PUBLIC RECORD

Dates: 08/11/2021 - 18/11/2021

Medical Practitioner's name:	Dr Michael WETZLER
GMC reference number:	2495985
Primary medical qualification:	MB BS 1979 University of London

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Impaired

Summary of outcome

Conditions, 12 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Mr Neil Dalton
Medical Tribunal Member:	Dr Keith Dunnett
Medical Tribunal Member:	Mr Thomas George

Tribunal Clerk:	Mr Michael Murphy

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Christopher Gillespie, Counsel, instructed by BLM
GMC Representative:	Mr Hugh Barton, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held partly in public and partly in private.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Facts/impairment - 15/11/2021

Background

1. Dr Wetzler qualified in the UK in 1979 and has been practising as a GP since 1984. At the time of the events in the Allegation he was practising as a private GP at the Hill Medical Centre, London, where he is also the Medical Director. Alongside this, Dr Wetzler works as a locum NHS GP at the Fountayne Road Health Centre.

2. The Allegation that has led to this hearing relates to misconduct arising out of Dr Wetzler's prescribing of medicines (including controlled drugs) to Patient A.

3. Among other matters, it is alleged that Dr Wetzler issued prescriptions to Patient A over a five-year period, between 30 September 2014 and 15 August 2019, without informing her GP and without (in some instances) considering the potential for misuse and addiction in respect of the drugs prescribed.

4. Initial concerns were raised with the GMC on 13 August 2019 by Dr D, Patient A's NHS GP. Dr D had been contacted by a local pharmacy about private prescriptions presented to them which had been signed by Dr Wetzler. Dr D had not been made aware of these prescriptions and contacted Dr Wetzler for more information. This resulted in Dr D's referral to the GMC.

The Outcome of Applications Made during the Facts Stage

5. The Tribunal granted the GMC's unopposed application, made pursuant to Rule 17(6) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), for several of the allegations be withdrawn and for the Schedules to be amended.

The Allegation and the Doctor's Response

6. The Allegation made against Dr Wetzler is as follows:

That being registered under the Medical Act 1983 (as amended):

1. Between 30 September 2014 and 15 August 2019, you issued the prescriptions set out at Schedule 1 to Patient A and you failed to:

   a. consider the indication for the prescriptions, in that you:

      ~~i. did not make enquiries and assess Patient A's anxiety;~~
      Withdrawn following Rule 17(6) application

      ii. did not ascertain how much Diazepam Patient A was already being prescribed; Admitted and found proved

      iii. did not avail yourself of sufficient information to make a judgment on whether Patient A was already getting a sufficient prescription of Diazepam; Admitted and found Proved

      ~~iv. relied upon Patient A's statement of why she needed the prescriptions;~~ Withdrawn following Rule 17(6) application

      ~~v. issued the prescriptions on the basis that Patient A was not getting a sufficient amount from her General Practitioner ('GP');~~
      Withdrawn following Rule 17(6) application

   b. inform Patient A's GP of these prescriptions; Admitted and found proved

   ~~c. record having undertaken the actions as set out at paragraph 1a~~.
   Withdrawn following Rule 17(6) application

~~2. On 9 November 2014 you issued a prescription of Ursodeoxycholic Acid 300mg, twice a day to Patient A and you failed to:~~

   ~~a. consider the indication for the prescription, in that you did not establish whether Patient A had gallstones;~~

   ~~b. record:~~

      ~~i. having undertaken the action set out at 2a;~~

      ~~ii. evidence that Patient A had gallstones, if she had them.~~
      Withdrawn following Rule 17(6) application

3. Between 18 December 2014 and 4 August 2017, you issued the prescriptions set out in Schedule 2 to Patient A and you:

~~a. failed to consider the indication for the prescriptions, in that you:~~

~~i. did not request a urine sample;~~

~~ii. did not establish that Patient A had a urinary infection which had not responded to other treatment;~~

~~iii. relied upon the account given by Patient A's mother;~~

~~iv. did not have a face to face consultation with Patient A;~~
Withdrawn following Rule 17(6) application

b. prescribed 500mg doses three times daily for a course of 100 doses on 18 December 2014, despite the licensed dose being 3000mg as a single dose;
Admitted and found proved

~~c. failed to obtain consent from Patient A for Patient A's mother to request prescriptions on her behalf.~~ Withdrawn following Rule 17(6) application

~~4. On 17 February 2015 you issued a prescription of co-amoxiclav 500/125, three times daily (42 tablets) to Patient A and you prescribed an inappropriate dose in that 14 days' treatment was excessive for an uncomplicated urinary infection in an adult woman.~~ Withdrawn following Rule 17(6) application

~~5. On 12 April 2016 you issued a prescription of nitrofurantoin to Patient A and you prescribed an inappropriate dose in that 15 days' treatment was excessive.~~
Withdrawn following Rule 17(6) application

6. Between 21 April 2016 and 20 April 2017, you issued the prescriptions set out in Schedule 3 to Patient A and you:

~~a. failed to consider:~~

~~i. the indication of the prescriptions in that you:~~

~~1. did not establish whether Patient A had Lyme disease;~~
Withdrawn following Rule 17(6) application

~~2. issued the prescriptions on the advice of a prescriber in the USA;~~ Withdrawn following Rule 17(6) application

~~3. issued the prescriptions without authoritative recommendation from a recognised specialist;~~ Withdrawn following Rule 17(6) application

~~ii. whether it was appropriate to administer intravenous therapy;~~ Withdrawn following Rule 17(6) application

b. failed to inform Patient A's GP of the prescriptions; Admitted and found proved

~~c. exposed Patient A to an invasive and hazardous treatment modality in that you administered intravenous antibiotics in the community;~~ Withdrawn following Rule 17(6) application

~~d. failed to record having undertaken the actions as set out at paragraph 6a.~~ Withdrawn following Rule 17(6) application

7. Between 21 April 2016 and 22 July 2016, you issued the prescriptions set out in Schedule 4 to Patient A and you failed to:

a. consider the indication of the prescriptions in that you: Admitted and found proved

i. issued the prescriptions on the advice of a complementary health practitioner, who was not a registered medical practitioner; Admitted and found proved

ii. did not critically analyse the opinion of the complementary health practitioner; Admitted and found proved

iii. issued the prescriptions on the basis of a questionnaire, rather than a diagnostic test; Admitted and found proved

~~iv. accepted the diagnosis of candidiasis which is not recognised in scientific medicine;~~ Withdrawn following Rule 17(6) application

~~b. record having undertaken the actions as set out at paragraph 7a.~~ Withdrawn following Rule 17(6) application

~~8. On 21 April 2016 you issued a prescription of hydroxocobalamin solution, five ampoules, weekly for four weeks to Patient A and you failed to:~~

~~a. consider the indication of the prescription in that you:~~

~~i. did not attempt to find out whether Patient A was deficient in this substance;~~

ii. issued the prescription for an energy boost;

iii. issued the prescription without a proper evidence base;

b. inform Patient A's GP of the prescription;

c. record having undertaken the actions as set out in paragraphs 8a.
Withdrawn following Rule 17(6) application

9. On 21 April 2016 you issued a prescription of prednisolone 5mg (30 tablets) to Patient A and you failed to:

a. consider the indication of the prescription in that you:

i. issued the prescription on the basis of a wheezy episode described by Patient A without:

1. taking an appropriate history;

2. performing an examination;

b. inform Patient A's GP of the prescription;

c. record having undertaken the actions as set out at paragraph 9a.
Withdrawn following Rule 17(6) application

10. Between 27 June 2016 and 8 January 2017, you issued the prescriptions set out in Schedule 5 to Patient A and you:

a. failed to establish that Patient A's symptoms were indicative of urinary infection;

b. continued to prescribe the medication despite your concerns over repeated prescriptions;

c. prescribed a dose that was higher and for longer than was appropriate;

d. failed to record having undertaken the actions as set out at paragraph 10a Withdrawn following Rule 17(6) application

11. On 6 December 2016 you issued a prescription of Sativex to Patient A despite the fact that Patient A did not:

a. have a diagnosis of multiple sclerosis;

~~b. report any symptoms which reflected spasticity in multiple sclerosis~~.
Withdrawn following Rule 17(6) application

12. On 12 January 2017 you issued a prescription of cefuroxime 500mg, twice daily for three weeks to Patient A and you:

~~a. failed to consider the indication for the prescription, in that you:~~

~~i. did not establish whether Patient A had chronic Lyme disease;~~
Withdrawn following Rule 17(6) application

~~ii. issued the prescription on the advice of a prescriber in the USA;~~
Withdrawn following Rule 17(6) application

