

HEARING HEARD IN PUBLIC

OOSTHUIZEN, Marthinus Jacobus

Registration No: 63372

PROFESSIONAL CONDUCT COMMITTEE

JUNE 2018

Outcome: Erased with Immediate Suspension

Marthinus Jacobus OOSTHUIZEN, a dentist, BChD Pretoria 1988, was summoned to appear before the Professional Conduct Committee on Monday 25 June 2018 for an inquiry into the following charge:

Charge

“That being registered as a dentist, Marthinus Oosthuizen’s (63372) fitness to practise is impaired by reason of misconduct in that: -

1. On 02 January 2015 you;
 - a. Issued a prescription:
 - i. for Lorazepam (a medication used to treat anxiety and sleeping problems);
 - ii. naming Patient A as the patient;
 - iii. when in fact you were prescribing the Lorazepam for yourself;
 - b. Issued the said prescription:
 - i. on Aston Clinton Dental Clinic headed paper;
 - ii. which identified you by implication as one of the partners in the said practice;
 - iii. when the headed paper was out of date;
 - iv. and you had ceased to be a partner in the said practice on its acquisition by the Portman Group in April 2012;
2. On 08 May 2015 you;
 - a. Issued a prescription:
 - i. for Zopiclone (a medication used to treat sleeping problems);
 - ii. naming Patient A as the patient;
 - iii. when in fact you were prescribing the Zopiclone for yourself;
 - b. Issued the said prescription:
 - i. on Aston Clinton Dental Clinic headed paper;

- ii. which identified you by implication as one of the partners in the said practice;
 - iii. when the headed paper was out of date;
 - iv. and you had ceased to be a partner in the said practice on its acquisition by the Portman Group in April 2012;
 - v. and you had ceased to practice at all from the said clinic in April 2015;
 3. On 27 May 2015 you:
 - a. Issued a prescription:
 - i. for Citalopram (a medication used to treat anxiety and depression);
 - ii. naming Patient A as the patient;
 - iii. when in fact you were prescribing the Citalopram for yourself;
 - b. Issued the said prescription:
 - i. on Aston Clinton Dental Clinic headed paper;
 - ii. which identified you by implication as one of the partners in the said practice;
 - iii. when the headed paper was out of date;
 - iv. and you had ceased to be a partner in the said practice on its acquisition by the Portman Group in April 2012;
 - v. and you had ceased to practice at all from the said clinic in April 2015;
 4. You failed to work within your knowledge, skills, professional competence and abilities by reason of your conduct in respect of:
 - a. 1.a.i;
 - b. 2.a.i;
 - c. 3.a.i;
 5. You failed to provide good quality care by way of your conduct in respect of:
 - a. 1.a.iii, in that you failed to comply with the GDC Guidance on Prescribing Medicines, in that you:
 - i. self-prescribed;
 - ii. failed to make an appropriate assessment of your patient's condition;
 - iii. failed to prescribe within your competence;
 - iv. failed to keep appropriate records;
 - b. 2.a.iii, in that you failed to comply with the GDC Guidance on Prescribing Medicines, in that you:
 - i. self-prescribed;

- ii. failed to make an appropriate assessment of your patient's condition;
 - iii. failed to prescribe within your competence;
 - iv. failed to keep appropriate records;
 - c. 3.a.iii, in that you failed to comply with the GDC Guidance on Prescribing Medicines, in that you:
 - i. self-prescribed;
 - ii. failed to make an appropriate assessment of your patient's condition;
 - iii. failed to prescribe within your competence;
 - iv. failed to keep appropriate records;
- 6. You caused your solicitor RadcliffesLeBrasseur to write a letter to the General Dental Council dated 03 March 2017:
 - a. stating that the prescription of 27 May 2015 had been for Patient A;
 - b. providing a detailed account of the purported circumstances in which you had issued that prescription in the name of Patient A;
 - c. enclosing a character reference in the name of Helen Boswell which described the allegations then under investigation as "ridiculous";
- 7. By way of further letters from your solicitor RadcliffesLeBrasseur to the General Dental Council you continued to maintain and/or imply and/or did not correct the statement that the prescription of 27 May 2015 had been for Patient A, being letters dated:
 - a. 13 March 2017;
 - b. 03 April 2017
 - c. 22 June 2017;
- 8. Your conduct in respect of 1.a.ii-iii., 2.a.ii-iii and 3.a.ii-iii was:
 - a. misleading;
 - b. dishonest because you knowingly falsely represented Patient A to be the patient when in fact you intended the medication for your own use;
- 9. Your conduct in respect of 2.b. and 3.b. was:
 - a. a failure to comply with Regulation 217(4) of the Human Medicines Regulations 2012, in that;
 - i. you failed to provide your correct professional address;
- 10. Your conduct in respect of 1.b., 2.b. and 3.b. was:
 - a. misleading;
 - b. dishonest because you knowingly falsely represented that you had issued the prescription in the course of practising at an apparently established dental practice of which you were purportedly a partner so as to minimise the risk of any scrutiny of the prescription;

