

HEARING PARTLY HEARD IN PRIVATE

DIRKSEN VAN SCHALWYK, Johannes Cornelius

Registration No: 73211

PROFESSIONAL CONDUCT COMMITTEE

FEBRUARY 2020

Outcome: Suspension for 9 months with immediate suspension (with a review)

Johannes Cornelius, DIRKSEN VAN SCHALWYK, a dentist, BChD Pretoria 1997, was summoned to appear before the Professional Conduct Committee on 4 February 2020 for an inquiry into the following charge:

Charge

“That, being registered as a dentist:

1. In relation to Person RR, you:
 - a. remotely prescribed Botox on or around 31 October 2016;
 - b. did not carry out an in-person consultation prior to prescribing Botox
2. During the course of an investigation into your fitness to practise you made the following inaccurate statements to the General Dental Council (‘GDC’):
 - a. On 5 July 2017, in writing, “I had previously seen [Person RR] with the nurse in question for a full consultation for Botox”;
 - b. On 23 July 2018, in writing, “I’ve sent her [Person RR’s] notes as originally requested last year, but never got them back”;
 - c. On 26 July 2018, via telephone, “[Person RR] likes to be referred to as [Person JR] on paper”.
3. Your conduct in relation to any or all of paragraphs 2(a), 2(b) and 2(c) was:
 - a. Misleading;
 - b. Dishonest, in that:
 - i. you knew that the statement(s) were inaccurate; and
 - ii. your intention was to mislead and/or frustrate the GDC investigation.

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

On 6 February 2020 the Chairman made the following statement regarding the finding of facts:

“Mr Dirksen Van Schalwyk,

This is the Professional Conduct Committee's inquiry into the facts which form the basis of the allegation against you that your fitness to practise is impaired by reason of misconduct. You attended the hearing and you were represented by Mr Andrew Colman of Counsel. Mr Kasir Ahmed of Counsel presented the General Dental Council's (GDC) case.

Preliminary Matters

Rule 18 Application to Amend the Charge (4 February 2020):

At the outset of the hearing, Mr Ahmed made an application under Rule 18 of the General Dental Council (Fitness to Practise) Rules 2006 ("the Rules") to amend charge 1. He submitted that the word 'deliberately' should be added to the end of the first line of the charge, so that the charge should now read:

1. 'In relation to [Patient A], you deliberately:
 - a. Remotely prescribed Botox on or around 31 October 2016;
 - b. Did not carry out an in-person consultation prior to prescribing Botox.'

Mr Ahmed stated that the amendment is needed to clarify the charge, as it is the GDC's case that your actions were deliberate and purposeful. He further stated that the amendment does not cause any injustice to you. Mr Colman raised no objection to the GDC's request.

The Committee accepted the advice of the Legal Adviser on the Rule 18 application. It was of the view that the amendment could be made without injustice to you. It therefore granted the application.

Admissions

At the start of the hearing, you conceded the facts of charge 1, but did not accept that you acted deliberately. You admitted heads of charge 2 and 3a. Subsequently, during your oral evidence you also admitted charge 3b. The Committee decided to defer making a finding on your admissions until all the evidence had been adduced.

Decision on Privacy under Rule 53 of the Rules (4 February 2020)

As part of his submissions, Mr Colman requested that the hearing is part-heard in private as he will be making references to events in your private life. Mr Ahmed supported the application.

The Committee had regard to its power under Rule 53 and following advice from the Legal Adviser, it accepted Mr Colman's request. As and when matters of a personal nature were referred to, these would be done in a private session. The rest of the hearing would be conducted in public in the usual way.

Background

This case relates to a prescription for Botox that you issued to Witness 1 for Patient A in October 2016. In June 2017, the GDC wrote to notify you that they were investigating a referral they had received about you from the Nursing and Midwifery Council (NMC). The referral from the NMC raised concerns that you had prescribed Botox for Patient A, but had not conducted a face-to-face consultation with the patient beforehand. The NMC stated that they were investigating a complaint made by Patient A against Witness 1. Witness 1, a nurse, had administered the Botox that you had prescribed for Patient A in October 2016. Witness 1's evidence was that she carried out Botox treatment between July and November 2016. You initially had an arrangement with Witness 1 to prescribe Botox to her patients, on

the basis that you consulted with patients in person before the initial treatment. Witness 1 states that, after a period of time, you told her that you no longer needed to see any Botox patients face-to-face before issuing a prescription for Botox but would continue to review the medical history and treatment plan in person with Witness 1 prior to issuing a prescription. You claimed that this *in absentia* arrangement only applied to Botox top-up prescriptions that were required a short time after the initial Botox administration and that you would still always see patients before the initial prescription would be provided.