~~b. made an inappropriate prescription in that the duration of the treatment is unlicensed;~~ Withdrawn following Rule 17(6) application

c. failed to inform Patient A's GP of the prescription; Admitted and found proved

~~d. failed to record having undertaken the actions as set out at paragraph 12ai.~~ Withdrawn following Rule 17(6) application

~~13. Between 18 January 2017 and 4 August 2017, you issued the prescriptions set out in Schedule 6 to Patient A and you:~~

~~a. failed to:~~

~~i. investigate Patient A's symptoms;~~

~~ii. establish that Patient A's symptoms were indicative of recurrent urinary infections;~~

~~b. continued to prescribe the medication despite:~~

~~i. your own concerns recorded on:~~

~~1. 18 January 2017;~~

~~2. 10 May 2017;~~

~~3. 19 June 2017;~~

~~4. 24 July 2017;~~

ii. being aware that the medication was not effective in treating Patient A's urinary infections, if she had them. Withdrawn following Rule 17(6) application

14. Between 3 February 2017 and 15 August 2019, you issued the prescriptions set out in Schedule 7 to Patient A and you:

a. failed to consider the indication for the prescriptions, in that you:

i. did not explore Patient A's request for morphine; Withdrawn following Rule 17(6) application

ii. did not attempt to establish the cause for Patient A's severe pain; Withdrawn following Rule 17(6) application

iii. did not explore what analgesia Patient A had already tried; Withdrawn following Rule 17(6) application

iv. issued the prescription on the basis of Patient A's request; Withdrawn following 17(6) application

v. issued the prescription without a face to face consultation on 17 July 2017; Withdrawn following 17(6) application

b. prescribed the drug as if it were a first line analgesic; Withdrawn following 17(6) application

c. failed to inform Patient A's GP of the prescription of a controlled drug, namely Butrans patches, on 15 August 2019. Admitted and found proved

15. On 8 February 2017 you issued a prescription to Patient A for alprazolam (Xanax) 250 micrograms (60 tablets) and you:

a. failed to consider the indication for the prescription in that you:

i. did not explore Patient A's symptoms of anxiety;

ii. issued the prescription on the basis of Patient A's request. Withdrawn following Rule 17(6) application

16. On 24 February 2017 you issued a prescription to Patient A of ivermectin 3mg, twice daily (100 tablets) and you:

a. made an inappropriate prescription in that:

~~i. the indication is unclear~~; Withdrawn following Rule 17(6) application

~~ii. oral preparation of the drug is unlicensed;~~ Withdrawn following Rule 17(6) application

b. failed to inform Patient A's GP of this prescription. Admitted and found proved

17. Between 14 May 2019 and 25 June 2019, you issued the prescriptions to Patient A as set out in Schedule 8 and you failed to:

a. inform Patient A's GP about the prescriptions, knowing that:

i. they were not prescribing midodrine; Admitted and found proved

ii. relations between Patient A and her GP were not good. Admitted and found proved

~~18. On 15 August 2019 you issued and administered a prescription of "Myer's cocktail" to Patient A and you:~~

~~a. failed to consider the indication for the prescription in that you:~~

~~i. made the prescription on the basis that it had been administered to Patient A in the USA previously;~~

~~ii. did not make your own assessment as to the efficacy of the treatment;~~

~~iii. issued a prescription without a proper evidence base.~~ Withdrawn following Rule 17(6) application

19. You failed to consider the potential for misuse and addiction in respect of the drugs referred to at charges:

a. 1; Admitted and found proved

~~b. 14;~~ Withdrawn following Rule 17(6) application

~~c. 15.~~ Withdrawn following Rule 17(6) application

The Admitted Facts

7. At the outset of these proceedings, through his Counsel, Mr Christopher Gillespie, Dr Wetzler admitted the outstanding paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs of the Allegation as admitted and found proved.

Impairment

8. In light of Dr Wetzler's admissions, the Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts found proved, Dr Wetzler's fitness to practise is impaired by reason of misconduct.

Witness Evidence

9. Dr Wetzler provided his own witness statements dated 10 October 2021, 18 October 2021 and 9 November 2021. He also gave oral evidence at the hearing.

10. The Tribunal received written evidence from two expert witnesses. The first, called by the GMC, was from Dr B, a principal in General Practice. He provided expert reports dated 27 November 2019, 28 January 2020, 10 June 2020, to assist the Tribunal in understanding Dr Wetzler's actions and how they compared to the standards expected of a GP. The second expert, introduced by Dr Wetzler, was Dr C, a retired GP principal. He provided an expert report dated 'October 2021' exploring the same themes. Dr B and Dr C also provided a joint expert report dated 27 October 2021.

11. Taken together, their shared view was that Dr Wetzler's conduct fell '*seriously below standard'* in relation to those matters at paragraphs 1(b), 14(c) and 19(a) of the Allegation, and '*below standard'* in relation to the other admitted facts (except in paragraph 17(a)(i)).

Documentary Evidence

12. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:

- Initial complaint to the GMC, dated 13 August 2019;
- Dr Wetzler's response to the complaint, dated 5 September 2019;
- General Practitioner records of Patient A;
- Clinical records from Hill Medical Centre;
- Extract from Case Examiner's Rule 8 decision (this related to previous GMC written advice Dr Wetzler had received in 2015 regarding '*safe prescribing and sharing information with colleagues involved in a patient's care'*);
- GMC Prescribing Guidance, 2013;

- GMC Prescribing Guidance, 2021;
- Numerous testimonials on Dr Wetzler's behalf; and
- A record of continuous professional development (CPD) training Dr Wetzler had undertaken during 2020 and 2021.

Submissions

13. Counsel on behalf of the GMC, Mr Barton, submitted that the admitted facts did indeed amount to misconduct and that Dr Wetzler's fitness to practise was currently impaired.

14. He noted Dr Wetzler's own concession that these were serious failings on his part; a concession which mirrored the joint view of the experts. He observed that, significantly, many of the admitted matters occurred after Dr Wetzler had received the Rule 8 advice from the GMC regarding '*safe prescribing and sharing information with colleagues involved in a patient's care'.* He also observed that Dr Wetzler accepted being aware of the risks to a patient posed by his actions. Mr Barton said that it was not clear why Dr Wetzler had ignored those risks.

15. Regarding remediation, Mr Barton submitted that while Dr Wetzler had sought to assure the Tribunal of significant systemic changes he had implemented to ensure his conduct was not repeated; the evidence of the rigour of those changes was questionable. Mr Barton suggested therefore that, notwithstanding Dr Wetzler's reflective work and his CPD training, his journey to remediation was not complete.

16. On behalf of Dr Wetzler, Mr Gillespie submitted that some, but not all, of the admitted facts amounted to misconduct.

17. Of those that did amount to misconduct, Mr Gillespie submitted that Dr Wetzler could now be considered fully remediated, such that his fitness to practise was no longer impaired.

18. In support of this, Mr Gillespie referred (among other things) to the CDP undertaken, the doctor's work with colleagues (e.g., Dr E), the systemic changes he had introduced into his practice, his own reflections on his conduct (both in oral evidence and in his statements), and the outcome of the audits he had facilitated in relation to controlled drugs.

19. He said that Dr Wetzler took patient safety seriously and that (per the results of the independent audits) he had significantly reduced his prescribing of controlled drugs. He no longer prescribes any controlled drugs unless he can communicate with the patient's NHS GP.

20. In summary, Mr Gillespie submitted that there was good evidence Dr Wetzler has taken on board all the concerns raised. In the circumstances, it was proportionate to find misconduct in this case; but, he submitted, the Tribunal could properly find that Dr Wetzler's

fitness to practise was not currently impaired. He reminded the Tribunal that if it did not find Dr Wetzler's fitness to practise currently impaired, it could instead issue a warning.

The Tribunal's Determination

21. The Tribunal reminded itself that, at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgment alone.

22. It is clear from the design of section 35c of the Medical Act 1983 that the Tribunal must adopt a two-stage approach:

a. First, it must decide whether one of the circumstances set out in the section is present (and the relevant one here is misconduct);

b. Second, if misconduct is present, it must then go on to determine whether, as a result, fitness to practise is impaired. Thus, it may be that, despite Dr Wetzler having been guilty of misconduct (if that is what the Tribunal finds), it may decide that his fitness to practise is not impaired. *(GMC v Cheatle [2009] EWHC 645 [Admin] at paragraph 19).*

Misconduct

- The Tribunal reminded itself that misconduct has been defined by the Privy Council in the case of Roylance v GMC as *'a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.' In that case, the Privy Council went on to say that 'The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances', (Roylance v GMC (No.2) [2000] 1 AC 311).*

- For the doctor's conduct to amount to misconduct, '*it must be linked to the practice of medicine or* [else it must be] *conduct that otherwise brings the profession into disrepute, and it must be serious'*. [GMC v Calhaem [2007] EWHC 2606 (Admin) {citing Meadows, citing Roylance} at paragraph 36]

- Mere negligence does not amount to misconduct unless particularly serious. A single act/omission may amount to misconduct if particularly grave but is less likely to amount to misconduct than multiple acts/ omissions.[GMC v Calhaem [2007] EWHC 2606 (Admin) at paragraph 39]

- In Schodlok, the Court commented that a Tribunal should consider both the volume and the similarity of the non-serious misconduct, as well as the presentation of the case, before concluding that a series of non-serious misconduct can amount to a finding of serious misconduct (*Schodlok v General Medical Council [2015] EWCA Civ 769*, paragraph 72).