11. Your conduct in respect of 6.a.-c. and 7.a.-c. was:
 - a. misleading;
 - b. dishonest because you knowingly made and continued to maintain and/or imply and/or did not correct false representations so as to frustrate the investigation into your conduct by the General Dental Council.”

On 26 June 2018 the Chairman made the following statement regarding the finding of facts:

“Mr Oosthuizen,

At the outset of the hearing you admitted the entirety of the charges against you, save for charge 10(b), which alleges that your conduct in relation to your admitted self-prescribing on three occasions in 2015, as set out in heads 1(b), 2(b) and 3(b), was *“dishonest because you knowingly falsely represented that you had issued the prescription in the course of practising at an apparently established dental practice of which you were purportedly a partner so as to minimise the risk of any scrutiny of the prescription.”*

The Committee took account of the submissions of both counsel and accepted the advice of the Legal Adviser. The Committee applied the reformulated test for dishonesty, as stated by Lord Hughes in *Ivey v Genting Casinos (UK) Ltd (t/a Crockfords)* [2017] UKSC 67:

When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.

Having reviewed the entirety of the documentary evidence, the Committee was content to accept your admissions and therefore finds the corresponding heads of charge proved. The Committee heard live evidence from you in respect of charge 10(b), which was the only matter in dispute between the parties at the factual inquiry stage of the proceedings. The burden is on the GDC to prove the allegation on the balance of probabilities. The more serious the allegation the more cogent the evidence should be in support of it.

I will now announce the Committee’s findings in relation to each head of charge:

1. a) i)	Admitted and found proved.
1. a) ii)	Admitted and found proved.
1. a) iii)	Admitted and found proved.
1. b) i)	Admitted and found proved.
1. b) ii)	Admitted and found proved.
1. b) iii)	Admitted and found proved.
1. b) iv)	Admitted and found proved.
2. a) i)	Admitted and found proved.

2. a) ii)	Admitted and found proved.
2. a) iii)	Admitted and found proved.
2. b) i)	Admitted and found proved.
2. b) ii)	Admitted and found proved.
2. b) iii)	Admitted and found proved.
2. b) iv)	Admitted and found proved.
2. b) v)	Admitted and found proved.
3. a) i)	Admitted and found proved.
3. a) ii)	Admitted and found proved.
3. a) iii)	Admitted and found proved.
3. b) i)	Admitted and found proved.
3. b) ii)	Admitted and found proved.
3. b) iii)	Admitted and found proved.
3. b) iv)	Admitted and found proved.
3. b) v)	Admitted and found proved.
4. a)	Admitted and found proved.
4. b)	Admitted and found proved.
4. c)	Admitted and found proved.
5. a) i)	Admitted and found proved.
5. a) ii)	Admitted and found proved.
5. a) iii)	Admitted and found proved.
5. a) iv)	Admitted and found proved.
5. b) i)	Admitted and found proved.
5. b) ii)	Admitted and found proved.
5. b) iii)	Admitted and found proved.
5. b) iv)	Admitted and found proved.
5. c) i)	Admitted and found proved.
5. c) ii)	Admitted and found proved.
5. c) iii)	Admitted and found proved.
5. c) iv)	Admitted and found proved.
6. a)	Admitted and found proved.
6. b)	Admitted and found proved.

