

General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

Remote videolink hearing

16 & 17 December 2024

Registrant name: Modie Al-Shakarchi

Registration number: 2086272

Part of the register: Pharmacist

Type of Case: Conviction

Committee Members: David Bleiman (Chair)

Stephen Riley (Registrant member)

Sarah Baalham (Lay member)

Legal Adviser: Andrew Clemes

Committee Secretary: Zainab Mohamad

Registrant: Not present and not represented

General Pharmaceutical Council: Represented by Natalie Bird, 2BR Chambers

Facts proved: All

Fitness to practise: Impaired

Outcome: Removal

Interim measures: Interim suspension Order

This decision including any finding of facts, impairment and sanction is an appealable decision under *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010*. Therefore, this decision will not take effect until 15 January 2025 or, if an appeal is lodged, once that appeal has been concluded. However, the interim suspension set out in the decision takes effect immediately and will lapse when the decision takes effect or once any appeal is concluded.

Particulars of Allegation

You, a registered Pharmacist,

On 2 April 2024 were convicted in the Crown Court at Chester of:

- 1. Two counts of fraud;*
- 2. Two counts of theft;*

And your fitness to practise is impaired by reason of your conviction.

Documentation

Document 1- GPhC hearing bundle (53 pages)

Document 2- GPhC skeleton argument (16 pages)

Document 3- GPhC Proof of Service bundle (15 pages)

Document 4- GPhC Proceeding in Absence bundle (9 pages)

Document 5- Email from Mr Al-Shakarchi dated 13 December 2024

Document 6- two emails from GPhC to Mr Al-Shakarchi dated 13 December 2024

Document 7- Written Representation and Request for Privacy, submitted by Mr Al-Shakarchi on 16 December 2024 (3 pages) supported by health-related evidence

Determination

Introduction

1. This is the written determination of the Fitness to Practise Committee at the General Pharmaceutical Council ('the Council').
2. The hearing is governed by *The Pharmacy Order 2010* ("the Order") and *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010* ("the Rules").
3. The statutory overarching objectives for these regulatory proceedings are:
 - a. To protect, promote and maintain the health, safety and well-being of the public;
 - b. To promote and maintain public confidence in the professions regulated by the Council; and
 - c. To promote and maintain proper professional standards and conduct for members of those professions.
4. The Committee also has regard to the guidance contained in the Council's *Good decision making: Fitness to practise hearings and outcomes guidance* as revised March 2024 ("the Guidance").
5. A Principal Hearing has up to three stages:

Stage 1. Findings of Fact – the Committee determines any disputed facts.

Stage 2. Findings of ground(s) of impairment and impairment – the Committee determines whether, on the facts as proved, a statutory ground for impairment is established and, if so, whether the Registrant's fitness to practise is currently impaired.

Stage 3. Outcome – the Committee considers what, if any, sanction should be applied if the Registrant's fitness to practise is found to be impaired.

Service of Notice of Hearing

6. We have inspected a letter dated 14 November 2024 from the Council headed 'Notice of Principal Hearing' addressed to Mr Al-Shakarchi at his email address which matches that recorded on the Council's Register. All relevant details are included in the Notice. We accepted legal advice. We are satisfied that there has been good service of the Notice in accordance with Rules 3 and 16.

Application for case to be heard in private

7. We considered the email correspondence from Mr Al-Shakarchi in which he applied for the whole of the hearing to be heard in private. Given the health grounds advanced, we first decided, having heard from the case presenter and accepted legal advice, that, whatever its outcome, we should deal with the application itself in private. This part of the determination therefore continues in private.

IN PRIVATE

8. (REDACTED)
9. (REDACTED)
10. (REDACTED)
11. (REDACTED)
12. (REDACTED)
13. (REDACTED)
14. (REDACTED)
15. (REDACTED)
16. (REDACTED)

17. (REDACTED)

18. (REDACTED)

19. (REDACTED)

20. (REDACTED)

21. (REDACTED)

22. (REDACTED)

23. (REDACTED)

24. (REDACTED)

25. (REDACTED)

IN PUBLIC

Application to proceed in the absence of the registrant

26. Mr Al-Shakarchi was not in attendance at this hearing, nor was someone attending on his behalf.

27. We heard submissions from Ms Bird under Rule 25 to proceed in the absence of Mr Al-Shakarchi. She confirmed that the Council has now rejected his request for voluntary removal from the register.