- As to seriousness, this must be given its proper weight: it has been described as conduct which would be regarded as deplorable by fellow practitioners. [*Nandi v GMC [2004] EWHC 2317 (Admin)* at paragraph 31, approved by *Meadow v GMC [2007] QB 462* at paragraph 200]

The Tribunal's decision

Misconduct

23. Reflecting on these matters, the Tribunal noted that Dr Wetzler's actions occurred over a five-year time span. At the time of their commission, he was already a senior, highly experienced doctor. Moreover, at the time of their commission (other than those of 30 September 2014 and 18 December 2014), Dr Wetzler had already received clear, relevant written advice following an earlier investigation in 2014/2015. In that advice, his attention had been drawn to paragraphs 15, 16, 21, 35 and 44 of Good Medical Practice and he had been expressly reminded of this guidance in the context of '*safe prescribing and sharing relevant information with colleagues involved in a patient's care*'. Despite this, the issues which form the subject of the current Allegation relate to the same themes.

24. The Tribunal considered the following paragraphs of Good Medical Practice (2013)(GMP) were engaged in this case:

> *15. You must provide a good standard of practice and care. If you assess, diagnose or treat patients, you must:*
>
> > *a. adequately assess the patient's conditions, taking account of their history (including the symptoms and psychological, spiritual, social and cultural factors), their views and values; where necessary, examine the patient*
>
> *16 . In providing clinical care you must:*
>
> > *a. prescribe drugs or treatment, including repeat prescriptions, only when you have adequate knowledge of the patient's health and are satisfied that the drugs or treatment serve the patient's needs*
> >
> > *b. provide effective treatments based on the best available evidence…*
> >
> > *…d. consult colleagues where appropriate consult colleagues where appropriate…*
> >
> > *…f. check that the care or treatment you provide for each patient is compatible with any other treatments the patient is receiving, including (where possible) self-prescribed over-the-counter medications*

35. check that the care or treatment you provide for each patient is compatible with any other treatments the patient is receiving, including (where possible) self-prescribed over-the-counter medications

44. You must contribute to the safe transfer of patients between healthcare providers and between health and social care providers. This means you must:

a. share all relevant information with colleagues involved in your patients' care within and outside the team, including when you hand over care as you go off duty, and when you delegate care or refer patients to other health or social care providers'

25. The Tribunal also considered that the following paragraphs of the GMC guidance '*Good practice in prescribing and managing medicines and devices'* (2013 Ed) were engaged:

'30. You must contribute to the safe transfer of patients between healthcare providers and between health and social care providers. This means you must share all relevant information with colleagues involved in your patient's care within and outside the team, including when you hand over care as you go off duty, when you delegate care or refer patients to other health or social care providers. This should include all relevant information about their current and recent use of other medicines, other conditions, allergies and previous adverse reactions to medicines.

32. If you prescribe for a patient, but are not their general practitioner, you should check the completeness and accuracy of the information accompanying a referral. When an episode of care is completed, you must tell the patient's general practitioner about:

a. changes to the patient's medicines (existing medicines changed or stopped and new medicines started, with reasons)

b. length of intended treatment

c. monitoring requirements

d. any new allergies or adverse reactions identified,[12] *unless the patient objects or if privacy concerns override the duty, for example in sexual health clinics.*

33. If a patient has not been referred to you by their general practitioner, you should also:

a. consider whether the information you have is sufficient and reliable enough to enable you to prescribe safely; for example, whether:

i. you have access to their medical records or other reliable information about the patient's health and other treatments they are receiving

ii. you can verify other important information by examination or testing

b. ask for the patient's consent to contact their general practitioner if you need more information or confirmation of the information you have before prescribing. If the patient objects, you should explain that you cannot prescribe for them and what their options are. '

26. The Tribunal noted that the two experts witnesses each characterised the admitted matters at paragraphs 1(b), 14(c) and 19(a) of the Allegation as each being, of themselves, *'seriously below standard'*. In oral evidence, Dr Wetzler likewise accepted this. The Tribunal wholly shared the view that to have prescribed these controlled drugs without informing Patient A's GP amounted to conduct which would be considered deplorable by fellow practitioners. In doing so, his conduct posed a clear risk of:

i. Dual prescribing
ii. Clash of prescribing
iii. The potential for misuse, and
iv. Confusion in the event the patient had to go to hospital

27. These were failures sufficiently serious to amount, in the Tribunal's determination, to misconduct.

28. The Tribunal then went on to consider the seven other occasions when Dr Wetzler prescribed drugs without informing Patient A's NHS GP: namely on 21 April 2016, 8 January 2017, 12 January 2017, 24 February 2017, 27 February 2017, 20 April 2017 and 14 May 2019. Each of these, when taken in isolation, had been characterised jointly by the experts as *'below standard'*. The Tribunal recognised that none of them related to controlled drugs. Nevertheless, the Tribunal bore in mind the following:

- Their volume and similarity;
- The clear risk of dual prescribing, a clash of prescribing, and confusion at any hospital attendance; and
- The wider presentation of the case (ie the background of the GMC's 2015 advice, and the prescribing of the controlled drugs)

29. In consequence, the Tribunal concluded that they amounted to a series of actions which, when properly viewed together, amounted to failures sufficiently serious to likewise constitute misconduct.

30. Of the remaining matters; on the balance of the evidence placed before the Tribunal, these were not sufficiently serious of themselves to amount to misconduct, nor were they of a kind whereby they could properly be viewed together for that consideration.

Impairment

31. Having found that the particular facts identified above amounted to misconduct, the Tribunal went on to consider whether, as a result, Dr Wetzler's fitness to practise is currently impaired.

32. The Tribunal reminded itself that:

- The question of whether Dr Wetzler's fitness to practise is impaired is posed, and is to be answered, in the present tense; the Tribunal looks forward not back. However, in order to form a view as to the fitness of a person to practise today, the Tribunal will have to take into account the way in which Dr Wetzler has acted, or failed to act, in the past *(Meadow v GMC [2006] EWCA Civ 1390);*

- Case law has established that it must be 'highly relevant' in determining if a doctor's fitness to practise is impaired *'that, first, his or her conduct which led to the charge is easily remediable; that, second, it has been remedied; and, third, that it is highly unlikely to be repeated' (R (on the application of Cohen) v GMC [2008] EWHC 581 [Admin]);*

- Any approach to the issue of impairment must take into account the need to protect the individual patient, and the collective need to maintain confidence in the profession; as well as declaring and upholding proper standards of conduct and behaviour, including the protection of patients and the maintenance of the public's confidence in their doctors. *[R (on the application of Cohen) v GMC [2008] EWHC 581 (Admin)* at paragraph 62]

- In Grant it had been said that '*In determining whether a practitioner's fitness to practice is impaired by reason of misconduct, the Tribunal 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.' [CHRE v NMC and Grant [2011] EWHC 927 [Admin]* at paragraph 74]

- The attitude of Dr Wetzler to the facts that give rise to the specific allegations against him, is (in principle] something which can be taken into account either in his favour, or against him, by the Tribunal; when it considers whether his fitness to practice is impaired. [*Nicholas-Pillai v GMC [2009] EWHC 1048 [Admin] at* paragraph 19]

- Finally, the Tribunal reminded itself to ask the following question:

> Do the findings of fact in respect of this doctor's Misconduct show that his fitness to practice is impaired in the sense that he has in the past acted and/ or is liable in the future to act so as to:
>
> (a) put a patient or patients at unwarranted risk of harm; and/ or
> (b) bring the medical profession into disrepute; and/ or
> (c) breach one of the fundamental tenets of the medical profession; and/ or
> (d) act dishonestly.
>
> [*CHRE v NMC and Grant* at paragraph 76]

33. In considering these matters, the Tribunal noted that this was misconduct by a very experienced doctor which had taken place over a five-year period and which, at its commencement, overlapped with a previous GMC investigation.