6. c)	Admitted and found proved.
7.	Head of charge 7 was pleaded in the alternative through the use of “and/or”. The Committee considered the charge independently of your admissions and found it proved in its entirety.
7. a)	Admitted and found proved.
7. b)	Admitted and found proved.
7. c)	Admitted and found proved.
8. a)	Admitted and found proved.
8. b)	Admitted and found proved.
9. a)	Admitted and found proved.
9. a) i)	Admitted and found proved.
10. a)	Admitted and found proved.
10. b)	<p>Proved.</p> <p>You were a partner at the Aston Clinton Dental Clinic (the “Practice”) until its sale in April 2012. You continued working there as an associate until the termination of your contract in April 2015. Until 2012 the headed paper used by the Practice implicitly identified you as a partner: your name was printed above the practice address in the footer, alongside the names of the two other partners at the time. Although, the headed paper does not expressly state you to be a partner, the Committee concluded independently of your admission that, in context, the headed paper does imply that you were a partner at the Practice and that your use of it in issuing the prescriptions in 2015 was therefore misleading in that respect.</p> <p>The headed paper ceased to be used by the Practice when it was sold in 2012. Your evidence was that you held a batch of the headed paper at home in your desk drawer and did not discard this following the sale of the Practice and would use the paper as scrap paper, but not for any official purpose.</p> <p>However, it was on the outdated headed paper that you issued the three prescriptions in 2015 which are the subject of the charges against you.</p> <p>Your evidence was that it was not a conscious decision on your part: you had used the outdated headed paper simply because that was the paper available to you and not because you were dishonestly trying to minimise scrutiny of the prescription by representing that you were partner at an established practice.</p> <p>The Committee received a medical report. It is sufficient to say in broad terms in this public determination that it was not contested by the GDC that you were suffering from substantial stress, anxiety and difficulty sleeping at the relevant time, to which the self-prescribing related. The medical records before the Committee show that you had</p>

been under the care of your General Practitioner in respect of these matters and the Committee also accepted the opinion contained in the medical report. However, the Committee noted that you continued to work and practise as a dentist during the period when the prescriptions were issued.

Your case is that your judgment was clouded and that you were not thinking clearly at the time you issued the prescriptions. Apart from your own account, and the medical report, there is no clear evidence before the Committee of your state of mind in using the outdated headed paper. The Council's case rests on inferring a deliberate and calculated thought process in using the outdated headed paper to minimise scrutiny of the prescriptions you were issuing, particularly in light of your admitted dishonesty in respect of the other aspects of issuing of each prescription.

The first prescription was issued in January 2015 during the Christmas and New Year holiday period. The Committee heard from you that you were seeking to prescribe immediately, because you were struggling to sleep.

You accepted in cross examination that you knew that you could issue a prescription on blank paper but you chose not to. You stated you had both the outdated headed and blank paper in your drawer. You used the outdated headed paper but you said it was not a conscious decision. You knew at the time that the headed paper was outdated and you still chose to use it.

On your own admission you acted dishonestly in other respects in issuing this prescription. The dishonesty involved conscious decisions made by you to use the identity of Patient A - [a close relative] - as the patient to whom the prescription was to be issued. Whilst it does not automatically follow that your use of the outdated headed paper was also dishonest, the evidence in the round shows a conscious and calculated thought process in issuing the prescription. Your use of the outdated headed paper was a deliberate attempt to give the appearance of greater legitimacy to the false prescription you were issuing, to minimise the risk of scrutiny.

You were thinking clearly in terms of covering up the false prescription. It may be that your thoughts were muddled, in that you were taking risks and were making poor decisions. However, the Committee concluded they were not so muddled that you did not realise what you were doing was misleading. You also marked the prescription as being for dental use, which suggests a conscious thought process in issuing the prescription and minimising scrutiny.

