

HEARING HEARD IN PUBLIC

VARDAS, Manos Lee

Registration No: 227615

PROFESSIONAL CONDUCT COMMITTEE

Outcome: Erased (with immediate order of suspension)

Manos Lee VARDAS, a dentist, DipDS Athens 1991 was summoned to appear before the Professional Conduct Committee on 6 September 2015 for an inquiry into the following charge:

Charge

“That being registered as a dentist:

1. You provided inaccurate information in your application for registration with the GDC dated 15 March 2012, more particularly:
 - a) A copy of a certificate of current professional status of dentist dated 02.03.2012;
 - b) A copy of a certificate from the Dentist Association of Magnisias dated 15.02.2012;
2. Your conduct in relation to allegation 1a) and/or 1b) above was:
 - a) misleading;
 - b) dishonest, in that you knew the certificates were not genuine;

AND, by reason of the facts stated, your fitness to practise is impaired by reason of your misconduct.”

As Mr Vardas did not attend and was not represented at the hearing, the Chairman made the following statement regarding proof of service. He addressed this to the Counsel for the GDC.

Decision on Service of Notice of Hearing:

“Mr Vardas was neither present nor represented at this hearing. In his absence, the Committee first considered whether notice of this hearing had been served in accordance with rules 13 and 54 of the *General Dental Council (Fitness to Practise) Rules Order of Council 2006* (the rules).

The Committee received a copy of the Notification of Hearing, dated 2 September 2015, which was sent to Mr Vardas by way of international recorded delivery, international post and by email. The Committee also had sight of an extract from the Royal Mail Track and Trace website showing that there was an unsuccessful attempt at delivery at his registered address for the notice sent via international recorded delivery. However, the Committee was aware that regular international post does not require a signature for delivery and that the notice would have been posted through the letterbox at the registered address. Further, the email sent to Mr Vardas was sent to the last known email address on file for him.

The Committee was satisfied that the General Dental Council (GDC) had taken all reasonable steps to serve notice of this hearing on Mr Vardas. The Committee concluded that the notice letter contained proper notification of today’s hearing, including its time, date

and location, as well as notification that the Committee has the power to proceed with the hearing in the absence of Mr Vardas.

The Committee was satisfied, having regard to the submissions made by Miss Brownlee on behalf of the General Dental Council (GDC) and the advice of the Legal Adviser, that the notice of this hearing was served on Mr Vardas in accordance with the rules.

Decision on proceeding in the absence of Mr Vardas:

The Committee then considered proceeding in the absence of Mr Vardas. The Committee had regard to the submissions made by Miss Brownlee and the advice of the Legal Adviser.

The Committee was mindful that this discretion must be exercised with the utmost care and caution as referred to in the case of R. v Jones (Anthony William), (No.2) [2002] UKHL 5. The Committee was aware that this discretion was not absolute, but it must consider all the circumstances of Mr Vardas' absence, and the nature of the case against him when reaching any decision regarding proceeding in his absence.

In deciding whether to proceed in the absence of Mr Vardas, the Committee weighed its responsibilities for public protection and the expeditious disposal of the case with Mr Vardas's right to a fair hearing.

Miss Brownlee informed the Committee that the GDC was contacted by way of an email, dated 1 October 2014, by someone claiming to be Mr Vardas's sister. This person stated that Mr Vardas had died on 17 May 2014. Confirmation of Mr Vardas' death, by way of a death certificate, was requested by the GDC, but no further information was forthcoming. Further, there has been no additional contact with the GDC by either Mr Vardas or his 'sister' and the GDC had been unable to verify through any official authority that Mr Vardas has indeed died.

Miss Brownlee submitted that in the absence of verifiable information regarding Mr Vardas's vital status, and given the probity issues involved in this case, the Committee could reasonably and properly come to the conclusion that Mr Vardas has voluntarily absented himself from this hearing.

The Committee noted that Mr Vardas has not engaged with the GDC and has not substantively responded to attempts by the GDC to contact him, nor has he attended any previous listing of his case, the last contact from him being an email dated 5 March 2014. The Committee considered that it is unlikely that any adjournment, although none has been sought, would serve any useful purpose in the circumstances nor would it be likely to result in Mr Vardas' attendance on any future date. The Committee was aware that the charges in this case are serious and Mr Vardas has not provided written submissions nor appointed a representative to attend on his behalf. The Committee considered that based on the information before it, and in the absence of any confirmation of death, Mr Vardas has voluntarily absented himself from today's hearing.