34. Against that background, and the proximity of the GMC's earlier advice to the commencement of Patient A's treatment; the Tribunal found it implausible that a person of Dr Wetzler's mental acuity would have forgotten that advice when prescribing to Patient A. It likewise found implausible his assertion that he had perceived the GMC's 2015 advice as somehow limited in scope. His actions in August 2019 (after receiving correspondence from Patient A's NHS Practice which included concerns about the lack of a coordinated approach) suggested, instead, a conscious decision to follow another course to the one required in GMP; and this was despite GMC's express written advice on this theme in 2015.

35. Dr Wetzler clearly appreciated the value of consultation with other medical professionals, as was evident from his engagement with Patient A's doctor in the United States. Dr Wetzler was also clear in his evidence that he had always understood the risk of not sharing information with other medical professionals.

36. Bearing in mind all those factors, the Tribunal determined that a finding of current impairment was necessary both to uphold standards and to maintain public confidence.

37. In addition, the Tribunal was not persuaded that Dr Wetzler's journey of remediation and insight was complete.

38. The many testimonials provided on his behalf spoke clearly and with one voice regarding the high personal and professional esteem in which he is held. The extent of the CPD he has undertaken has likewise been commendable; and the results of independent audits of his practice indicate a change of approach in relation to the prescribing of controlled drugs.

39. All of this was assessed fully and carefully by the Tribunal and was considered to be to his credit.

40. The Tribunal noted, though, the absence of an independent voice (Dr E, for example) to corroborate his account of the journey of remediation he had undertaken; someone who could offer a disinterested commentary on the impact of these matters upon him, his progress in terms of insight and remediation, and an assessment of how complete this process might be. The Tribunal considered that the balance of his own reflections (as captured in his statements and his oral evidence) appeared weighted towards the impact the investigation had had upon him, and less of a detailed articulation of the risks he understood his behaviour might have posed for the patient.

41. Further, on the evidence available to it, the Tribunal remained unpersuaded that the processes he had now put in place, in terms of documentary and electronic systems, were of sufficient rigour to ensure it would be 'highly unlikely' such behaviour would be repeated.

42. In conclusion, therefore, the Tribunal has determined that Dr Wetzler's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 18/11/2021

1. Having determined that Dr Wetzler's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

The Evidence

2. The Tribunal has taken into account evidence received during the earlier stages of the hearing, where relevant, to reaching a decision on sanction.

3. The Tribunal received further evidence on behalf of Dr Wetzler including WW Health Care Limited's financial reports and statements.

Submissions

4. On behalf of the GMC, Mr Barton stated that there were various mitigating factors in this case. These included the fact that Dr Wetzler was an experienced and dedicated professional, held in high esteem; that these were admitted matters; and that a process of remediation and insight had clearly been undertaken, albeit the process remained incomplete. He noted that all the admitted matters related to one patient. There was no evidence that the patient had come to harm; nor was there evidence she had misused any of the drugs prescribed to her. More, it was evident from that patient's witness statement that she was entirely supportive of Dr Wetzler and made no complaint regarding his conduct.

5. In terms of aggravating factors, Mr Barton foregrounded the period over which the misconduct had occurred, and the context in which it could properly be viewed. In other words, it was against a background of relevant GMC advice in 2015. Mr Barton also added that Dr Wetzler did not come before the Tribunal as a person of otherwise good character. An impairment was found against him (by a different regulator and on an unrelated matter) in 2004, in respect of which he had been suspended for two months. Finally, Mr Barton reminded the Tribunal of its own observations of Dr Wetzler's conduct in its impairment determination.

6. In terms of sanction, Mr Barton submitted that it would be inappropriate for this Tribunal to take no action as this would be inadequate to satisfy the over-arching objective. Instead, he suggested the proportionate sanction would be one of conditions.

7. On behalf of Dr Wetzler, Mr Gillespie agreed that the appropriate sanction in this case would be one of conditions. He submitted that a condition of supervision would be unenforceable because of the nature of Dr Wetzler's practice. However, he suggested that other conditions could be imposed to address the nature of Dr Wetzler's current impairment and satisfy the overarching objective.

The Tribunal's approach to Sanction

8. The decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken account of the Sanctions Guidance (2020) (SG) and GMP. It has borne in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it may have a punitive effect.

9. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Wetzler's interests with the public interest. It has already given a detailed determination on impairment and has taken those matters into account during its deliberations on sanction.

Aggravating and Mitigating factors

10. The Tribunal had regard to the aggravating factors of this case. It noted:

- The duration of the misconduct;
- The particular circumstances in which it had arisen (see paragraphs 30-32 of the Tribunal's impairment determination);
- His incomplete insight (paragraph 37, impairment determination); and
- The 2004 finding of impairment (albeit the Tribunal was informed that this was by a different regulator and on an unrelated matter)

11. The Tribunal next has regard to the mitigating factors in this case. It noted that Dr Wetzler was an experienced, dedicated professional who was held in high esteem by his community. This was evidenced by extensive testimonial evidence, which included the following :

> *'In this community, he has played a pivotal role in the last 18 months, looking after Covid patients and many would not have survived this without care.'* (Mr G)
>
> *'In the community, there is unfortunately, a significant group of patients that find it difficult to engage with mainstream health services i.e. GP practitioners, crisis teams and are therefore unable to get the help and support that is available to them…Dr Wetzler has also been very helpful in encouraging people to accept the diagnosis and prescription of other professionals.'* (Mr H)
>
> *'I have found Dr Wetzler to be a dedicated, hard-working and committed doctor providing a high level of care to his patients. He is professional, courteous with a warm and engaging personality and an excellent bedside manner. He has the highest integrity and his patients' welfare is uppermost. He is greatly respected and highly regarded by the many communities that he serves. When he has referred patients to me they have all spoken of his tireless and selfless work and care and the service he provides and continues to provide during the Covid 19 pandemic.'* (Ms I)
>
> *'I have no hesitation in providing a first class character reference for Doctor Wetzler who I am aware is very respected and held in the highest regard within the community he serves with selfless devotion. I am personally aware that Doctor Wetzler's competence and professionalism was recognised by Hatzola the emergency first aid organisation who, quite literally, provide lifesaving services, who, at the time, appointed him as their medical director.'* (Mr J)
>
> *'He is a wonderful human being, who is concise, caring and careful in his profession and as a person I can talk with him without the feeling of being overwhelmed in discussing personal and family health issues.'* (Mr K)
>
> *'Dr Wetzler has a strong understanding of our religious and cultural needs, in specific the nuances within the different sects of the community.'* (Mr L)

12. Further mitigating factors included:

- Dr Wetzler's timely admissions;
- Evidence that has significantly reduced his prescribing of controlled drugs; and
- His work to remediate. This has included reflective statements, CPD, and systematic changes in his procedures, as well as his evidence of work with other professionals. Dr Wetzler explains:

'21. Since May 2020 I have engaged in fortnightly peer support sessions with Dr E. Dr E is a GP appraiser for North West London and RLS associate for the GMC.

22. We have looked at the concerns raised by the GMC together and have discussed changes in practice, both in relation to those concerns and more generally. Our discussions have focused on the following:

1. How to bridge alternative medicine and different approaches to treatments with conventional medicine, GMC principles and national guidance.
2. The importance of communication between practitioners when treating patients.
3. Developing a more systematic approach to learning and reflection, with reference to comprehensive and up to date learning resources and support.
4. Helping me to undertake reflective thinking and identify learning points, actions and changes to practice.
5. Utilising audit tools and colleagues to undertake objective reviews of clinical practice on an ongoing basis.
6. The importance of developing enhanced peer support and networks, rather than working in isolation. This has led me to join a well-established peer support group of sessional doctors run by Dr F NHS North London CCG and JDG (Jewish Doctors Group – a large WhatsApp group of GPs and hospital doctors who discuss reflections and learning from complex cases, best practice, clinical updates, and share resources).
7. Continually reminding myself of the four domains of GMC Good Medical Practice, namely (1) knowledge, skills and performance, (2) safety and quality, (3) communication, partnership and teamwork, and (4) maintaining trust.
8. Discussing my current and future career plans. This includes continuing NHS work in order to stay up to date with current medical practice but also reducing my workload generally. I am also looking to identify more colleague who can assist with, and ideally take over, some of my workload.