In respect of the other two prescriptions issued in May 2015, the Committee reached the firm conclusion that you had acted dishonestly. There is a pattern of using the outdated headed paper. By the time of these two prescriptions you were not working at the Practice at all. The Committee rejected the argument that you could

	<p>have simply used the headed paper of the new practices and that your use of the outdated headed paper was therefore the result of a muddled thought process.</p> <p>Although you admit the other allegations of dishonesty in the charge, the Committee recognised that when the wider picture is examined, you only admitted your self-prescribing when your initial account (which you now admit to be dishonest) was unravelled during the course of the GDC investigation.</p> <p>The Committee was satisfied that the GDC has discharged the burden of proof. In considering the test in the case of <i>Ivey</i>, the Committee was satisfied that you did knowingly make a false representation by issuing the prescriptions on the outdated headed paper and that your motivation was to minimise the risk of scrutiny of the prescriptions. The Committee is further satisfied that your conduct was dishonest by the standards of ordinary decent people.</p> <p>Accordingly, having had careful regard to all the evidence, the Committee finds charge 10(b) proved in respect of the three prescriptions.</p>
11. a)	Admitted and found proved.
11. b)	Admitted and found proved.

We move to Stage Two.”

On 27 June 2018 the Chairman announced the determination as follows:

“Mr Oosthuizen,

This case concerns your self-prescribing of medication on three occasions in 2015, your dishonesty in respect of issuing those prescriptions and your subsequent dishonesty to the General Dental Council (GDC) as part of its investigation into your fitness to practise.

The Committee heard the submissions made on behalf of the GDC by Mr Gritt, and those made on your behalf by Mr Haycroft. The Committee is grateful to both counsel for their focused and structured written and oral submissions. The Committee accepted the advice of the Legal Adviser. The Committee had regard to the *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016).

Factual background

In 2015 you issued three prescriptions which are the subject of these proceedings:

- (i) a prescription for Lorazepam on 2 January 2015;
- (ii) a prescription for Zopiclone on 8 May 2015; and
- (iii) a prescription for Citalopram on 27 May 2015.

You named Patient A, a close relative, as the patient in each of the prescriptions when in fact the prescriptions were for you.

Your self-prescribing on these three occasions was to treat your mental state at the time, which included substantial stress, anxiety and difficulty sleeping. You were under the care of your General Practitioner, who had previously issued a prescription for you. It was your account that you self-prescribed to save yourself and your GP time. The Committee summarises matters in broad terms to respect your privacy in this public determination but had full regard to the detailed opinion contained in the independent medical report, and it accepted that opinion. In particular, the Committee accepted that your judgment was clouded and you were not thinking clearly, albeit not to the extent that you did not understand the significance of your actions and that what you were doing would be regarded as dishonest. You had informed the Committee that throughout this period you continued to work as a dentist.

Patient A was a patient at the Aston Clinton Dental Clinic (the "Practice"), where you were a partner until 2012. He last attended the Practice in 2009 and at the time of the events in 2015 you knew him to be residing overseas. You deliberately used his details (substituting your home address for his) to conceal your self-prescribing. Patient A was neither aware of nor complicit in these events. Your conduct in naming him as the patient when the prescriptions were in fact for you was dishonest.

You also acted dishonestly by issuing the prescriptions on outdated headed paper from the Practice, which identified you by implication as one of the partners. Following the sale of the Practice in April 2012 you ceased to be a partner and instead continued working there as an associate until April 2015. You deliberately issued the prescriptions on the outdated headed paper to falsely represent them as being issued in the course of you practising as a partner at an apparently established practice. Your motivation for this was to minimise the risk of scrutiny of the false prescriptions. You were not a partner but an associate at the Practice when the 2 January 2015 prescription was issued; in respect of the two prescriptions in May 2015, you were not working at the Practice at all.

In issuing the prescriptions you acted beyond your knowledge, skills and professional competence and breached the GDC *Standards for the Dental Team* and the *Guidance on Prescribing Medicines* (September 2013), by prescribing to yourself and doing so outside of your competence, in that the prescriptions were not for dental treatment. You also failed to make an appropriate assessment of the patient's condition and failed to keep appropriate records. You also failed to comply with reg 217(4) of the Human Medicines Regulations 2012 in respect of the May 2015 prescriptions by failing to give your correct professional address.