During the GDC's investigation into this matter they wrote to you to request a copy of Patient A's records. In response, you sent to the GDC a copy of another patient's records (Patient B), who had the same surname as Patient A. You claimed at the time that you believed these to be Patient A's records. When the GDC wrote to you on several occasions to question whether these were in fact Patient A's records, you continued to claim that they were.

Evidence Received and Assessment of Oral Evidence

By way of factual evidence from the GDC, the Committee was provided with two signed witness statements from Patient A, dated 26 July 2019 and 26 September 2019. It also received a signed statement from Witness 1 dated 19 September 2019, and a report from an expert witness, Ms Reem Nashi, dated 6 September 2019. In addition, it heard oral evidence from Patient A, Witness 1 and Ms Nashi. The evidence of Ms Islam, a GDC employee, was admitted as agreed evidence without the need for her to attend the hearing. The Committee was also provided with a bundle of documentary evidence.

As part of your defence case, the Committee received your witness statement, dated 14 January 2020, and it heard and took account of your oral evidence.

Witness 1

The Committee considered Witness 1 to be a credible witness and that her oral evidence was candid and clear. However, it noted that there was a degree of inconsistency between her written statements to the NMC and to the GDC, in regard to the period of time that she had worked with you. The Committee considered that there were also inconsistencies in Witness 1's recollection of certain dates. Overall though, the Committee considered Witness 1's evidence, both oral and written, to be helpful and fair, and did not consider that her inconsistencies on dates impacted upon the reliability of her evidence on the important issues it had to decide.

Patient A

The Committee accepted Patient A's evidence and noted that it was not challenged by you. It also noted that some of Patient A's evidence was hearsay, but it was consistent with the account provided by Witness 1.

Ms Reem Nashi

The Committee accepted Ms Nashi's evidence and her opinion in her expert report. It also noted that you did not challenge Ms Nashi's evidence.

Your Evidence

During your oral evidence, you maintained that, at the time of the events in question, you believed that you had sent the correct patient's records to the GDC. You claimed that there was some confusion in your practice over the name of the patient, and that you had realised

some time later that you had sent the wrong patient’s records. However, you submitted that this was an honest mistake and was not done deliberately. The Committee found your explanation to be inconsistent, confusing and unreliable, not least because, on your own evidence, you did not keep your own records of consultations or prescriptions provided for the patients of Witness 1.

At the end of your oral evidence, you admitted that you had intentionally sent the wrong patient’s records to the GDC in order to mislead their investigation. You stated that when you had received the GDC’s letter informing you that they were investigating this matter, you panicked and intentionally sent Patient B’s records to them. You then continued with this deception throughout the entire GDC investigation and for most of your oral evidence at this hearing. The Committee noted your explanation that you had panicked at the start of the investigation and this was the reason for your actions. However, you have now, somewhat belatedly and during cross examination, admitted that you have been acting dishonestly by lying about the records and fabricating an entirely bogus defence about how you were confused by two patients with a similar name. You maintained this lie in all your correspondence with the GDC, in your dealings with your legal representatives, in your formal statement for these proceedings and throughout the majority of your oral evidence. Such behaviour casts serious doubt over your credibility and reliability as a witness of truth.

The Committee’s Findings of Fact

The Committee has considered all the evidence presented to it, both oral and documentary. It took account of the submissions made by Mr Ahmed on behalf of the GDC and those made by Mr Colman on your behalf. The Committee heard and accepted the advice of the Legal Adviser. In accordance with that advice it has considered each head of charge separately, bearing in mind that the burden of proof rests with the GDC and that the standard of proof is the civil standard, that is, whether the alleged matters are found proved on the balance of probabilities.

