agreed to voluntarily surrender that annotation for the period of time that the undertakings are in effect and this represents an additional safety mechanism so that there will be no formal indication on the Register that she holds such a qualification until such times as that part of the undertaking is fulfilled.

For the Registrant Mr Wilson stated as follows:

1. He was happy to stand on the Society's submissions on the proposed undertakings.
2. Those submissions were fair and measured and the Registrant took no issue with them.
3. The Registrant accepted that there was impairment of her fitness to practise.
4. The issues in this case arose from a very discrete and probably quite a specialised area of pharmacy practice but concerns had not been raised more broadly in relation to the Registrant's ability to practice as a pharmacist particularly in the community setting where she has been practicing without incident.
5. It is because the case relates to a very discrete area of practice that undertakings are appropriate and offer a sensible and a pragmatic way of ring fencing areas where the Society had raised concerns.

6. There is substantial amount of documentation in the Hearing Bundle which outlines the efforts that the Registrant has put in to achieve remediation in this case and to try and satisfy the Society as to the concerns that were put to her.
7. There are ongoing concerns and whilst the Society, and the Society's expert, have not been in a position to entirely satisfy themselves as to remediation, the evidence in regard to remediation is substantial and remarkable and it speaks very highly of the Registrant's ability to roll up her sleeves and to address issues when they are brought up with her, and that should provide some reassurance that the Registrant is somebody who would do well under the proposed undertakings.
8. The Registrant has already been working with undertakings that are very much in line with what is being proposed as final undertakings, and that seems to have gone very well and might provide some reassurance to you that the undertakings being proposed are workable and are a proportionate way of resolving the concerns raised in this case.

Agreement of Undertakings

Where, as in this case, a Registrant admits that their Fitness to Practise is impaired, the Committee may dispose of the Fitness to Practise proceedings by agreeing undertakings with the Registrant.

However, we should only do so if the proposed undertakings will provide sufficient protection to the public; if they address the concerns about the Registrant; and if they are appropriate, realistic and verifiable. If undertakings are agreed they will be appropriately recorded on the Register and will be monitored by the Society.

In this case undertakings have been put forward on an agreed basis and the Committee is asked to consider whether it should accept them within its power under Regulation 28(1) of the Fitness to Practice Regulations.

We have looked at the proposed undertakings in the context of the background to this matter. This is, as the Society contends and the Registrant agrees, and as this Committee now accepts, a case of deficient professional performance. It is not a case, such as misconduct, which might merit erasure or suspension. The Committee is satisfied in the circumstances of this case, and in light of the representations of both parties, that the proposed undertakings are appropriate and verifiable, and that they will afford the Registrant the realistic opportunity to remediate her

deficiencies in those areas which she accepts give rise to concern. The Committee is also satisfied that the acceptance of the proposed undertakings will provide sufficient protection to the public and will not have an adverse effect on the public's confidence in the profession. In this regard we are reassured by the report and conclusions of Dr Petty which has been previously referenced in this decision.

In particular, the Committee notes that Dr Petty believes from his consideration of this matter, including the evidence provided by the Registrant's mentors/supervisors and from her CPD portfolio of evidence, that she is fit to practice in a community pharmacy setting without restriction. Dr Petty is also clear that undertakings not to work as an IP or within a GP setting would be appropriate.

Dr Petty further notes that if the Registrant can find a General Practice willing to employ her or give her work experience then she may be able to provide evidence to the Society of her competence to be a practice pharmacist and an IP. Such evidence would need to be based on supervised practice (with competency sign off) whilst the Registrant observes the practice of experienced GPs and practice pharmacists and has her practice observed, and the GP(s) and practice pharmacist(s) will themselves need to be experienced individuals who are skilled in training and assessment.

On this basis, and noting also that the Registrant has agreed to voluntarily surrender her IP annotation for the period of time that undertakings are in effect, the Committee will accept the proposed undertakings with one amendment. The provisions of Regulation 47 of the Fitness to Practise Regulations effectively passes the function of any review of undertakings to the Society's Registrar. In view of this, and although the proposed undertakings are properly addressed to the Committee, we think it would be appropriate if they are given to both the Committee and also to the Society to make it absolutely clear that these are not just given to us as a panel but they are also given to the wider profession.

The undertakings approved by the Committee are those set out in the Schedule to this decision.

The Registrar shall sign the undertakings and these must be lodged with the Society by close of business on Wednesday 23 September 2020 for acceptance by the Society.

If that does not happen the matter will have to be referred back to the Committee.²

² The undertakings were signed by the Registrant on 22 September 2020 and on behalf of the Society on 23 September 2020.

There is no order as to the costs of these proceedings.

Dated: 21 September 2020

Signed: 

Michael Wilson

Chair of the Statutory Committee

In the Matter of the Pharmacy (Northern Ireland) Order 1976

**And Regulation 28 of The Council of the Pharmaceutical Society of Northern Ireland
(Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012**

**In relation to proceedings before a Statutory Committee of the Pharmaceutical Society of
Northern Ireland**

And in the matter of Michelle McCorry

UNDERTAKINGS BY THE REGISTRANT

I, Michelle McCorry, am a registered pharmacist and give the following undertakings to the Statutory Committee and the Pharmaceutical Society of Northern Ireland, which has convened on 21st September 2020 to consider impairment of my fitness to practise.

To allow the Statutory Committee to consider agreeing these undertakings, I confirm that I admit that my fitness to practise is impaired by reason of deficient professional performance with regard to specific areas of practise namely: (i) working as a practise based pharmacist within a GP surgery, and (ii) working as an independent prescriber.

I, Michele McCorry, hereby undertake -

1. Not to supply pharmaceutical services or engage as a pharmacist within a GP practise setting, or provide GP practise based pharmacy services; and
2. Not to supply Independent Prescribing services, act or hold myself out as an Independent Prescriber, or undertake any function that requires an Independent Prescribing qualification

from the date hereof for a period of 7 years. These undertakings, and the agreed duration, are expressly subject to the application of Regulation 47, and in particular Regulation 47(2), of the Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and

Disqualification) Regulations (Northern Ireland) 2012, or other such provision as may be enacted.

The Registrant also agrees that, whilst the undertakings remain in place, she consents to the Society removing the IP annotation from the relevant register maintained by the Society.

These undertakings will lapse automatically after the expiration of 7 years.