Having weighed the interests of Mr Vardas with those of the GDC and the public interest in an expeditious disposal of this hearing, the Committee has determined to proceed in Mr Vardas's absence.

Mr Vardas was not present and was not represented. On 6 October 2015 the Chairman announced the findings of fact to the Counsel for the GDC:

"In reaching its decisions on the facts, the Committee considered all the evidence adduced in this case. The Committee had regard to the submissions made by Miss Brownlee.

The Committee accepted the advice of the Legal Adviser. In accordance with that advice, it has considered each charge separately. The Committee was reminded of the need for cogent evidence to support a finding of dishonesty.

The Committee was conscious that the burden of proof rests on the GDC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that the facts of a charge will only be proved if the Committee finds that it is more likely than not that the facts occurred as alleged. The Committee reminded itself that Mr Vardas was not required to prove or disprove anything.

The Committee heard oral evidence from 1 live witness called by the GDC, namely Mr McElvanna, a registration casework manager at the GDC. The Committee found Mr McElvanna to be a credible witness explained the investigative process undertaken by him as well as the background information pertaining to this case.

The Committee also read the written representations submitted by Mr Vardas, by way of an email dated 5 March 2014, for the Investigating Committee consideration of this case.

The evidence put before the Committee consisted of a number of documents, including; Mr Vardas' application and attached documentation, two written statements and attached exhibits and correspondence between the GDC and the Public Health Directorate of Magnisia.

The Committee made the following findings:

1.	<i>You provided inaccurate information in your application for registration with the GDC dated 15 March 2012, more particularly:</i>
1. a) and b)	<p>1. a) <i>A copy of a certificate of current professional status of dentist dated 02.03.2012;</i></p> <p>1. b) <i>A copy of a certificate from the Dentist Association of Magnisias dated 15.02.2012;</i></p> <p>Found Proved in its entirety</p> <p>The Committee was aware that at the time of registration with the GDC Mr Vardas was known as Alyazid Alhamdan. Mr Vardas had his name legally changed to Manos Vardas and informed the GDC of this change on 29 July 2012. The Committee had sight of the application form completed by Mr Vardas and signed by him on 2 March 2012. Attached to this form were a number of documents, including a copy of a certificate of 'current professional status of a dentist' dated 2 March 2012. This certificate is purported to have been issued by the Directorate of Public Health in the Hellenic Republic District of Magnisia. There was also a copy of a certificate from the Dentist Association of Magnisias dated 15 February 2012. Both certificates were issued in the name of Alyazid Alhamdan.</p> <p>Mr McElvanna informed the Committee that, as part of his role as a registration case worker, he was tasked with contacting the Public Health Directorate of Magnisia, Greece, to obtain information regarding the alleged false documentation.</p> <p>The Committee had sight of a letter, translated from Greek to English, from the Deputy Director of the Directorate of Public Health and Social Welfare in</p>

	<p>Magnisia, dated 30 July 2014. This letter states that ‘following a search of the records in our department, it was found that our department had not issued the certificate of current professional status, while the postal address, the telephone number, the names of the officials and the stamp, which are mentioned in this certificate do not exist and prove that <u>this document is a forgery.</u>’ The letter goes on to state ‘We immediately sent a request to the Dentist Association of Magnisia, attaching the certificate of his registration as a member... The Dentist Association of Magnisia responded that this document had not been issued by their association and <u>that this document is a forgery.</u> ALYAZID ALHAMDAN was never a member of the Dentist Association of Magnisia.’</p> <p>The Committee concluded, based on the evidence before it, that it was more likely than not that the certificates provided to the GDC were not genuine and therefore amounts to incorrect information provided to the GDC. As such the Committee finds that this charge proved in its entirety.</p>
2.	<p><i>Your conduct in relation to allegation 1a) and/or 1b) above was:</i></p>
2. a)	<p><i>misleading;</i></p> <p>Found Proved</p> <p>The Committee was of the view that Mr Vardas was under a duty to provide accurate and truthful information when completing his application for registration with the GDC. The Committee already determined that both the certificates provided by Mr Vardas attached to his application were not accurate. The Committee was satisfied that anyone considering Mr Vardas’s application would be given the false impression that there were no issues that could potentially prevent his registration from being approved and his application refused.</p> <p>The Committee considered the evidence of Mr McElvanna that Mr Vardas’s application was successful as there was nothing, at that time, to lead them to believe that the information was inaccurate.</p> <p>The Committee concluded that Mr Vardas’s conduct was misleading and therefore finds this charge proved.</p>
2. b)	<p><i>dishonest, in that you knew the certificates were not genuine;</i></p> <p>Found Proved</p> <p>The Committee had already determined that Mr Vardas’s conduct was misleading. The Committee then considered the two factors referred to by the Legal Adviser in considering whether Mr Vardas’s conduct was dishonest. The Committee was satisfied that the reasonable and honest person, in possession of the facts of this case, would consider that providing inaccurate, and forged, official certificates as part of an application form submitted to a regulator was dishonest.</p> <p>The Committee then considered whether, by those standards, Mr Vardas must have known that what he was doing was dishonest. The Committee concluded that Mr Vardas must have known that the certificates he submitted were not genuine. As a professional, he would have known the</p>