The Committee’s findings in relation to each head of charge are as follows:

1.	<p>In relation to [Patient A], you deliberately:</p> <p style="margin-left: 20px;">a. remotely prescribed Botox on or around 31 October 2016;</p> <p>Not admitted and found proved</p> <p>The Committee noted your oral evidence, and the evidence of Witness 1 and Patient A, that made it clear that you had never seen Patient A. It was evident therefore that, regardless of whether this was an initial consultation or for a top-up prescription, as you claimed you believed it to be, Patient A was not present when you wrote the prescription and you clearly did this deliberately, there being no suggestion that you had somehow written the prescription by accident. It finds this allegation proved.</p> <p>As part of its deliberation, the Committee considered whether it was reasonable for you to think that this was for a top-up prescription. Your view was inconsistent with the evidence of Witness 1 and Patient A, which made it clear it was the initial consultation for treatment that took place between 24 and 31 October 2016.</p> <p>The Committee believed the evidence of Witness 1 regarding the revised arrangements she had in place with you about obtaining Botox</p>
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	<p>prescriptions from you without you first consulting with the patient. It could not see how these arrangements could have been misunderstood by you. You appeared to rely solely on the fact that Patient A was not present to arrive at the conclusion that it must have been a top-up prescription. This was in direct contrast to the evidence of both Witness 1 and Patient A, which the Committee preferred for the reasons already given.</p> <p>The Committee is of the view that your claim that you believed that this was a top-up appointment is inconsistent with the cogent evidence provided by Patient A and Witness 1, as supported by the documentary evidence. Furthermore, as already stated, the Committee does not find you to be a credible witness, in contrast to Witness 1, who the Committee did find to be credible.</p> <p>b. did not carry out an in-person consultation prior to prescribing Botox</p> <p>Not admitted and found proved</p> <p>The Committee noted from your oral evidence that you confirmed that you never saw Patient A. As referred to above the Committee did not accept your explanation that this had not been deliberate because you believed it to have been for a top-up prescription. The Committee concluded that this was a deliberate act and finds this allegation proved.</p>
2.	<p>During the course of an investigation into your fitness to practise you made the following inaccurate statements to the General Dental Council ('GDC'):</p> <p>a. On 5 July 2017, in writing, "I had previously seen [Patient A] with the nurse in question for a full consultation for Botox";</p> <p>Admitted and found proved</p> <p>The Committee accepts the admission you made in relation to 2a. This is also supported by the documentary evidence. It finds this allegation proved.</p> <p>b. On 23 July 2018, in writing, "I've sent her [Patient A's] notes as originally requested last year, but never got them back";</p> <p>Admitted and found proved</p> <p>The Committee accepts the admission you made in relation to 2b. This is also supported by the documentary evidence. It finds this allegation proved.</p> <p>c. On 26 July 2018, via telephone, "[Patient A] likes to be referred to as [Patient B] on paper".</p> <p>Admitted and found proved</p> <p>The Committee accepts the admission you made in relation to 2c. This is also supported by the documentary evidence. It finds this allegation proved.</p>
3.	<p>Your conduct in relation to any or all of paragraphs 2(a), 2(b) and 2(c) was:</p> <p>a. Misleading;</p>

	<p>Admitted and found proved</p> <p>The Committee accepts the admission you made to 3a in relation to 2 a,b and c, and finds this allegation proved.</p>
	<p>b. Dishonest, in that:</p>
	<p>i. you knew that the statement(s) were inaccurate; and</p> <p>Admitted and found proved</p> <p>The Committee accepts the admissions you made in your oral evidence whilst being cross-examined by Mr Ahmed and made formally on your behalf by Mr Colman at the conclusion of your evidence. The Committee finds this allegation proved.</p>
	<p>ii. your intention was to mislead and/or frustrate the GDC investigation.</p> <p>Admitted and found proved</p> <p>After you changed your evidence during your oral testimony and admitted you had been lying throughout the investigation and for most of this hearing, you explained to the Committee that after receiving the initial GDC letter of inquiry, you panicked and this led to you fabricating an account which you accepted was misleading and a dishonest attempt to disrupt the GDC’s investigation.</p> <p>For the same reasons as 3bi above, the Committee finds this allegation proved.</p>

We move to Stage Two.”

On 7 February 2020 the Chairman announced the determination as follows:

“Mr Dirksen Van Schalwyk,

The Committee has had regard to the submissions made by Mr Ahmed, on behalf of the General Dental Council (GDC) and Mr Colman on your behalf, in accordance with Rule 20 of the Fitness to Practise Rules 2006. It has also had regard to your statement titled, ‘Initial Reflections’, dated 6 February 2020 and your CPD certificates which were handed up following the announcement of the findings of fact. In addition, the Committee took into account the reference and testimonials within the main bundle. The Committee has accepted the advice of the Legal Adviser.