Reflections on why I fell short with Patient A

23. Since being made aware of the complaint, I have reflected on my own and with Dr E as to why I fell below and at times far below the standards expected of a GP in this case. Patient [A] was a particularly difficult patient, not because she was unpleasant, but because she had manifested major symptoms for many years and had become desperate to find a solution. My sole purpose was to help her but, with

the benefit of hindsight and reflection, I gave too much credence to her own view of her symptoms and what she thought the next best step would be. I have therefore taken a step back in my approach to treating patients generally and now am much more focused on my own understanding and the evidence and support for treatement approaches.'

The Tribunal's Determination on Sanction

No action

13. In reaching its decision as to the appropriate sanction, if any, to impose in this case, the Tribunal first considered whether to conclude by taking no action.

14. The Tribunal determined that it would not uphold the statutory overarching objective to take no action in this case as there were no exceptional circumstances.

Conditions

15. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Wetzler's registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable.

16. The Tribunal considered a sanction of conditions to be appropriate in this case, and found that paragraph 81(c) of the SG was engaged:

'Conditions might be most appropriate in cases:

… where there is evidence of shortcomings in a specific area or areas of the doctor's practice'

17. The Tribunal likewise considered conditions to be workable, noting the applicability of paragraph 82 of the SG:

'82. Conditions are likely to be workable where:

a. the doctor has insight

…c. the Tribunal is satisfied the doctor will comply with them

d. the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.'

18. Reflecting upon his misconduct overall, the Tribunal also determined that conditions would be a proportionate response in this case, and that the conditions set out below would be workable.

19. In summary, therefore, the Tribunal has concluded that conditions are sufficient to ensure the protection of patients, meet the public interest, and to maintain proper professional standards of conduct for the members of the profession. It considers that the imposition of conditions upon Dr Wetzler's registration should be for a period of twelve months. This period would allow him sufficient time to reflect, develop his insight, and fully remediate.

20. These conditions are not confidential and will be published:

1 He must personally ensure the GMC is notified of the following information within seven calendar days of the date these conditions become effective:

a the details of his current post, including:

i his job title

ii his job location

iii his responsible officer (or their nominated deputy)

b the contact details of his employer and any contracting body, including his direct line manager

c any organisation where he has practising privileges and/or admitting rights

d any training programmes he is in

e of the organisation on whose medical performers list he is included

f of the contact details of any locum agency or out of hours service he is registered with.

2 He must personally ensure the GMC is notified:

a of any post he accepts, before starting it

b that all relevant people have been notified of his conditions, in accordance with condition 7

c if any formal disciplinary proceedings against him are started by his employer and/or contracting body, within seven calendar days of being formally notified of such proceedings

d if any of his posts, practising privileges, or admitting rights have been suspended or terminated by his employer before the agreed date within seven calendar days of being notified of the termination

e if he applies for a post outside the UK.

3 He must allow the GMC to exchange information with any person involved in monitoring his compliance with his conditions.

4 a He must have a workplace reporter appointed by his responsible officer (or their nominated deputy).

b He must not work until:

i his responsible officer (or their nominated deputy) has appointed his workplace reporter

ii he has personally ensured that the GMC has been notified of the name and contact details of his workplace reporter.

5 a He must design a Personal Development Plan (PDP), with specific aims to address the deficiencies in the following areas of his practice:

- Safe prescribing
- Sharing information with colleagues involved in a patient's care

b His PDP must be approved by his responsible officer (or their nominated deputy).

c He must give the GMC a copy of his approved PDP within three months of these substantive conditions becoming effective.

d He must give the GMC a copy of his approved PDP on request.

e He must meet with his responsible officer (or their nominated deputy), as required, to discuss his achievements against the aims of his PDP.

6 a He must keep a log detailing every case where he prescribes a controlled drug, or any other medicines where additional safeguards are needed:

- i Explaining the rationale for the prescription.

- ii Confirming he has either informed the patient's NHS GP or otherwise explaining the rationale for not having done so.

b He must give the GMC a copy of this log on request.

7 He must personally ensure the following persons are notified of the conditions listed at 1 to 6:

a his responsible officer (or their nominated deputy)

b the responsible officer of the following organisations:

i his place(s) of work, and any prospective place of work (at the time of application)

ii all of his contracting bodies and any prospective contracting body (prior to entering a contract)

iii any organisation where he has, or has applied for, practising privileges and/or admitting rights (at the time of application)

iv any locum agency or out of hours service he is registered with

v if any of the organisations listed at (i to iv) does not have a responsible officer, he must notify the person with responsibility for overall clinical governance within that organisation. If he is unable to identify that person, he must contact the GMC for advice before working for that organisation.

c the responsible officer for the medical performers list on which he is included or seeking inclusion (at the time of application)

d his immediate line manager and senior clinician (where there is one) at his place of work, at least 24 hours before starting work (for current and new posts, including locum posts).

21. The Tribunal determined to direct a review of Dr Wetzler's case. A review hearing will convene shortly before the end of the period of conditional registration, unless an early review is sought. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Wetzler to demonstrate that he has complied with the conditions on his registration, and to demonstrate that his fitness to practise is no longer impaired. It may therefore assist the reviewing Tribunal if Dr Wetzler can provide:

- A further written reflective statement addressing his misconduct, the potential risks it created for patient safety, and its impact upon public confidence in the medical profession;
- Any other evidence that Dr Wetzler considers will assist the Tribunal reviewing his case. (In this regard, the Tribunal invites him to consider paragraph 40 of its facts and impairment determination.)

Determination on Immediate Order - 18/11/2021

1. Having determined to impose conditions, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Wetzler's registration should be subject to an immediate order.

Submissions

2. On behalf of the GMC, Mr Barton submitted that there is no need for an immediate order in this case.

3. On behalf of Dr Wetzler, Mr Gillespie submitted that he endorsed the GMC's submissions.

The Tribunal's Determination

4. In its deliberations, the Tribunal had regard to paragraph 173 of SG which states:

> *'173. An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.'*

5. The Tribunal bore in mind the results of the audits undertaken in relation to Dr Wetzler's practice which indicated a significant reduction in his prescribing of controlled drugs. It also bore in mind the extent of Dr Wetzler's remediation and the nature of it. For example, he now has systems in place together with peer group support. He has also undertaken relevant CPD.

6. The Tribunal therefore determined not to impose an immediate order.

7. This means that Dr Wetzler's registration will be made subject to conditions 28 days from when notice of this decision is deemed to have been served upon him, unless he lodges an appeal. If Dr Wetzler does lodge an appeal he will remain free to practise unrestricted until the outcome of any appeal is known.

8. There is no interim order to revoke.

9. That concludes the case.

Schedule 1

Date	Details of Prescription
30 September 2014	Diazepam 5mg (56 tablets)
1 August 2019	Diazepam 5mg (112 tablets)
15 August 2019	Diazepam 5mg (84 tablets)

Schedule 2

Date	Details of Prescription
18 December 2014	Fosfomycin 500mg three times daily (100 capsules)
~~4 August 2017~~	~~Fosfomycin one sachet~~ Withdrawn following Rule 17(6) application

Schedule 3

Date	Details of Prescription
21 April 2016	Intravenous ertapenem (Invanz) 1g; vitamin C 12.5g in 500ml saline
8 January 2017	Intravenous ertapenem (Invanz) powder for infusion 1g, 3-5 days a week
27 February 2017	Intravenous ertapenem (Invanz) powder for infusion 1g (8 vials)
20 April 2017	Intravenous ertapenem (Invanz) powder for infusion 1g

Schedule 4

Date	Details of Prescription
21 April 2016	Fluconazole 200mg daily (21 tablets)

21 April 2016	Nystatin 250mg
22 July 2016	Nystatin 250mg twice daily

~~Schedule 5~~

~~Date~~	~~Details of Prescription~~
~~27 June 2016~~	~~Nitrofurantoin 100mg four times daily (60 tablets)~~
~~22 July 2016~~	~~Nitrofurantoin 100mg four times daily (60 tablets)~~
~~13 December 2016~~	~~Nitrofurantoin 100mg four times daily (60 tablets)~~
~~8 January 2017~~	~~Nitrofurantoin 100mg four times daily (56 tablets)~~ Withdrawn following Rule 17(6) application

~~Schedule 6~~

~~Date~~	~~Details of Prescription~~
~~18 January 2017~~	~~Nitrofurantoin 100mg four times daily (56 tablets)~~
~~1 February 2017~~	~~Nitrofurantoin 100mg twice daily (56 tablets)~~
~~24 February 2017~~	~~Nitrofurantoin 100mg~~
~~10 May 2017~~	~~Nitrofurantoin; cefuroxime (no dose noted)~~
~~24 July 2017~~	~~Co-amoxiclav (Augmentin) 625mg (21 tablets)~~
~~4 August 2017~~	~~Nitrofurantoin 100mg~~ ~~Augmentin (94)~~ Withdrawn following Rule 17(6) application

Schedule 7

Date	Details of Prescription
~~3 February 2017~~	~~Morphine sulphate oral solution 10mg/5ml, 5ml every 4 hours (500ml)~~

~~17 July 2017~~	~~Morphine sulphate oral solution 10mg/5ml, 5ml every 4 hours (500ml)~~ Withdrawn following Rule 17(6) application
15 August 2019	Butrans patches

Schedule 8

Date	Details of Prescription
14 May 2019	Midodrine 5mg, 2x three times daily
25 June 2019	Midodrine 5mg, 2x three times daily (100 tablets)

MPTS Medical Practitioners Tribunal Service

Record of Determinations
Medical Practitioners Tribunal
Review on Papers

PUBLIC RECORD

Date: 18/03/2022

Medical Practitioner's name: Dr Michael WETZLER

GMC reference number: 2495985

Primary medical qualification: MB BS 1979 University of London

Type of case	Outcome on impairment
Misconduct	Impaired

Summary of outcome
Conditions for 9 months

Tribunal/Legally Qualified Chair:

Legally Qualified Chair:	Ms Chitra Karve

Review on the Papers
This case was reviewed on the papers, with the agreement of both parties, by a Legally Qualified Chair.