28. We noted the correspondence from Mr Al-Shakarchi in an email dated 9 December 2024 which stated that he did not think that he would be able to attend the hearing. He said that after the court hearing and everything that happened thereafter, he

could not do it all again. We noted that he had applied for voluntary removal from the Register. PRIVATE. It included a request for voluntary removal from the Register. Mr Al-Shakarchi indicated that he had no intention of returning to work in pharmacy and, having been awarded a master's degree in computer science, was starting a new career. We noted that in his communications expressing concern if this hearing were not to be held in private, he has at no point requested an adjournment.

29. We accepted the advice of the Legal Adviser.
30. We decided to proceed in the absence of Mr Al-Shakarchi for the following reasons:
 - We have found good service of the notice of hearing and it is clear from correspondence that he is aware of today's proceedings. He has chosen not to attend for reasons which are explained in his correspondence.
 - Although Mr Al-Shakarchi refers to a health reason for not attending, this is only one of the reasons he gives, another reason being that he has no intention of resuming a career in pharmacy and has retrained and commenced an entirely different career path. He has not requested an adjournment.
 - Although Mr Al-Shakarchi applied for voluntary removal from the Register, that application has now been rejected so that there is no need to adjourn pending resolution of that matter.
 - There is nothing to suggest that an adjournment would result in his attendance on a future date.
 - There is a public interest in the expeditious disposal of cases.

Decision on Facts

31. We heard submissions from Ms Bird and took into account all of the written evidence before us. We accepted the advice of the legal adviser.
32. We bore in mind that the burden of proof rests on the Council and that particulars are found proved based on the balance of probabilities.

Background

33. We have seen documentary evidence which goes into considerable detail regarding the circumstances in which Mr Al-Shakarchi was found to have stolen medications from two employers, Superdrug and Well Pharmacy. However, we have not received formal witness statements nor heard live evidence. We provide a succinct summary of the background based on the sentencing remarks of the Judge and can do so with confidence as there was a conviction following a guilty plea, so that the broad factual background is not in dispute.
34. Mr Al-Shakarchi was working as a locum pharmacist at Superdrug and Well Pharmacy. He also had his own online pharmacy business. Between 1 August 2021 and 31 March 2022 he stole medication to the value of approximately £8,000 from Superdrug in Birkenhead. Between 26 January 2022 and 30 May 2022 he stole medication to the value of about £7,000 from Well Pharmacy in Runcorn. He then used these medications to assist his own online business where he sold drugs that did not belong to him.
35. At first he denied the thefts including lying to the police. At a late stage in the court process he pleaded guilty to the four counts for which he was convicted.

Allegation 1 found proved by certificate of conviction

36. The allegation in this case is a conviction. We had sight of a certificate signed by an officer of the Crown Court at Chester, confirming that, on 2 April 2024, Mr Al-Shakarchi was convicted on two counts of fraud. On this basis we found that allegation 1 was proved in accordance with Rule 24(4).

Allegation 2 found proved

37. The certificate of conviction makes no reference to the two counts of theft. We therefore considered all of the documentary evidence before us and took into account the submissions of Ms Bird and the communications from Mr Al-Shakarchi.

38. We have compelling evidence before us in the form of the transcript of the proceedings at the sentencing hearing dated 14 May 2024 including the remarks of HHJ Everett. The Judge stated that, just before the trial, Mr Al-Shakarchi pleaded guilty to the first four counts on the indictment. Count 1 is described as fraud from Superdrug between 1 August 2021 and 31 March 2022 and Count 2 as stealing drugs from Superdrug between the same dates. Counts 3 and 4 are described as linked to each other, that is fraud between 26 January 2022 and 30 May 2022 and the allied offence of theft from the Well Pharmacy.
39. The Judge goes on to refer to the principle of totality, explaining that, albeit there were four counts on the indictment, “this was all part and parcel of an overall feature of fraudulent behaviour and theft”. He therefore passed concurrent sentences on the two offences of fraud “and no separate penalty for the theft of the drugs, because they are part and parcel of the overall fraud.”
40. There is nothing from Mr Al-Shakarchi to contradict this account.
41. We therefore find that allegation 2 is proved.