The Committee has borne in mind that its decisions on misconduct and impairment are matters for its own independent judgement. There is no burden or standard of proof at this stage of the proceedings. It has had regard to the GDC’s “Standards for the Dental Team” (September 2013). The Committee first considered whether the facts found proved amount to misconduct.

Submissions

In accordance with Rule 20 (1) (a) Mr Ahmed informed the Committee that you have no fitness to practise history.

Mr Ahmed outlined the specific GDC standards, which in his submission, have been breached. He also cited the GDC's guidance on prescribing medicines (2013) as it is also relevant in this case.

He submitted that when considering your misconduct, this could be split into two separate elements, namely the act of remote prescribing and dishonesty. In regard to the remote prescribing, Mr Ahmed made reference to the expert report by Ms Nashi, which concluded that your standard of care to Patient A fell: '*far below the standard expected of a registered Dental Surgeon*'. In regard to your dishonesty, he stated that this breached one of the fundamental tenets of the medical profession and brought the profession into disrepute. He submitted therefore that the facts found proved by the Committee are serious and do amount to misconduct.

Mr Ahmed then moved on to the issue of current impairment. He noted that a finding of misconduct does not automatically result in a finding of impairment. He submitted that it was a matter for the Committee's judgement whether your fitness to practise is currently impaired. He referred the Committee to the Fifth Shipman report by Dame Janet Smith which set out four potential grounds to consider when determining current impairment. He also referred the Committee to the case of *Cohen v GMC* [2008] *EWCH 581 (Admin)*.

Mr Ahmed referred the Committee to the factors that it should consider, including any evidence of your insight and remorse. He 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 to maintain public confidence in the profession and in the GDC as its regulator. He submitted that the Committee might consider that public confidence in the profession and its regulator would be undermined if a finding of impairment were not made.

Mr Ahmed next addressed the Committee on the matter of sanction. He made reference to the GDC's Guidance for The Practice Committees including Indicative Sanctions Guidance (October 2016 revised May 2019) (the GDC's sanctions guidance). He submitted that the appropriate and proportionate sanction would be one of suspension for a period of six to 12 months.

Mr Colman agreed that the facts found proved in this case amount to misconduct and conceded that your current fitness to practise is impaired. He stated that when you received the initial letter from the GDC, informing you of their investigation about the remote prescribing, you panicked and thought that the outcome would result in a serious sanction against you. You did not seek the advice of your professional indemnifier and the pressing personal issues that you were facing at the time, also contributed to your actions. He stated, however, that you are a good and valued dentist, and you would be missed by your patients. You have provided copies of CPD certificates and you have begun to reflect on your behaviour and the impact it has had. Mr Colman recommended the Committee impose a sanction of suspension, not erasure, as this would leave you with hope and the incentive to remediate your conduct, whilst also sending a clear message to the public and the profession.

Misconduct

The Committee took into account all of the evidence presented to it at the fact-finding stage. The Committee also took into account the submissions made by Mr Ahmed on behalf of the General Dental Council (GDC) and those made by Mr Colman on your behalf. It accepted the advice of the Legal Adviser.

The Committee first considered whether the facts found proved against you amounted to misconduct. In doing so it had regard to the GDC publication *Standards for the Dental Team (2013)*. It looked at the following sections in particular:

- 1.3 *You must be honest and act with integrity.*
- 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.*
- 9.4 *You must co-operate with any relevant formal or informal enquiry and give full and truthful information.*

In addition to the Standards, the Committee also took into account the GDC's guidance on prescribing medicines (2013) and Ms Nashi's expert report.

In regard to the remote prescribing, the Committee agreed that your actions had fallen far short of the recognised standards. The Committee especially noted paragraph 12 of Ms Nashi's report which stated the following:

"A remote prescription is against current professional guidance and with good reason. A patient needs to be assessed in person, and this is especially the case in facial aesthetics, where the consultation is largely visual. There are significant negative effects that may occur post Botox administration. It is important that the clinician only prescribes the toxin once he has assured him or herself that informed consent has been obtained and that Botox is the most appropriate treatment."

The Committee also noted the conclusion of the report which stated that, '*if...a remote prescription was purposefully, not accidentally issued, then the overall care provided would...fall far below the required standard of a registered Dental Surgeon*', and that your standard of care to Patient A fell: '*far below the standard expected of a registered Dental Surgeon due to the potential for harm that might have occurred*'. The Committee concluded, notwithstanding that the remote prescribing was a single instance, your failing was so serious it amounted to misconduct.