Overarching Objective
Throughout the decision making process the chair has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

1. I have reviewed the background to Dr Michael Wetzler's case, which was first considered by a medical practitioners tribunal in November 2021. The Tribunal found that between 2014 and 2019, Dr Wetzler had prescribed medication for a patient, including Diazepam and Midodrine without informing the patient's GP of these prescriptions, he had also failed to ascertain how much Diazepam this patient was already being prescribed. At times dosages were also found to have been incorrect. Dr Wetzler was also found to have issued prescriptions to the patient on the advice of a complementary health practitioner who wasn't a registered medical practitioner, without critically analysing their opinion. The

Tribunal determined that Dr Wetzler's fitness to practise was impaired by reason of his misconduct and imposed an order of conditions on his registration for 12 months and directed a review hearing. These conditions, in brief, required oversight of his clinical practice by a workplace reporter.

2. The conditions imposed required Dr Wetzler's Responsible Officer to provide a workplace reporter for Dr Wetzler. However, the Responsible Officer has reported that she is unable at this time to source a workplace report for Dr Wetzler. The conditions imposed on Dr Wetzler therefore are unworkable.

3. Considering this, a GMC Assistant Registrar decided on 24 February 2022 to refer Dr Wetzler's case to an Early Review ROP hearing to consider the current conditions. Under the circumstances Dr Wetzler has been unable to provide evidence to satisfy performance against the conditions previously imposed. He has therefore been unable to resume his private clinical practice since December 2021.

4. Dr Wetzler and the GMC have agreed that this review should be considered on the papers in accordance with Rule 21B of the General Medical Council (Fitness to Practise) Rules 2004. They have provided agreed terms of an order which I could make at this review.

5. I have considered all of the evidence presented to me, and the agreed submissions made by the GMC. In the submissions and accompanying agreement, Dr Wetzler and the GMC agree that Dr Wetzler's registration should be subject to a further period of conditions for 9 months. The conditions proposed are amended conditions from those imposed in November 2021.

6. I have taken into account that since the previous order was made the circumstances have not changed.

7. In reaching my decision, I have taken account of the Sanctions Guidance. I have borne in mind that the purpose of the sanction is not to be punitive, but to protect patients and the wider public interest, although it may have a punitive effect.

8. I have applied the principle of proportionality, weighing Dr Wetzler's own interests with the public interest. The public interest includes amongst other things, the protection of

patients, the maintenance of public confidence in the profession, and declaring and upholding of proper standards of conduct and behaviour.

9. I am satisfied that the proposed amended conditions would be proportionate and sufficient to protect the public and the public interest. I have therefore determined that Dr Wetzler's registration be made subject to the following conditions for a period of 9 months:

1 He must personally ensure the GMC is notified of the following information within seven calendar days of the date these conditions become effective:

a the details of his current post, including:

i his job title

ii his job location

iii his responsible officer (or their nominated deputy).

b the contact details of his employer and any contracting body, including his direct line manager

c any organisation where he has practising privileges and/or admitting rights

d any training programmes he is in

e of the organisation on whose medical performers list he is included

f of the contact details of any locum agency or out of hours service he is registered with.

2 He must personally ensure the GMC is notified:

a of any post he accepts, before starting it

b that all relevant people have been notified of his conditions, in accordance with condition 8

c if any formal disciplinary proceedings against him are started by his employer and/or contracting body, within seven calendar days of being formally notified of such proceedings

d if any of his posts, practising privileges or admitting rights have been suspended or terminated by his employer before the agreed date within seven calendar days of being notified of the termination

e if he applies for a post outside the UK

3 He must allow the GMC to exchange information with any person involved in monitoring his compliance with his conditions.

4 a He must have a workplace reporter for all NHS posts appointed by his responsible officer (or their nominated deputy).

b he must not work until:

i his responsible officer (or their nominated deputy) has appointed his workplace reporter

ii he has personally ensured that the GMC has been notified of the name and contact details of his workplace reporter.

5 a He must have a workplace reporter for all non-NHS posts approved by the GMC.

b he must not work in a non-NHS post until the GMC has approved his workplace reporter.

6 a He must design a personal development plan (PDP), with specific aims to address the deficiencies in the following areas of his practice:

- safe prescribing
- Sharing information with colleagues involved in a patient's care

b his PDP must be approved by an individual approved by the GMC

c he must provide the GMC a copy of his approved PDP within three months of these substantive conditions becoming effective.

d he must provide the GMC a copy of his approved PDP on request

e he must meet with his responsible officer (or their nominated deputy), as required, to discuss his achievements against the aims of his PDP.

7 a He must keep a log detailing every case where he has prescribed a controlled drug, or any other medicines where additional safeguards are needed:

i explaining the rationale for the prescription.

ii confirming he has either informed the patient's NHS GP or otherwise explaining the rationale for not having done so.

b He must give the GMC a copy of this log on request.

8 He must personally ensure the following persons are notified of the conditions listed at 1 to 7:

a his responsible officer (or their nominated deputy)

b the responsible officer of the following organisations:

i his place(s) of work, and any prospective place of work (at the time of application)

ii all his contracting bodies and any prospective contracting body (prior to entering a contract)

iii any organisation where he has, or has applied for, practising privileges and/or admitting rights (at the time of application)

iv any locum agency or out of hours service he is registered with

v If any of the organisations listed at (i to iv) does not have a responsible officer, he must notify the person with responsibility for overall clinical governance within that organisation. If he is unable to identify this person, he must contact the GMC for advice before working for that organisation

c the responsible officer for the medical performers list on which he is included or seeking inclusion (at the time of application)

d his immediate line manager and senior clinician (where there is one) at his place of work, at least 24 hours before starting work (for current and new posts, including locum posts).

10. In reaching this decision, I accept that the conditions previously imposed were not workable because of the lack of a reporting officer, and that therefore Dr Wetzler would not be able to evidence to any future review panel compliance of these conditions in order for them to consider whether his fitness to practise continues to be impaired. The GMC has considered an alternative set of conditions that I consider to be proportionate and workable and have been agreed by Dr Wetzler.

11. The effect of this direction is that, unless Dr Wetzler exercises his right of appeal, the conditions will take effect 28 days from when written notice of this determination has been served upon him. The current order of conditions will remain in place until the appeal period

has ended, or in the event that he does appeal, that appeal is decided. A note explaining Dr Wetzler's right of appeal will be provided to him.

12. Notification of this decision will be served on Dr Wetzler in accordance with the Medical Act 1983, as amended.

MPTS Medical Practitioners Tribunal Service

Record of Determinations
Medical Practitioners Tribunal
Review on Papers

PUBLIC RECORD

Date: 22/11/2022

Medical Practitioner's name: Dr Michael WETZLER

GMC reference number:	2495985
Primary medical qualification:	MB BS 1979 University of London

Type of case	**Outcome on impairment**
Misconduct	Impaired

Summary of outcome
Conditions for 9 months

Tribunal/Legally Qualified Chair:

Legally Qualified Chair:	Mr Damian Cooper

Review on the Papers

This case was reviewed on the papers, with the agreement of both parties, by a Legally Qualified Chair.

Overarching Objective
Throughout the decision making process the chair has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination

1. I have reviewed the background to Dr Wetzler's case, which was first considered by a medical practitioners tribunal in November 2021 (the '2021 Tribunal'). The 2021 Tribunal found that between 2014 and 2019, Dr Wetzler had prescribed medication (including controlled drugs) for a patient without informing the patient's GP and without first

ascertaining how much of such medication the patient was already being prescribed. In addition, Dr Wetzler had prescribed medication at unlicensed dosage, and issued prescriptions to the patient on the advice of a complementary health practitioner, who was not a registered medical practitioner, without critically analysing their opinion.