importance of completing the application to join the GDC register accurately. It is more likely than not that Mr Vardas knew that to provide inaccurate documentation to the GDC was dishonest. Further, Mr Vardas must have known that he had never been issued with the certificates as he had never been registered in Magnisia.

The Committee had regard to an email received by the GDC from Mr Vardas, dated 5 March 2014. In this email he stated that he was an honest dentist who had worked in Greece for 22 years. Whilst it appears that Mr Vardas holds a dental degree, there is nothing to support his current status as a dental professional. The Committee had already determined that the certificates provided by him were false. Further, there was no specific response from Mr Vardas to the allegations of submitting false documentation to the GDC.

The Committee therefore finds that Mr Vardas's conduct was dishonest as he had to have known that the certificates were not genuine. As such this charge is found proved."

On 6 October 2015 the Chairman announced the determination as follows:

Determination on misconduct and impairment

"Having announced its findings on all the facts, the Committee heard submissions on the matters of misconduct, impairment and sanction.

This case came to the attention of the GDC following a complaint from NHS Counter Fraud on 21 November 2012, which raised a concern about a Mr Emmanouill Parisis. That man had previously faked his own death and reinvented himself as a Mr Neil McLaren and was subsequently convicted of eight counts of false representation, with a five year prison sentence imposed on 28 March 2011. The complainant from NHS Counter Fraud suspected Mr McLaren of attempting to obtain a passport in the name of 'Vardas'. He then searched the GDC register and discovered that there was a 'Vardas' on the register.

After lengthy investigations involving the registrations and fitness to practise casework teams at the GDC, it was established that Mr McLaren and Mr Manos Vardas are, in fact, different people. However, as a result of that previous investigation into the status of Mr Vardas in relation to Mr McLaren, suspicions were then raised about the supporting documents provided to the GDC as part of Mr Vardas's initial application for registration, which he submitted in his previous name of Mr Alyazid Alhamdan.

The Committee found all the facts in this case proved. It found that the two certificates provided by Mr Vardas, as part of his application to join the GDC register, were false. It also found that Mr Vardas's conduct, in submitting these false certificates, was both misleading and dishonest.

Miss Brownlee submitted that the conduct found proved falls far short of what would be proper in the circumstances. She submitted that the facts found proved amount to misconduct.

Miss Brownlee then moved on to the issue of current impairment and addressed the Committee on the factors that it must consider, including any evidence of insight, whether the conduct identified is capable of remedy and whether it has been remedied. She also addressed the Committee on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the GDC as a regulatory body. She referred the Committee to the cases of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin).

Miss Brownlee addressed the Committee on the matter of sanction and submitted that, given the circumstances of and the inherent public interest in this case, the only appropriate sanction is that of erasure. She referred the Committee to the specific matters for consideration as set out in the 'Guidance for the Professional Conduct Committee' as published by the GDC in April 2015. In relation to the dishonesty in this case, the Committee was referred to the cases of Parkinson v Nursing and Midwifery Council [2010] EWHC 1898 (Admin) and Professional Standards Authority for Health and Social Care v (1) Nursing and Midwifery Council and (2) Wilson [2015] EWHC 1887 (Admin).