The Committee next considered the dishonesty issue. The Committee noted that your actions were a serious departure from, and a clear breach of, the recognised standards and they brought the profession into disrepute. Your dishonesty which commenced in June 2017 was repeated and sustained over a lengthy period of time, including giving dishonest testimony under oath at this hearing. Furthermore, by lying to the GDC your actions undermined the regulatory process and the GDC's role in protecting the public. The Committee concluded that you had fallen far short of the standards of conduct that are proper in these circumstances and this amounted to misconduct.

Impairment

The Committee then considered whether your fitness to practise is currently impaired by reason of your misconduct.

The Committee was mindful of its role to protect the public interest, which includes the need to maintain proper standards of conduct and competence among dental professionals, and to protect patients from risk of harm.

In making its decision, the Committee took into account your 'Initial Reflections' statement and the certificates of the CPD courses you have undertaken. It also considered the oral

testimony of Witness 2, one of your patients who gave evidence about your value as a dentist.

In considering impairment, the Committee reviewed the Fifth Shipman report by Dame Janet Smith which set out the following four potential grounds to consider when determining current impairment:

1. *He/she 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;*
2. *He/she has in the past brought and/or is liable in the future to bring the medical profession into disrepute;*
3. *He/she has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession;*
4. *He/she has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

The Committee considered that, in regard to the prescribing issue, limbs 1, 2 and 3 were engaged in this case. In regard to the dishonesty issue, the Committee considered that all the grounds were engaged.

The Committee also considered the case of *Cohen v GMC [2008] EWCH 581 (Admin)* to determine whether your act of misconduct was an isolated error and the likelihood of it being repeated. In regard to the prescribing issue, the Committee noted that this was an isolated incident which could be remedied, although it noted that there was no evidence before it that you had done so. The Committee also noted that, whilst accepting the factual elements of charge 1, you have maintained throughout, your denial that the remote prescribing was deliberate. Furthermore, this is not something that you have addressed in your recent reflective statement. Therefore, in its view the risk of repetition remains.

The Committee considered that your misconduct, in relation to the findings of charges 2 and 3 would be difficult to remedy by reason of their dishonest nature. The Committee has reviewed your 'Initial Reflections' dated 6 February 2020 and concluded that it is apparent that whilst you are beginning to show some insight, you have a long way to go.

The Committee considered that there is a risk therefore that you could repeat the misconduct it has found. In the Committee's view, your conduct demonstrated a disregard for the GDC's important role in the protection of the public. It therefore considered that a finding of impairment is necessary in the interest of public protection.

The Committee also determined that a finding of impairment was necessary in the wider public interest to maintain public confidence and uphold proper standards of conduct and behaviour. You have breached fundamental standards of probity and co-operation required by the GDC and have to date shown only limited insight into this serious matter. In the absence of full insight it follows that the Committee and public cannot rely on your integrity, at this early stage in your acceptance of guilt.

The Committee concluded that a reasonable and informed member of the public, fully aware of the facts of the case, would lose confidence in the profession and the dental regulator if a finding of impairment were not made in the circumstances of this case.

The Committee therefore determined that your fitness to practise is currently impaired by reason of your misconduct.

Sanction

The Committee next considered what sanction, if any, to impose on your registration. It recognised that the purpose of a sanction is not to be punitive although it may have that effect. The Committee applied the principle of proportionality balancing your interest with the public interest. It also took into account the *Guidance for the Practice Committees including Indicative Sanctions Guidance, October 2016, revised May 2019, ("PCC Guidance")*.

The Committee considered the mitigating and aggravating factors in this case.

The mitigating factors in this case include:

- Your personal circumstances leading up to the dishonesty incident;
- Evidence of previous good character;
- Evidence of remorse shown and insight (albeit limited);
- Admissions made prior to and during your evidence.

The aggravating factors in this case include:

- Risk of harm to patients;
- Dishonesty;
- Premeditated misconduct;
- Financial gain by you (albeit minor);
- Breach of trust;
- Misconduct sustained or repeated over a period of time;
- Blatant or willful disregard of the role of the GDC and the systems regulating the profession;
- Attempts to cover up wrongdoing;
- Lack of full insight.

The Committee decided that it would be inappropriate to conclude this case with no further action. It would not satisfy the public interest given the serious nature of the misconduct.

