

GENERAL PHARMACEUTICAL COUNCIL

FITNESS TO PRACTISE COMMITTEE

129 Lambeth Road, London SE1 7BT

Monday 16 January 2012

Chairman: Mr Patrick Milmo QC

Committee Members: Mrs Shirley Clifton
Mrs Judith Way

Committee Secretary: Mr Mark Mallinson

CASE OF:

TUCKWOOD, Moira Jayne
(Registration Number: 5000470)

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

Mrs Tuckwood was neither present, nor represented.

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

I N D E X

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DETERMINATION on sanction

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DETERMINATION ON SANCTION

A | THE CHAIRMAN: The registrant, Mrs Tuckwood, on our findings made, in the space of
B | eight months between June 2009 and February 2010, 225 dispensing errors whilst
C | working at two pharmacies at Stapleford, Nottinghamshire and Ilkeston, Derbyshire
D | respectively. (More details of the errors were given in our determination of the facts).

E | By reason of that conduct, her fitness to practise is impaired. Accordingly we must
F | consider the appropriate sanction.

G | We must always bear in mind, when considering the appropriate sanction, the purpose of
H | sanctions, which are very well known. They are threefold: the protection of the public,
I | the maintenance of the public confidence in the profession and the maintenance of proper
J | standards of behaviour within the profession. The purpose is not to punish although
K | a sanction may be punitive in its effect.

L | In exercising our discretion, we must be fair and reasonable and proportionate in our
M | decision; and by proportionate is meant that we must impose no greater restriction upon
N | the right of a pharmacist or pharmacy technician to practise their profession than is
O | absolutely necessary to achieve its objectives.

P | It is also incumbent upon us to consider the personal circumstances of the registrant and
Q | any mitigation advanced and any testimonials or character references presented on behalf
R | of the registrant.

S | As we have mentioned in another context, the registrant has not been present at this
T | hearing and, accordingly, we have been provided with no information about her personal
U | circumstances, nor any testimonials on her behalf, nor have any pleas in mitigation been
V | made.

W | We have earlier remarked that in Mrs Tuckwood's response to the listing questionnaire
X | she expressed her intention to give up pharmacy and to seek another career. We have
Y | thought it right generally to ignore this statement in the sense that we should not be
Z |

A | influenced in our determination by the possibility that Mrs Tuckwood might cease to continue to practise or want to do so in any event.

B | We are required to take into account any aggravating features. The most notable aggravating feature in this case in our view is the scale, number and frequency of dispensing errors, and the serious nature of many of them. Fortunately all of them were spotted on checking so there was no actual harm to patients but the potential for harm was immense.

C | We should also note that Mrs Tuckwood failed to respond to continuing efforts of her employers to improve her performance in relation to her dispensing accuracy. From the evidence we have heard, it would appear to us that Mrs Tuckwood was remarkably complacent about the errors which were brought to her attention. That must be regarded as a lack of insight, a lack of awareness of her responsibilities as a dispenser and the grave consequences that could be visited upon a patient by her conduct.

D | As regards mitigating features we would cite as foremost amongst them her long career as a pharmacy technician, which may not have been entirely free of incident but did not until the events with which this hearing is concerned involve any disciplinary action against her.

E | Part of the relevant background to the epidemic of errors which form the subject matter of the allegations may have been a clash of personalities between a new manager, Caroline Grundy, and Mrs Tuckwood; the new manager being considerably younger and less experienced as a pharmacist than Mrs Tuckwood. We cannot regard this as a mitigating factor as Miss Grundy in our view was clearly carrying out her duties properly and was not in any manner behaving oppressively or unreasonably. Nonetheless it may be a factor in Mrs Tuckwood's behaviour that her reaction when a young pharmacist drew attention to her faults was to adopt an unco-operative and unresponsive attitude.

F | There are four possible sanctions we can impose: a warning, the imposition of conditions on continued registration, suspension of her registration or removal of her name from the register.

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H |

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This case is far too serious to warrant just a warning. We cannot realistically consider conditions in the absence of the registrant and the knowledge of her circumstances and what she can and would be prepared to undertake. It seemed to us that the only possible sanctions are suspension or removal. On a number of grounds, removal could be

B justified. The *Indicative Sanction Guidance* lists factors where removal from the register may be the appropriate sanction. Some of them apply to Mrs Tuckwood's case: there is a continuing risk to patients or members of the public occasioned by her practice as a dispenser; her professional performance was such as to call into question the continued

C ability of Mrs Tuckwood to practise safely; and it could be said that public confidence in the profession demands no lesser sanction than removal.

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However, with some hesitation, we have decided not to direct Mrs Tuckwood's removal but instead to make an order suspending her registration. The principal reason for this choice is the years of work that Mrs Tuckwood has performed as a pharmacy technician for the benefit of the public and without major fault or dispensing errors. In our view she is capable of a professional performance of the standard the public demands and is required.

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Referring to some of the factors listed in the *ISG* which may make suspension appropriate, some of them in our view can be cited in this instance. There has been deficient performance where patient safety has been put at risk but there are circumstances which raise the possibility of remedy through re-training. The professional performance of Mrs Tuckwood under review in this case is such as to call into question the continued ability of Mrs Tuckwood to practise safely but we think that rehabilitation is possible.

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In this context we have taken some account of information – I cannot call it evidence – given in the Council advocate's written submissions and I refer to paragraph 21. There it is stated that Mrs Tuckwood on leaving the employment by her resignation of Manor Pharmacy worked for a local Co-op Pharmacy for a little under a month. She gave up that work because, so it would seem, she was in breach of some restrictive covenant in her employment contract with Manor Pharmacy but the Council's Inspector visited the

A Co-op Pharmacy, spoke to the manager and was told that the performance of Mrs Tuckwood in the weeks that she worked at the Co-op Pharmacy as a pharmacy technician was satisfactory and the manager would have been happy if Mrs Tuckwood had remained at the pharmacy.

B That information, as I said, is not evidence and its provenance has not really been put before us in that the Inspector was not called. We did not think it should influence us in our determination on impairment. We felt that it could not be ignored when it came to sanction.

C If credence is to be given to what I have just stated, it is a further indication that Mrs Tuckwood is not beyond salvation as a competent pharmacist and in our view she should be given an opportunity to redeem herself. However, it is quite apparent that Mrs Tuckwood should not, for the protection of the public, at present be permitted to practise.

D We, therefore, direct that her registration be suspended for a period of 12 months, the maximum period we can impose. We order a review to take place before the expiry of that period and we would expect Mrs Tuckwood to take such steps during the currency of her suspension by way of re-training or working in a pharmacy or by any other appropriate means which will satisfy a future Committee that if her suspension is not extended or if her name is not removed, she will be able to practise without error and without endangering the safety of patients and the public.

E F Of course it may well be that Mrs Tuckwood will implement or has already implemented her intention to pursue another career. In this case the probability is that a future Committee on review will formalise the position but the effect of our direction is that the door is not closed and if Mrs Tuckwood really wants in the future to resume practice, there is a route by way she is enabled to do so. That is our determination.

G H We consider that this is a case where interim measures are appropriate. We, therefore, make a direction under the appropriate article, which will have the effect of making the suspension immediately effective.