Pharmacist PJ dispensed the 27 May 2015 prescription on 1 June 2015. She contacted the Practice as part of her checking and verification processes, because she was concerned that medication used to treat anxiety and depression was being prescribed by a dentist and that the prescribed dose was unusually high. When you came to collect the medication you gave an assurance to her that the prescription was for a family member visiting the United Kingdom from South Africa and that the dosage was that which was being prescribed to him by his doctors there.

The Practice was concerned that you had issued the prescription on outdated headed paper in circumstances where you were no longer working at the Practice. MH, the clinical director, conducted an internal investigation and referred the matter to the GDC.

At this stage the GDC was only aware of the 27 May 2015 prescription and it believed this to have in fact been for Patient A: the allegations as part of the GDC's investigation were not

that you were self-prescribing but that the prescription was inappropriate, as it was for someone with whom you had a close personal relationship. It was also alleged that your conduct in using outdated headed paper was misleading and dishonest.

Through your solicitors, who were acting in good faith, you provided a letter of observations to the Case Examiners dated 3 March 2017, in which you maintained that the prescription had been for Patient A, giving a very detailed and elaborate false account in support of this. You also enclosed a series of supportive testimonials from other professionals who were writing in direct response to the allegations, unaware of your dishonesty. One such testimonial is from your former dental nurse, HB, who spoke in the strongest terms in support of your professionalism and integrity, describing the allegations against you as “ridiculous”.

You continued to maintain your false account regarding the prescription being for Patient A in letters to the GDC from your solicitors dated 13 March 2017, 3 April 2017 and 22 June 2017. It was not until the two earlier prescriptions were discovered by the GDC as part of its investigation that you finally admitted by letter dated 17 September 2017 that the prescriptions had been for you and that you had falsely used Patient A's details. The GDC had first notified you of its discovery of the two earlier prescriptions by letter dated 13 September 2017. Its discovery wholly undermined the false account you had given in respect of the 27 May 2015 prescription, in which you set out that the prescription was issued impulsively by you in response to a desperate request from Patient A “who was travelling extensively in Europe” and had mislaid his supply of Citalopram for the remainder of his trip.

Your conduct was dishonest, as you were deliberately attempting to mislead and frustrate the GDC investigation into your fitness to practise, prior to and following the referral of the matter by the Case Examiners to the Professional Conduct Committee.

Misconduct

Misconduct is a serious falling short of the standards reasonably expected of a registered dental professional. It can be characterised as conduct which fellow members of the profession would regard as deplorable. In assessing whether the facts admitted and found proved amount to misconduct, the Committee had regard to the following principles from *Standards for the Dental Team* (September 2013):

1.3 You must be honest and act with integrity

1.3.1 You must justify the trust that patients, the public and your colleagues place in you by always acting honestly and fairly in your dealings with them. This applies to any business or education activities in which you are involved as well as to your professional dealings.

1.3.2 You must make sure you do not bring the profession into disrepute.

7.1 You must provide good quality care based on current evidence and authoritative guidance

7.2 Work within your knowledge, skills, professional competence and abilities.

9.1 Ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession.

9.4 Co-operate with any relevant formal or informal inquiry and give full and truthful information.

The Committee also had regard to GDC *Guidance on Prescribing Medicines* (September 2013), which states: “*You must not prescribe medicines for yourself.*”

The Committee accepted the uncontested expert opinion of Dr Nicholls on behalf of the GDC that your self-prescribing fell far below the standards reasonably expected of you.

Self-prescribing is in itself a most serious breach of fundamental standards, as it abuses the privilege given to dentists and other clinicians to prescribe medication. This was not an isolated incident but was repeated and premeditated. It is made even more serious by your dishonest use of both outdated practice stationery and Patient A's identity, which were calculated attempts to deceive other professionals by concealing your self-prescribing and by minimising the risk of scrutiny of the false prescriptions. You deceived the two pharmacists who placed their trust in you and who dispensed medication on the basis of your false prescriptions. They trusted you as a registered dental professional to act honestly and with integrity at all times, not least when exercising your clinical judgment in issuing a prescription apparently for a patient. Your dishonest conduct also undermined the wider relationship of trust between the dental and pharmaceutical professions.