2. The 2021 Tribunal determined that Dr Wetzler's fitness to practise was impaired by reason of his misconduct and imposed an order of conditions on his registration for a period of 12 months. It also directed a review hearing.

3. The conditions imposed required Dr Wetzler's Responsible Officer ('RO') to provide a workplace reporter for Dr Wetzler. As a result of the RO having been unable to source a workplace reporter, and following consideration by a GMC Assistant Registrar, an Early Review on the Papers ('ROP') was arranged. The ROP was conducted by a Legally Qualified Chair ('LQC') on 18 March 2022, before which the parties submitted proposed revised conditions for consideration by the LQC.

4. The conditions to which Dr Wetzler's registration was subject were varied at the ROP. These included a variation that permitted Dr Wetzler's workplace reporter to be approved by the GMC in relation to non-NHS posts.

5. In order to provide assistance at the review it had directed, the 2021 Tribunal recommended that Dr Wetzler provide:

- *'a further written reflective statement addressing his misconduct, the potential risks it created for patient safety, and its impact upon public confidence in the medical profession;'* and
- *'any other evidence that Dr Wetzler considers will assist the Tribunal reviewing his case. (In this regard, the Tribunal invites him to consider paragraph 40 of its facts and impairment determination.)'*.

6. Dr Wetzler and the GMC have agreed that this review should be considered on the papers in accordance with Rule 21B of the General Medical Council (Fitness to Practise) Rules 2004. They have provided agreed terms of an order which I could make at this review.

7. I have considered all of the evidence presented to me, including the witness statement (and exhibits) provided by Dr Wetzler (dated 11 November 2022) and the witness statement of Dr A (14 November 2022). Dr A is Dr Wetzler's appointed workplace reporter and I note that she anticipates also taking responsibility for Dr Wetzler's clinical supervision in the near future.

8. In the agreement made between them, Dr Wetzler and the GMC agree that '*the order of conditions currently imposed on* [Dr Wetzler's] *registration shall be extended for a further period of 9 months from the date on which it would otherwise expire*'.

9. I have taken into account that since the previous order was reviewed (at the ROP) Dr Wetzler has had limited opportunity to work in clinical practice, which has in turn adversely impacted his ability to be able to demonstrate his remediation of his previous failings. In his witness statement, Dr Wetzler explained that, since the 2021 Tribunal, '*I have only been able to work for three months and so have not demonstrated my learning sufficiently.*'

10. In reaching my decision, I have taken account of the Sanctions Guidance. I have borne in mind that the purpose of the sanction is not to be punitive, but to protect patients and the wider public interest, although it may have a punitive effect.

11. I have applied the principle of proportionality, weighing Dr Wetzler's own interests with the public interest. The public interest includes amongst other things, the protection of patients, the maintenance of public confidence in the profession, and declaring and upholding of proper standards of conduct and behaviour.

12. I am satisfied that the proposed extension of the existing conditions would be proportionate and sufficient to protect the public and the public interest. I have therefore determined that Dr Wetzler's registration shall be subject to the following conditions for a period of 9 months from the date on which order of conditions currently in place would otherwise expire:

1. He must personally ensure the GMC is notified of the following information within seven calendar days of the date these conditions become effective:

a. the details of his current post, including:

i. his job title

ii. his job location

iii. his responsible office (or their nominated deputy).

b. the contact details of his employer and any contracting body, including his direct line manager

c. any organisation where he has practising privileges and/or admitting rights

d. any training programmes he is in

e. of the organisation on whose medical performers list he is included

f. of the contact details of any locum agency or out of hours service he is registered with.

2. He must personally ensure the GMC is notified:

a. of any post he accepts, before starting it

b. that all relevant people have been notified of his conditions, in accordance with condition 8

c. if any formal disciplinary proceedings against him are started by his employer and/or contracting body, within seven calendar days of being formally notified of such proceedings

d. if any of his posts, practising privileges or admitting rights have been suspended or terminated by his employer before the agreed date within seven calendar days of being notified of the termination

e. if he applies for a post outside the UK.

3. He must allow the GMC to exchange information with any person involved in monitoring his compliance with his conditions.

4. a. He must have a workplace reporter for all NHS posts appointed by his responsible officer (or their nominated deputy).

b. he must not work until:

i. his responsible officer (or their nominated deputy) has appointed his workplace reporter

ii. he has personally ensured that the GMC has been notified of the name and contact details of his workplace reporter.

4. a. He must have a workplace reporter for all non-NHS posts approved by the GMC.

b. he must not work in a non-NHS post until the GMC has approved his workplace reporter.

5. a. He must design a personal development plan (PDP), with specific aims to address the deficiencies in the following areas of his practice:

- safe prescribing
- sharing information with colleagues involved in a patient's care

b. his PDP must be approved by an individual approved by the GMC

c. he must provide the GMC a copy of his approved PDP within three months of these substantive conditions becoming effective.

d. he must provide the GMC a copy of his approved PDP on request

e. he must meet with his responsible officer (or their nominated deputy), as required, to discuss his achievements against the aims of his PDP.

6. a. He must keep a log detailing every case where he has prescribed a controlled drug, or any other medicines where additional safeguards are needed:

i. explaining the rationale for the prescription.

ii. confirming he has either informed the patient's NHS GP or otherwise explaining the rationale for not having done so.

b. He must give the GMC a copy of this log on request.

7. He must personally ensure the following persons are notified of the conditions listed at 1 to 7:

a. his responsible officer (or their nominated deputy)

b. the responsible officer of the following organisations:

i. his place(s) of work, and any prospective place of work (at the time of application)

ii. all his contracting bodies and any prospective contracting body (prior to entering into a contract)

iii. any organisation where he has, or has applied for, practising privileges and/or admitting rights (at the time of application)

iv. any locum agency or out of hours service he is registered with

v. If any of the organisations listed at (i to iv) does not have a responsible officer, he must notify the person with responsibility for overall clinical governance within that organisation. If he is unable to identify this person, he must contact the GMC for advice before working for that organisation

c. the responsible officer for the medical performers list on which he is included or seeking inclusion (at the time of application)

d. his immediate line manager and senior clinician (where there is one) at his place of work, at least 24 hours before starting work (for current and new posts, including locum posts).

13. In reaching this decision, I accept that since the date of the ROP Dr Wetzler has had limited opportunity for clinical work, amounting only to the equivalent of three months' medical practice since the date of the 2021 Tribunal. This has had an adverse impact on his ability to demonstrate his learning and his remediation of his previous failings.

14. I am aware that since the ROP Dr Wetzler's workplace reporter (Dr A) has been appointed. Notwithstanding his limited time in clinical practice since the 2021 Tribunal, Dr A has expressed her satisfaction with the progress Dr Wetzler has made in his learning and remediation. I note the content of both the reports I have seen from Dr A in her capacity as workplace reporter, and also her witness statement.

15. The PDP Dr Wetzler has prepared with Dr A had been designed specifically to address the failings previously identified, but I note it also builds on the specific failings. The CPD for which Dr Wetzler has submitted evidence also covers the failings previously identified but, again, is not limited those. It is also clear to me from the evidence I have seen that Dr Wetzler is maintaining the log of controlled-drug prescribing required by his conditions.

16. In relation to Dr Wetzler's compliance with his current conditions, I merely note that I am aware of the incident that Dr Wetzler drew to the attention of the GMC himself, on which the GMC took no further action, and I make no further reference to it. I am content that Dr A is satisfied that Dr Wetzler is complying with the conditions to which he is currently subject. I have seen no evidence to suggest otherwise or to suggest that Dr Wetzler will not continue to comply with the conditions on his registration. I note that Dr A has also said in her witness statement that she is satisfied that Dr Wetzler is doing his utmost to show that he is working to ensure confidence in his clinical practise.

17. For these reasons I am satisfied that the current conditions remain appropriate and proportionate and that their extension, as I have determined, will afford Dr Wetzler the opportunity to continue his clinical work for a sufficient period to allow him to demonstrate his learning and the remediation of his previous failings.

18. The effect of this direction is that, unless Dr Wetzler exercise his right of appeal, the conditions will take effect 28 days from when written notice of this determination has been served upon him. The current order of conditions will remain in place until the appeal period has ended, or in the event that he does appeal, that appeal is decided. A note explaining Dr Wetzler's right of appeal will be provided to him.

