

THE GENERAL PHARMACEUTICAL COUNCIL
FITNESS TO PRACTISE COMMITTEE
SITTING AS THE DISCIPLINARY COMMITTEE

129 Lambeth Road, London SE1 7BT

Friday 13 January 2012

Chairman: Mr Douglas Readings

Committee Members: Mr Edward Mallinson
Dr Ged Fisher

Committee Secretary: Ms Ekash Paik

CASE OF:

BRAR, Jasmeet Kaur
(Registration Number: 2064879)

DETERMINATIONS

MR MARK MILLIN, Solicitor Advocate, appeared on behalf of the General
Pharmaceutical Council.

MS BRAR was not present and was not represented.

(Transcript of the shorthand notes of T A Reed & Co Ltd)
Tel No: 01992 465900)

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A (The hearing commenced at 9.31 am)

(The Committee went into camera at 10.41 am and returned into open session at 10.47 am)

DETERMINATION ON FACT

B THE CHAIRMAN: Ms Jasmeet Kaur Brar, the Registrant, faces the following allegation, as set out in the Particulars of Allegation. I will not read that to you, actually, because it simply repeats what it says in the Particulars of Allegation

C (However it is included here for completeness as if it was read into the transcript):

- D
- E
- F
- 1) You were first registered as a pharmacist on 15 November 2006.
 - 2) On 29 June 2009 you were convicted at Crawley Magistrates Court for failing to provide a specimen for analysis; use of a motor vehicle without third party insurance; and driving a motor vehicle otherwise than in accordance with a licence.
 - 3) Following your conviction at 2) above, you were disqualified from driving for 30 months with driving licence endorsed; ordered to carry out 250 hours unpaid work within 12 months; and ordered to pay £60 towards prosecution costs.
 - 4) You did not inform the Registrar that you had been convicted within seven days of your conviction.
 - 5) Your action as described at 4) above were:
 - (i) Inappropriate, and/or;
 - (ii) Contrary to the requirement in Rule 5 of the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Disqualification etc.) Rules Order of Council 2007.

G And by reason of the matters set out above, individually or cumulatively, your fitness to practise is impaired by reason of a conviction and misconduct.

H Miss Brar has not attended, and is not represented at this hearing. The Committee has been informed that the notice of hearing dated 11 November 2011 was sent to the

A | Registrant on 11 November 2011 by special delivery, first class post and by email.
The Committee is satisfied that service of the notice of the hearing has been properly
B | effected in accordance with Rule 3 of the General Pharmaceutical Council (Fitness to
Practise and Disqualification etc.) Rules 2010 (“the Rules”). The Registrant has not
replied or responded in any way. The Committee has concluded that she has
deliberately absented herself. It has considered the principles listed in the case of *R v*
Hayward, Jones and Another [2001] QB 862, and decided that it is possible to give
the Registrant a fair hearing in her absence, and that the Committee should therefore
proceed in the Registrant’s absence pursuant to Rule 25 of the Rules.

C | I turn to the facts. The allegation in paragraph 1) of the Particulars of Allegation has
been proved by the evidence of Martha Pawluczyk, Registrations Manager of the
General Pharmaceutical Council. The information provided to the Committee is that
D | the Registrant last renewed her registration at the beginning of 2009, but has been
retained on the Register since then because she has been under investigation.

The conviction referred to in paragraph 2) of the Particulars of Allegation, and the
sentence and other orders imposed on the Registrant as alleged in paragraph 3) of the
E | Particulars of Allegation have been proved by production of a Memorandum of an
Entry in the Register of the Crawley Magistrates Court for 29 May 2009.

F | The allegation in paragraph 4) of the Particulars of Allegation has been proved by the
evidence of Berry Rose, Acting Fitness to Practise Manager of the General
Pharmaceutical Council.

G | The Committee has received evidence from Sussex Police that the circumstances of
the Registrant’s conviction were that she was driving a Peugeot 205 car on the M23
Motorway at 1.45 am on Tuesday 16 June 2009 when it crashed into the central
reservation. Other drivers or their passengers removed the Registrant from her car.
The police attended and the Registrant provided a positive test sample of breath, and a
full bottle and an empty bottle of wine were subsequently found in her car. She was
H | taken to a police station where she failed to provide any sample for alcohol testing.

A | The Committee is satisfied that it was inappropriate, and contrary to Rule 5 of the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Disqualification etc.) Rules Order of Council 2007, that the Registrant did not notify the Registrar that she had been convicted within seven days of her conviction.

B | In short, we find all of the facts proved.

(The Committee then heard submissions on impairment)

C | (The Committee went into camera at 11.02 am and returned into open session at 11.19 am)

DETERMINATION ON IMPAIRMENT

D | THE CHAIRMAN: The conviction proved against the Registrant is such as to bring the profession into disrepute. Failing to report convictions undermines the regulatory process of the General Pharmaceutical Council, which is designed to protect the public interest. It constitutes misconduct.

E | The Committee is entirely satisfied that the Registrant's fitness to practise is impaired by reason of the conviction of 29 June 2009, and also by reason of misconduct in respect of the facts proved in paragraphs 4) and 5) of the Particulars of Allegation.

F | That is our decision on impairment, and we will be pleased to hear what you have to say, Mr Millin, about any sanction, and in that connection we need to know whether there is any history recorded against this Registrant.