Your dishonesty involved the abuse of patient details, breaching the trust Patient A and colleagues at the Practice would have placed in you in respect of the use of his identity.

Your dishonesty did not stop with your repeated self-prescribing but also extended over a considerable period of time, when you gave - and repeatedly maintained - a dishonest detailed account in respect of the 27 May 2015 prescription. You did so in resistance of the allegations put to you by the GDC as part of its regulatory function, in order to mislead the GDC and to frustrate its investigation into your fitness to practise. In doing so you abused the trust of your lawyers, who you caused to give a false account to the GDC. You also abused the trust of the professionals who wrote in support of you as part of the GDC investigation. You also abused the trust of the GDC itself and its rightful expectation that you would cooperate fully with any formal inquiry and respond honestly.

There have been substantial breaches of fundamental tenets of the profession. The facts admitted and found proved are so serious that they clearly amount to misconduct.

Impairment

The Committee had regard to whether your misconduct is remediable, whether it has been remedied and the risk of repetition. The Committee also had regard to the wider public interest, which includes the need to declare and uphold proper standards of conduct and behaviour.

In respect of the allegations against you, you admitted the entirety of the charges (including allegations of dishonesty) except for Charge 10(b) (dishonesty in respect of the outdated headed paper). Having considered all the evidence, the Committee accepted your admissions and it also found charge 10(b) proved. You gave evidence at Stage two, in which you expressed your remorse and discussed how ashamed you are of your behaviour. You apologised to the Committee, to the GDC and to the profession. In addition, you apologised to the professionals who you had misled and to your family for your actions.

You put before the Committee documents which included your Continuing Professional Development (CPD) activity, your Personal Development Plan (PDP), your engagement with the Postgraduate Dental Deanery and statements setting out your reflection. You also provided the Committee with further and updated testimonials, each referee being aware of the charges against you at this hearing.

In the Committee's judgment dishonesty goes to character and is therefore very difficult to remedy. As to the clinical and procedural aspects of issuing prescriptions, these are clearly

remediable (in so far as they arise from a lack of knowledge) through training and education. There is some evidence that you have remedied them to that extent, but the question of impairment in this case does not turn on those less significant matters.

Whilst you demonstrate some insight and remorse into your self-prescribing and your dishonesty in respect of this, and your dishonesty in respect of misleading the GDC investigation, your insight is only limited in the Committee's judgment. Your level of insight must also be examined by your denial of the dishonesty alleged under 10(b) and the fact that you had dishonestly misled the GDC investigation repeatedly over an extended period of time, with the most elaborate and detailed false account given to your regulator about a patient and the prescribing of medication. It is therefore very difficult for the Committee to rely on your evidence and reflection, which may be little more than a tactical response to the circumstances you find yourself in, having been unable to maintain your lies as part of the GDC investigation following the discovery of further evidence.

Whilst stress and anxiety were features of this case at the time of the self-prescribing, in that your judgment was clouded and you were taking risks and making poor decisions, these factors did not impair your judgment to the extent that you did not know what you were doing and that it was wrong. Further, you continued to work as a dentist throughout this period. You devised a method of concealing your self-prescribing and of minimising the risk of detection. You were engaging in calculated thought processes as part of your repeated dishonesty, which involved deceiving other professionals in the exercise of their professional judgment and responsibilities. Further, there is no medical evidence that your thought processes were impaired in respect of your dishonesty to the GDC, which again involved a calculated thought process and the deceiving of even your own lawyers in the course of their professional duties.

The scale and pattern of your dishonesty in the context of your professional practice - and in responding to your regulator – is so substantial that the Committee cannot be satisfied that it has been remedied and that the risk of repetition is low.

Further, you can no longer be trusted as a registered dental professional to behave honestly to other professionals and to the GDC. Your misconduct is so serious that public confidence in the profession would be seriously undermined if no finding of impairment were made. The Committee had reference to the decision in the case *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council & Grant* [2011] EWHC 927 (Admin). The public rightly expect a finding of impairment in a case of repeated dishonesty and abuse of trust by a dental professional.