The Committee fully considered all the evidence in this case as well as the submissions made by Miss Brownlee. It accepted the advice of the Legal Adviser which included the factors relevant to the considerations of the Committee at each stage.

Decision on Misconduct:

When determining whether the facts found proved amount to misconduct the Committee had regard to the terms of the relevant professional standards in force at the time.

The Committee, in reaching its decision, had regard to the public interest and accepted that there was no burden or standard of proof at this stage. The Committee exercised its own independent judgement in reaching its decision.

The Committee has concluded that Mr Vardas's conduct was in breach of the *Standards for Dental Professionals* (2005) as set out below.

Standards for Dental Professionals (2005)

6.1 Justify the trust that your patients, the public and your colleagues have in you by always acting honestly and fairly.

6.2 Apply these principles to clinical and professional relationships, and any business or educational activities you are involved in.

6.3 Maintain appropriate standards of personal behaviour in all walks of life so that patients have confidence in you and the public have confidence in the dental profession.

The Committee appreciated that the above breaches do not automatically result in a finding of misconduct. However, the Committee was of the view that the breaches in this case were serious and fundamental to the profession.

The Committee was of the view that the findings of dishonest conduct represent a significant departure from the standards expected of a registered dental professional. The Committee considered that Mr Vardas's actions in submitting forged professional certificates in order to mislead his regulator and gain entry onto the register were extremely serious. The result of Mr Vardas's dishonest conduct was that he was entered onto the GDC register and afforded

the opportunity to practice as a dentist in this country. The Committee was of the view that Mr Vardas's dishonest conduct was not limited to misleading the GDC, but extended to misleading the public into believing that he was an honestly registered dentist with the appropriate qualifications and professional certificates. The Committee was of the view that this was significant departure from the standards expected of a registered dental professional.

The Committee considered that the facts found proved demonstrated conduct unbecoming of a registered dental professional and would be viewed as deplorable by fellow professionals. The Committee concluded that the facts found proved amount to misconduct that is serious.

Decision on impairment:

The Committee proceeded to decide if, as a result of this misconduct, Mr Vardas's fitness to practise is currently impaired.

Dental professionals occupy a position of privilege and trust in society and must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession. In this regard, the Committee considered the judgement of Mrs Justice Cox in the case of Grant. In paragraph 74 she said:

74. *In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.*

Mrs Justice Cox went on to say in Paragraph 76:

76. *I would also add the following observations in this case having heard submissions, principally from Ms McDonald, as to the helpful and comprehensive approach to determining this issue formulated by Dame Janet Smith in her Fifth Report from **Shipman**, referred to above. At paragraph 25.67 she identified the following as an appropriate test for panels considering impairment of a doctor's fitness to practise, but in my view the test would be equally applicable to other practitioners governed by different regulatory schemes.*

"Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

- a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. has in the past acted dishonestly and/or is liable to act dishonestly in the future."*

The Committee considered that Mr Vardas's actions had the potential to place those under his care at unwarranted risk of harm, not least given that his registration was gained fraudulently. It also concluded that his dishonesty did bring the profession into disrepute and breached fundamental tenets of the profession.

The Committee was of the view that Mr Vardas's dishonesty is not easily remediable given that dishonesty is a character trait rather than a clinical error. However, in any event the Committee had no information from Mr Vardas to demonstrate what, if any, steps he may have taken to remedy his misconduct and no demonstration of any insight. It considered that in the absence of this information there was a real risk of repetition.

The Committee has borne in mind that its primary function is not only to protect patients but also to take account of the wider public interest, which includes maintaining confidence in the dental profession and the GDC as a regulator, and upholding proper standards and behaviour.

The misconduct identified in this case was, in the view of the Committee, so serious that the need to uphold proper professional standards and public confidence in the profession would be significantly undermined if a finding of impairment were not made in the particular circumstances of this case.

Having regard to all of this the Committee has concluded that Mr Vardas's fitness to practise is currently impaired.

Decision on sanction

The Committee next considered what sanction, if any, to impose on Mr Vardas's registration. It recognised that the purpose of a sanction is not to be punitive, although it may have that effect, but rather to protect patients and the wider public interest.