19. Notification of this decision will be served on Dr Wetzler in accordance with the Medical Act 1983, as amended.

PUBLIC RECORD

Dates: 29/09/2023

Medical Practitioner's name:	Dr Michael WETZLER
GMC reference number:	2495985
Primary medical qualification:	MB BS 1979 University of London

Type of case

Review - Misconduct

Outcome on impairment

Not Impaired

Summary of outcome

Conditions revoked

Tribunal:

Legally Qualified Chair	Mr Nathan Moxon
Lay Tribunal Member:	Mrs Sue Wadham
Medical Tribunal Member:	Dr Marianne Kennedy

Tribunal Clerk:	Mr John Poole

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Chris Gillespie, Counsel, instructed by DWF Law
GMC Representative:	Mr Neil Shand, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

Overarching Objective

Throughout the decision making process the Tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Impairment - 29/09/2023

1. At this review hearing the Tribunal has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Wetzler's fitness to practise is impaired by reason of misconduct.

Background

2. Dr Wetzler qualified as a doctor in 1979 from the University of London and has been practising as a GP since 1984. At the time of the events which formed the Allegation considered by a Medical Practitioners Tribunal in November 2021 (the '2021 Tribunal'), Dr Wetzler was practising as a private GP at the Hill Medical Centre, London.

3. The 2021 Tribunal found that between 2014 and 2019, Dr Wetzler had prescribed medication (including controlled drugs) for a patient without informing the patient's GP and without first ascertaining how much of the medication the patient was already being prescribed. In addition, it found that Dr Wetzler had prescribed medication at unlicensed dosage, and issued prescriptions to the patient on the advice of a complementary health practitioner who was not a registered medical practitioner, and without critically analysing their opinion.

4. The 2021 Tribunal determined that Dr Wetzler's fitness to practise was impaired by reason of his misconduct and imposed an order of conditions on his registration for a period of 12 months. The conditions imposed required Dr Wetzler's Responsible Officer ('RO') to provide a workplace reporter for Dr Wetzler, however, following the 2021 Tribunal, Dr Wetzler's RO had been unable to source a workplace reporter for Dr Wetzler, and so an Early Review on the Papers ('ROP') was arranged. The ROP was conducted by a Legally Qualified Chair ('LQC') on 18 March 2022. Proposed revised conditions were provided to the LQC by

the parties, and the LQC determined to vary the conditions which included a variation permitting Dr Wetzler's workplace reporter to be approved by the GMC in relation to non-NHS posts.

5. A further ROP took place 22 November 2022. In the run up to this, Dr Wetzler and the GMC agreed that the order of conditions remained appropriate and workable and should be extended by a period of 9 months. The LQC considered that Dr Wetzler had had limited opportunity for clinical work, amounting only to the equivalent of three months' medical practice since the date of the 2021 Tribunal, and that this had adversely impacted on Dr Wetzler's ability to demonstrate remediation of his previous failings. The LQC was satisfied that the conditions remained appropriate and proportionate and determined to extend the conditions for a period of nine months. The LQC considered that would afford Dr Wetzler the opportunity to continue his clinical work for a sufficient period to allow him to demonstrate his learning and the remediation of his previous failings.

The Evidence

6. The Tribunal has taken into account all the evidence received, both oral and documentary.

7. Dr Wetzler provided his own witness statement and gave oral evidence to the Tribunal. In his oral evidence he stated that he was planning to retire in the near future and to advertise his private practice for sale, hopefully after a positive outcome from this hearing. He stated he refers any patients with drug addiction issues to a specialist and that his awareness of the risk of drug addiction following prescriptions for other issues is now 'rooted into his being'.

8. The Tribunal had regard to the record of determinations from the 2021 Tribunal and the ROPs in March and November 2022. The Tribunal also had regard to all the further documentation provided. This included but was not limited to:

- Various workplace reports from Dr A, dated 27 November 2022, 3 April 2023 and 22 August 2023;
- A workplace report and letter from Dr B, dated 10 March 2023;
- Educational Supervisor reports from Dr C, dated 20 April, 11 May, 1 June and 15 June 2023;
- A Clinical Supervisor's report from Dr A, dated 30 August 2023;

- Dr Wetzler's logbook detailing cases where he has prescribed controlled drugs;
- Dr Wetzler's approved Professional Development Plan;
- Dr Wetzler's Witness statements;
- A witness statement from Dr B, dated 14 November 2023;
- Various Continuing Professional Development Certificates;
- A letter from NHS England to Dr Wetzler regarding the conditions placed upon his inclusion on the Performers List, dated 9 January 2023.

Submissions

GMC submissions

9. On behalf of the GMC, Mr Neil Shand, Counsel, submitted that there has been a significant amount of information provided by Dr Wetzler which highlights that significant progress has been made. He submitted that the material paints a positive picture, and that the GMC was, therefore, neutral in relation to impairment.

10. Mr Shand submitted that if the Tribunal considers that Dr Wetzler is no longer impaired, the current conditions on Dr Wetzler's registration should be revoked bearing in mind that they were imposed not as a punishment but out of necessity for patient care.

Submissions on behalf of Dr Wetzler

11. On behalf of Dr Wetzler, Mr Gillespie submitted that Dr Wetzler's fitness to practise is no longer impaired.

12. Mr Gillespie submitted that Dr Wetzler has done precisely what has been required by the original Tribunal and that the correct, proportionate and appropriate response today would be to revoke the order with immediate effect.

13. Mr Gillespie submitted that it was clear from Dr Wetzler's witness statements that he has taken these matters incredibly seriously and has made significant changes in his practice. He submitted that the fact that Dr Wetzler no longer deals with patients who have drug problems, and the fact that he is very attuned to spotting those patients and has the means and methods to divert those patients away from himself, are all incredibly positive developments. Mr Gillespie submitted that Dr Wetzler has not only reflected on the matters but has embedded changes in his practice.

14. Mr Gillespie carefully took the Tribunal through the reports from Dr Wetzler's clinical and educational supervisors. For example, he highlighted Dr B's opinion in his witness statement that:

> *'In my view Dr Wetzler has done all that he possibly can to remediate his practice in respect of the concerns raised by the GMC, in particular note taking, prescribing, communication with colleagues, and maintaining public confidence in the medical profession. As such, I do not consider that his fitness to practise is currently impaired…'*

15. Mr Gillespie submitted that the documentation in this case is voluminous and shows that Dr Wetzler has made measurable progress against the standards that were set by the original Tribunal and that he has achieved what was required of him.

16. Mr Gillespie submitted that no patients are at any sort of risk of harm from Dr Wetzler. He further submitted that the wider public interest has been satisfied by the conditions which have been place on Dr Wetzler's registration for effectively two years. He submitted that in this period Dr Wetzler has clearly taken on board the original criticisms of his practice and has worked extremely hard to remedy them and embed changes in his practise.

17. Accordingly, Mr Gillespie invited the Tribunal to find that Dr Wetzler's fitness to practise was no longer impaired by misconduct and that it would be appropriate to revoke the conditions.

The Relevant Legal Principles

18. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practise.

19. This Tribunal must determine whether Dr Wetzler's fitness to practise is impaired today, taking into account Dr Wetzler's conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

20. Throughout its deliberations the Tribunal had regard to the statutory overarching objective which is to protect, promote and maintain the health, safety and wellbeing of the public, to

promote and maintain public confidence in the medical profession and to promote and maintain proper professional standards and conduct for members of that profession.

The Tribunal's Determination on Impairment

21. The Tribunal considered whether Dr Wetzler's fitness to practise is currently impaired by reason of misconduct.

22. The Tribunal bore in mind that Dr Wetzler has fully complied with the conditions and that there has been no repetition of the misconduct.

23. The Tribunal was impressed by the significant evidence of insight and remediation provided. In particular, it noted Dr Wetzler's reflections in his witness statement, the positive progress reports from Dr B and Dr A, and the CPD courses undertaken by Dr Wetzler.

24. The Tribunal considered that Dr Wetzler's insight was sincere and meaningful and that his remediation has been targeted and addressed the concerns of the 2021 Tribunal. The Tribunal was satisfied that the risk of Dr Wetzler repeating similar misconduct in the future is very low.

25. The Tribunal determined that Dr Wetzler has addressed the original concerns and demonstrated that he is safe to return to unrestricted practise. The Tribunal considered that a finding of impairment was no longer necessary to uphold the overarching objective.

26. Accordingly, the Tribunal determined that Dr Wetzler's fitness to practise is no longer impaired by reason of misconduct.

27. As the Tribunal has found that Dr Wetzler's fitness to practise is no longer impaired, it determined to revoke the current order of conditions with immediate effect.

28. That concludes that case.