Impairment of fitness to practise

42. Having found the particulars of allegation proved, we went on to consider whether Mr Al-Shakarchi’s fitness to practise is currently impaired by reason of his conviction.
43. We took account of the Guidance given on the meaning of ‘fitness to practise’. Paragraph 2.11 reads:

“A pharmacy professional is ‘fit to practise’ when they have the skills, knowledge, character, behaviour and health needed to work as a pharmacist...safely and effectively. In practical terms, this means maintaining appropriate standards of competence, demonstrating good character, and also adhering to the principles of good practice set out in your various standards, guidance and advice.”

44. We took into account the submissions made by Ms Bird and all of the documentary evidence before us, including the recent communications from Mr Al-Shakarchi. We gave particular weight to the sentencing remarks of the Judge.

45. We accepted the advice of the Legal Adviser.
46. We considered whether the convictions found proved show that the actions of Mr Al-Shakarchi:
- *present an actual or potential risk to patients or to the public*
 - *has brought, or might bring, the profession of pharmacy into disrepute*
 - *has breached one of the fundamental principles of the profession of pharmacy*
 - *means that the integrity of the registrant can no longer be relied upon*
47. We do not find that patients or the public were put at risk of harm by Mr Al-Shakarchi's actions. The medications which he stole were for supply, on prescription, to patients through his own online pharmacy. In his sentencing remarks, the Judge specifically comments that "nobody is suggesting that you have unlawfully supplied drugs". He also states that he does not consider Mr Al-Shakarchi to present a risk or danger to the public.
48. We consider that the harm done in this case is financial harm to the two pharmacy businesses from which Mr Al-Shakarchi stole medications. He did not cause a risk to patients and, looking forward, we do not consider that he presents an actual or potential risk. His fitness to practise is not impaired on grounds of public protection.
49. This is a case in which Mr Al-Shakarchi, by stealing medication of a high total value over a prolonged period from two separate pharmacy businesses where he was working as a locum, has breached the trust placed in him as a pharmacist. In his sentencing remarks, the Judge referred to this breach of trust, saying that "your culpability is high by reference to the fraud guidelines, because this was an abuse of position of trust or responsibility."
50. While taking into account the Judge's comments, we must reach our own view of Mr Al-Shakarchi's actions. We consider that having been found guilty (albeit based on a late guilty plea) to fraud and theft of medications of a high total value from two pharmacy businesses and having received a suspended sentence, he has brought the

profession into disrepute. The adverse media attention to which he himself refers, suggests that this is not merely a potential for reputation damage. It has occurred.

51. Theft and fraud are self-evidently crimes of dishonesty. Mr Al-Shakarchi's actions were a clear breach of Standard 6 of the *Standards for Pharmacy Professionals*, May 2017, which requires that pharmacists "are trustworthy and act with honesty and integrity". As such he has breached a fundamental principle of the profession. This was not an isolated incident of dishonesty, nor were the items involved of low value. The thefts continued over a period of several months, involving careful advance planning and impacting on two pharmacy businesses to the extent of a total of around £15,000. This was an extended course of dishonesty for personal gain and we find that this is at the upper end of the scale.
52. Mr Al-Shakarchi expresses deep regret and the Judge's sentencing remarks include reference to a very positive pre-sentence report including the probation officer's assessment that he is "a realistic prospect of rehabilitation". However, the question for us is whether, at this time, his integrity can "no longer be relied upon". We have taken into account his written submissions including that received on the morning of this hearing in which he expresses deep regret and says that he fully realises how wrong he was in his actions. We have also taken into account his decision to retrain for an entirely different career and his forthright promise to "do anything necessary to continually learn from my mistakes, even if it takes the rest of my life."
53. It does appear possible that Mr Al-Shakarchi has learned his lesson but his explanation of his reasons for engaging in an extended course of fraud and theft are limited. We are also mindful that he has not yet concluded the term of his suspended sentence. Although there is some evidence that he is on a path of remediation we find that, as of the date of this hearing, his integrity can "no longer be relied upon".
54. We therefore find that Mr Al-Shakarchi's current fitness to practise is impaired on public interest grounds and accordingly we must go on to consider the question of sanction.