The Committee then considered the available sanctions in ascending order starting with the least serious.

The Committee concluded that misconduct of this nature cannot be adequately addressed by way of a reprimand. It cannot be said to be at the lower end of the spectrum. The public interest would not be sufficiently protected by the imposition of such a sanction. The Committee therefore determined that a reprimand would be inappropriate and inadequate.

The Committee considered whether a conditions of practice order would be appropriate. Had this case only been about the remote prescribing issue then conditions may well have been workable. However, your misconduct also involved serious dishonest behaviour which calls into question your integrity. The Committee was of the view that conditions are neither sufficient nor appropriate to address the seriousness of the misconduct and safeguard the wider public interest.

The Committee then considered whether an order of suspension would be appropriate to mark the nature and severity of the misconduct. It noted in the GDC's *Indicative Sanctions Guidance* that suspension is appropriate for more serious cases when:

- There is evidence of repetition of the behaviour;
- The registrant has not shown insight and/or poses a significant risk of repeating the behaviour;
- Patients' interests would be insufficiently protected by a lesser sanction;
- Public confidence in the profession would be insufficiently protected by a lesser sanction.

While recognising that the dishonesty in this case is serious, the Committee does not consider it to be so serious that your conduct is fundamentally incompatible with continued registration. The Committee gave careful consideration to the option of erasure but determined that such a step would be disproportionate. In coming to that view, the Committee has borne in mind your remorse, your realisation and acceptance that your conduct was dishonest and your assurance that you '*would never, ever repeat my mistake or hinder the GDC investigation again*'. Whilst not condoning your behaviour, the Committee does give you credit for having the sense and courage to finally admit your dishonest conduct, albeit not until the very end of your oral evidence. The Committee has also taken into account your previous good character, the positive testimonials received and the oral testimony of Witness 2, which was evidence that you offer a good dental service to your patients. The Committee also took into account your personal circumstances at the time which had an impact on you and contributed to your panicked state of mind.

Accordingly, having had regard to all of the evidence, the Committee has determined to direct that your registration be suspended for a period of 9 months. The Committee is satisfied that this period of time is sufficient to mark the nature and extent of your dishonest conduct, to uphold professional standards and to maintain public confidence in the profession and the regulatory system. In addition, the Committee considers that this will give you time to develop the necessary further insight into both your dishonest behaviour and your malpractice of remote prescribing. It has also had regard to the principle of proportionality and the impact that a longer period of suspension would have on you and your practice.

The Committee also directs that the suspension order be reviewed before its expiry. You will be informed of the date and time of that resumed hearing. That Committee will consider what action it should take in relation to your registration. You will need to satisfy another Committee reviewing your case that you have addressed the concerns identified by this Committee and that you are fit to practise. It may be assisted to receive evidence of your further reflections into the dishonesty and the remote prescribing.

The Committee now invites submissions from both parties as to whether your registration should be suspended immediately."

"Mr Dirksen:

The Committee has considered whether to make an order for the immediate suspension of your registration in accordance with Section 30(1) of the Dentists Act 1984 (as amended).

Mr Ahmed, on behalf of the GDC, submitted that such an order is necessary for the protection of the public and is otherwise in the public interest, given the risk of repetition identified by this Committee. He submitted that in view of the Committee's reasons, it would be inconsistent to allow you to continue in unrestricted practice during the 28-day appeal period.

Mr Colman, on your behalf, told the Committee that you do not intend to appeal and no longer prescribe Botox. He submitted that an order for the immediate suspension of your registration is not necessary, given that no patients were harmed in this case and there was no risk of you behaving in a dishonest way during the 28-day period. He made the point that you will need time during the 28-day appeal period in which to make various business arrangements regarding your practice.

The Committee has considered the submissions made. It has accepted the advice of the Legal Adviser.

The Committee has already identified a continuing risk to the public given the early stage of your developing insight. In light of the risk of repetition identified and its reasons for directing that your registration be suspended, the Committee is satisfied that it would be inappropriate, given the findings in this case, to allow you to continue to practise during the intervening appeal period. The Committee has determined that immediate action is required, both to protect the public and the public confidence in the profession for the same reasons as identified in the substantive order.

The effect of this direction is that your registration will be suspended immediately. Unless you exercise your right of appeal, the substantive order of suspension for a period of 9 months will come into effect 28 days from the date on which notice of this decision is deemed to have been served on you. Should you exercise your right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal.

That concludes today's hearing."