The Committee finds that your fitness to practise is currently impaired by reason of your misconduct. It should be noted that you accepted that your fitness to practise is currently impaired by reason of misconduct.

Sanction

The purpose of a sanction is not to be punitive (although it may have that effect) but to protect the public and the wider public interest. In deciding what sanction (if any) to impose, the Committee applied the principle of proportionality, balancing the public interest with your interests. The Committee considered each sanction in ascending order of seriousness.

The aggravating factors in this case are harm to other professionals through your deceitful and misleading conduct, your dishonesty to the GDC, your misconduct being premeditated and involving breaches of trust, your misconduct being repeated and sustained over a period

of time, your attempts to cover up your wrong doing (both when self-prescribing and in response to the GDC investigation) and a blatant and wilful disregard for the systems which govern and regulate the profession. Although you have a fitness to practise history in terms of advice issued by the Investigating Committee in 2014 in respect of clinical matters, the Committee attached little weight to that as the matters the subject of the advice are thematically distinct from the matters currently before the Committee.

In mitigation, the Committee accepted the personal, professional and financial difficulties you were facing during the relevant period, as described in your evidence; the medical opinion referring to clouded judgment and poor decision making; there has been no further misconduct or allegations since the matters referred to in the charges; there is some remediation and insight; you expressed remorse and apologised. You did for the purposes of this hearing admit all but one of the allegations.

The Committee had regard to the Stage two testimonials in support of you.

To conclude this case with no further action or a reprimand would be wholly inappropriate. The misconduct in this case is so serious that neither of these outcomes could be proportionate. The need to uphold and declare proper standards of conduct and behaviour would not be achieved. Such fundamental breaches of professional standards case require a greater response. Further, there is a real risk of repetition.

Conditions of practice could not be formulated to address and mark the seriousness of your misconduct, which involves attitudinal failings and repeated acts of dishonesty, including dishonesty to the GDC as part of its regulatory process.

The Committee moved on to consider whether suspension would be appropriate. Having carefully evaluated the evidence and all the circumstances, weighing the mitigating and aggravating factors, the Committee concluded that there were multiple acts of dishonesty, some of which were premeditated, which demonstrated a sustained breach of trust on several occasions. There had been further dishonest attempts by you to cover up your initial dishonesty. The level of deceit and the breach of trust is considerable. The maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and behaviour, could not be adequately achieved by a period of suspension. There is a real risk of repetition and your professional integrity can also no longer be relied upon by the GDC.

When the public interest and the reputation of the profession are considered, it is clear to the Committee that no lesser sanction than erasure is appropriate. The Committee had regard to the substantial impact such a direction will have on you and it is not a decision it has reached easily or readily, but in the end, having regard in particular to the dictum of Sir Thomas Bingham at 518F-519E of *Bolton v Law Society* [1994] 1 WLR 512, the public interest far outweighs your interests in this case and erasure is the only appropriate and proportionate sanction to your repeated dishonesty.

Accordingly, the Committee directs that your name be erased from the Register.

The Committee now invites submissions on the question of an immediate order.

The Committee retired to consider the written submissions of both counsel and accepted the advice of the Legal Adviser.

The Committee is satisfied that it is necessary for the protection of the public and is otherwise in the public interest to order that your registration be suspended forthwith under s 30(1) of the Dentists Act 1984.

The Committee was careful to bear in mind that an immediate order is by no means automatic because it has made a direction for erasure. In reaching its decision the Committee balanced the public interest with your interests. It would be inconsistent with the decision the Committee has made not to make an immediate order. The Committee determined that an immediate order is necessary to cover the period of any appeal proceedings, in order to protect public confidence in the profession and that your dishonest behaviour poses a continuing risk.

The effect of this order and the foregoing determination is that your registration is suspended immediately. Unless you exercise your right of appeal your name will be erased from the Register in 28 days' time. Should you exercise your right of appeal this immediate order of suspension will remain in force pending the disposal of the appeal.

That concludes the case.”