The Committee has taken into account the GDC's '*Guidance for the Professional Conduct Committee*'. The Committee applied the principle of proportionality, balancing the public interest with Mr Vardas's interests. The Committee has considered the range of sanctions available to it, starting with the least serious.

In the light of the findings against him, the Committee determined that it would be wholly inappropriate and irresponsible to conclude this case without taking any action or with a reprimand, as this would not restrict Mr Vardas's registration, address the potential for harm to patients, the dishonest conduct or the complete lack of insight and engagement. Further, the Committee considered that to take no action or to impose a reprimand would send the wrong message to the public about the standards they should expect of a registered dental professional.

The Committee next considered whether a period of conditional registration would be appropriate in this case. The Committee was mindful that any conditions imposed must be proportionate, measurable and workable. The Committee considered that, in order for conditions to be workable, there would need to be a measure of engagement from Mr Vardas, which is noticeably absent in this case. The Committee determined, in any event, that it would not be possible to formulate appropriate and practical conditions which would address the dishonesty in this case.

The Committee considered whether a suspension order would be proportionate and appropriate in this case. The Committee considered the case of Parkinson, which stipulated that '*a nurse found to have acted dishonestly is always going to be at severe risk of having*

his or her name erased from the register. A nurse who has acted dishonestly, who does not appear before the panel to demonstrate remorse, a realisation that the conduct criticised was dishonest, and an undertaking that there will be no repetition, forfeits the small chance of persuading the panel to adopt a lenient or merciful outcome and to suspend for a period rather than to direct erasure'. Whilst the Committee acknowledged that this case refers to a nurse, it was of the view that the principles remain the same when related to a registered dental professional.

The Committee considered that given Mr Vardas initially gained entry onto the GDC register through fraudulent means, to impose a period of suspension would be wholly inadequate and would not address the underlying deep-seated attitudinal issues identified in this case.

The Committee considered the guidance in relation to considering imposing a sanction of erasure. In particular:

Patients, employers, colleagues and the public should be able to rely on a dental professional's integrity. Dishonesty, particularly when associated with professional practice, is highly damaging to the dental professional's fitness to practise and to public confidence in the profession... Dishonesty is serious even when it does not involve direct harm to patients (for example defrauding the NHS or providing misleading information) because it can undermine public confidence in the profession. The Privy Council has emphasised that "Health Authorities must be able to place complete reliance on the integrity of practitioners and the Committee is entitled to regard conduct which undermines that confidence as calculated to reflect on the standards and reputation of the profession as a whole".

In the circumstances of this case, the Committee concluded that Mr Vardas's behaviour is fundamentally incompatible with him being a registered dental professional. The Committee concluded that the only proportionate sanction is that of erasure.

The Committee considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standards of conduct required of a registered dental professional at all times.

The Committee was aware that the effect of this order is that Mr Vardas will be prevented from working as a registered dental professional. This could result in financial hardship, though the Committee received no direct information about that matter. However, in applying the principle of proportionality, and taking into account that he should never have been allowed to register in the first place, the Committee determined that Mr Vardas's interests in this regard are significantly outweighed by the need for public protection and protection of the wider public interest.

The interim order currently on his registration is hereby revoked under section 27B (9) of the Dentists Act 1984.

Decision on Immediate Order:

Having directed that Mr Vardas's name be erased from the register, the Committee had to consider, in accordance with rule 22(2), whether to impose an immediate order to cover the appeal period, or until any appeal against the outcome is heard.

The Committee has considered the submissions made by Miss Brownlee that an immediate order should be made on the grounds that it is necessary for the protection of the public, and

otherwise in the public interest. She applied for this order to cover any possible appeal period and submitted that this would be compatible with the Committee's findings.

The Committee accepted the advice of the Legal Adviser.

The Committee was satisfied that an immediate order of suspension was necessary for the protection of the public and otherwise in the public interest. The Committee concluded that given its findings and reasons for the substantive order of erasure to direct otherwise would be wholly inconsistent.

If, at the end of the appeal period of 28 days, Mr Vardas has not lodged an appeal, this immediate order will lapse and will be replaced by the substantive direction of erasure. If Mr Vardas does lodge an appeal, this immediate order will continue in effect until that appeal is determined.

Unless Mr Vardas exercises his right of appeal, his name will be erased from the register 28 days from the date when notice of this determination is deemed to have been served upon him.

That concludes this case.”