Decision on Sanction

55. Having found impairment, we went on to consider the matter of sanction. The Committee's powers are set out in Article 54(2) of the Order. The Committee should consider the available sanctions in ascending order from least restrictive, take no action, to most restrictive, removal from the register, to identify the appropriate and proportionate sanction that meets the circumstances of the case.
56. The purpose of the sanction is not to be punitive, though a sanction may in fact have a punitive effect. The purpose of the sanction is to meet the overarching objectives of regulation, namely the protection of the public, the maintenance of public confidence and to promote professional standards. The Committee is therefore entitled to give greater weight to the public interest over the interests of the pharmacy professional concerned.
57. We had regard to the Guidance and took into account the submissions of Ms Bird and the limited written submissions by Mr Al-Shakarchi. We took into account all of the evidence before us and our earlier findings of fact and impairment.
58. We accepted the advice of the Legal Adviser.
59. We identified the following aggravating factors:
 - a. The theft and fraud was of a serious nature, resulting in a custodial sentence, albeit suspended;
 - b. These criminal activities involved a degree of planning and were repeated over nearly 8 months in one of the pharmacy businesses and (with some overlap) 4 months in the other business;
 - c. The crimes occurred in the course of employment as a pharmacist, involving an abuse of trust, including that of junior colleagues;
 - d. Mr Al-Shakarchi lied to the police under caution, seeking to cover up his wrongdoing, only pleading guilty at the start of his trial.
60. The mitigating factors we identified were:
 - a. No relevant history of previous fitness to practise concerns;

- b. Some evidence of remorse and a path of rehabilitation, albeit by way of retraining for an entirely different career.

- 61. We found that Mr Al-Shakarchi showed some insight in his brief written submissions. However, we were unable to test his level of insight by asking him questions in person as, for reasons he had explained, he was not in attendance at the hearing.
- 62. We considered that to take no action, or to issue a warning, would be entirely inadequate to mark the seriousness of his actions. Conditions of registration would be unsuitable in a case which does not concern practice failings.
- 63. In a case of dishonesty of lesser gravity, we might have been minded to impose a suspension. However, we have found the dishonesty in this case to be at the upper end of the scale. There was an abuse of his position of trust and responsibility as a pharmacist over an extended period, involving medications of a high total value and in two different pharmacy businesses.
- 64. We had regard to the Guidance and, in particular the section covering cases of dishonesty. We have already evaluated the dishonesty in this case as being at the upper end of the scale. Paragraph 6.9 is particularly relevant:

Some acts of dishonesty are so serious that the committee should consider removal as the only proportionate and appropriate outcome. This includes cases that involve intentionally defrauding the NHS or an employer...

This is evidently such a case. Indeed Mr Al-Shakarchi intentionally defrauded two employers.

- 65. Given the above conclusions, and taking account of the seriousness of the matter, we concluded that the appropriate and proportionate sanction was removal from the Register. No lesser sanction will suffice to uphold the Standards and maintain the reputation of the profession. We have taken into account that this will have a negative impact on Mr Al-Shakarchi. The financial and professional impact may be limited as he has already decided that he does not intend to resume a pharmacy career and has commenced a different career path. In any event, his own interests

are outweighed by the public interest in upholding the Standards and public confidence in the pharmacy profession.

66. We therefore direct that the Registrar remove Mr Al-Shakarchi's name from the Register.

Interim Order

67. The existing interim order of suspension is hereby revoked.

Decision on Interim Measure

68. We heard an application from Ms Bird for the imposition of an interim measure of suspension. We accepted legal advice.
69. Our substantive decision will not take effect until 28 days after notice of this decision has been sent to Mr Al-Shakarchi, or until any appeal has been finally disposed of.
70. We have revoked the existing interim order so that he would be free to resume unrestricted pharmacy practice in the absence of an interim measure. Although he has expressed no intention of doing so, we have considered that he continues to serve his suspended sentence and it would not be appropriate to allow the possibility of a resumption of pharmacy practice pending the coming into effect of our substantive sanction of removal.
71. We impose an interim measure of suspension on the same grounds as the substantive sanction, that is on grounds of the public interest in upholding the Standards and maintaining the reputation of the profession.
72. This concludes the determination.