(The Committee then heard submissions on sanction)

G | (The Committee went into camera at 11.25 am and returned into open session at 12.14 pm)

H |

DETERMINATION ON SANCTION

A THE CHAIRMAN: I am now going to give you the Committee's determination on
sanction. The Committee has had regard to the General Pharmaceutical Council's
B published Indicative Sanctions Guidance. It has borne in mind that the purpose of any
sanction is not to punish the Registrant but to protect the public, maintain public
confidence in the profession and to declare and uphold proper standards of behaviour
by members of the profession.

C The Committee rejected the possibility of concluding this case without a sanction
because of the seriousness of the matter, and concluded that a warning would be
insufficient in light of the Registrant's failure to engage with the General
Pharmaceutical Council's disciplinary process.

D The Committee considered whether it would be sufficient and proportionate to make
an order for conditions, but concluded that it was not possible to frame any
conditions, directed to the impairment of the Registrant's fitness to practise, which
would be effective and capable of being monitored.

E The Committee next considered suspension. It noted that there is evidence of a
disposition towards non-compliance with the Rules, and decided that public
confidence in the profession demands no lesser sanction. In the absence of any
submissions from the Registrant the Committee has borne in mind that suspension
F may have a serious effect on the Registrant, and that these proceedings have been
hanging over her for a long time. Balancing the interests of the Registrant and the
interests of the public, the Committee has concluded that suspension is appropriate in
order that a clear message should be sent to the profession and the public that such
G conduct is unacceptable and unbecoming of a registered pharmacist. However, the
period of the suspension need not be longer than three months.

Before the end of the period of three months' suspension, this order will be reviewed.
This Committee is concerned that the nature of the Registrant's offence might indicate
H an underlying medical problem. The Committee conducting the review will expect

A | the Registrant to arrange and provide to the Committee a report from a medical consultant confirming that the Registrant is fit to practise, having regard to the nature of her conviction of 29 June 2009.

B | That concludes our determination on sanction, but as we are making an order for suspension we need to consider whether any interim measure should be put into effect. Mr Millin, do you have any submissions to make?

C | MR MILLIN: Yes sir. I do suggest that given your findings and the sanction that under Article 60 it would be appropriate to order interim measures as being either in the public interest or in the interests of the Registrant, particularly given your comments on possible health problems.

THE CHAIRMAN: Yes. I have not got Article 60 in front of me, but there are presumably the three possible reasons for making such an order? The protection of the public---

D | MR MILLIN: Yes sir. Either because the Committee is satisfied that it is necessary to do so for the protection of members of the public, or is otherwise in the public interest, or in the interests of the Registrant.

E | THE CHAIRMAN: Yes. Well, those are familiar grounds. Thank you very much. I am just pausing to consider whether it is self-evident from the findings that have already been made that one or other of those grounds is satisfied. You would say that there is a risk to the public, would you?

MR MILLIN: Yes sir, particularly given the health concerns that you have expressed.

THE CHAIRMAN: Perhaps that is a possible reason.

F | MR MILLIN: Yes sir.

THE CHAIRMAN: The other one is the potential harm to the reputation of the profession if prompt action is not taken?

MR MILLIN: Yes sir.

G | THE CHAIRMAN: That perhaps runs counter to the time which it has taken the General Pharmaceutical Council to bring this case to a hearing, does it not?

MR MILLIN: I accept that, sir. You can see that from the time it was referred, the Fitness to Practise Director, as I submit, acted promptly, but up until that point I have to concede that there is unexplainable delay.

H | THE CHAIRMAN: Yes.

A MR MILLIN: Nevertheless, sir, I do submit that before today those matters of fact which you found were still to be decided. They have now been decided, and I submit that the situation has chanced since then.

THE CHAIRMAN: Thank you very much.

(The Committee conferred – inaudible)

B

DETERMINATION ON INTERIM MEASURES

C

THE CHAIRMAN: The Committee takes the view that if it has decided, as it has, that suspension is the appropriate remedy, then it would be inconsistent with its own decision not to make an order for interim measures now for the protection of the public and otherwise in the public interest. Therefore we will make an interim order of suspension.

D

MR MILLIN: I am grateful, sir. Sir, could I seek one other matter of clarification, and that is I would suggest that it would be appropriate for the cost of the medical report that you have requested for the review to be borne by the Registrant.

THE CHAIRMAN: Well, that is, I think, the effect of the wording that we have used. Can I just remind you of what was said by quoting again from the screen in front of me:

E

“The Committee conducting the review will expect the Registrant to arrange and provide to the Committee a report from a medical consultant confirming that the Registrant is fit to practise, having regard to the nature of her conviction of 29 June 2009.”

So, your understanding is certainly our understanding.

F

MR MILLIN: Sir, I raised the point because I had a case recently where the Chair had used almost identical wording, and the Registrant still queried whether he was to bear the cost.

THE CHAIRMAN: I do not know how we could make it clearer.

MR MILLIN: I agree, sir.

G

THE CHAIRMAN: Thank you. Right. With the making of the order of interim measures that concludes the hearing, does it? Is there anything else we can do?

MR MILLIN: No sir.

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THE CHAIRMAN: Thank you very much, Mr Millin.

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(The hearing concluded at 12.21 pm)

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