

**ROYAL PHARMACEUTICAL SOCIETY OF GREAT BRITAIN**

**DISCIPLINARY COMMITTEE**

**(SITTING AS THE STATUTORY COMMITTEE)**

**Friday, 19th March 2010**

**1 Lambeth High Street, London, SE1 7JN**

**Chairman: Mr John Burrows**

**Committee Members: Mrs Judith Way  
Mr Edward Mallinson**

**Committee Secretary: Ms Gracie Edevbie**

**CASE OF:**

**LOTAY, Balwinder (68786)**

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**MS ELEANOR GREY**, of counsel, instructed by Penningtons Solicitors, appeared on behalf of the Society.

**MS ORLA SHIELDS**, of PDA, appeared on behalf of Ms Lotay, who was present.

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**HEARING IN PUBLIC**

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

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A

(At 09.45 the hearing opened.)

(The Society's Professional Standards Inspector, Mr Andrew Peter Smith, was present.)

THE SECRETARY: Good morning. This Disciplinary Committee is here this morning to hear the Principal Review Hearing against Ms Balwinder Lotay.

B

THE CHAIRMAN: Yes. Good morning. I think we have some new faces, so we will just do some brief introductions. Of course this is the hearing that was adjourned, I think, from the 30th of September, and we have an undertaking, don't we, which I think was signed on the 12th of October.

C

Right, well, brief introductions. My name is John Burrow; I am the legally qualified Chair. On my left is Edward Mallinson who is a professional member; on my right is Judith Way who is a lay member. And Ms Grey, good morning to you again, and it is Ms Shiels, is that right?

MS SHIELS: Yes sir, that's right.

THE CHAIRMAN: Good morning to you, madam. Ms Lotay, good morning to you.

D

MS LOTAY: Good morning.

THE CHAIRMAN: Right. Okay. So, I think we start with you, Ms Grey, then.

E

MS GREY: Thank you, sir. Sir, I am very happy to assist the Committee with any reminder that they might need of the facts of this case, but I would imagine, unless I am told otherwise, that you have had the opportunity to refresh your memories, if it was needed, of the circumstances of the case, your findings on the facts, and of course you have already referred to the undertaking that was given by Ms Lotay when you decided to postpone or adjourn the determination on the sanction.

F

So, pursuant to that, of course Ms Lotay has continued to work, and you will hear, I think, from her representative, as to how her work might have been affected over the last few months. But the Society's Inspector, Mr Smith, has been able to carry out in fact three visits to premises at which she was employed as a self-employed locum contractor, I think.

THE CHAIRMAN: Yes.

G

MS GREY: And that really is the main evidence or facts that the Society would wish to put before you for today's purposes. Sir, you had, I think, rather late in the day, for which I apologise, the opportunity to read that report in advance, and Mr Smith is here. I am very much in your hands as to what procedure you would like to adopt. I think your usual practice might be to require the report effectively to be read into the record by inviting Mr Smith to read it out, and then of course take any questions that arose out of it. But if you think any other practice should be adopted I am very much in your hands.

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A THE CHAIRMAN: No, I think that sounds an entirely appropriate course if my colleagues agree. Mr Smith, forgive me for not introducing you, I do apologise. But thank you very much for coming, and thank you very much for your report. So, I think it would be entirely appropriate if that was read into the record. Ms Shiels, is that acceptable to you?

B MS SHIELS: Yes it is, sir, thank you.

MS GREY: Thank you. Mr Smith, could you just start by – I don't think we need you to give your name to the Committee, you are obviously Mr Smith. But could you just help the Committee as to your role and position with the Society before you read through your report, please?

C MR SMITH: Yes, of course. I am a Professional Standards Inspector. I am employed, like any other inspector, to undertake routine visits, investigate complaints and allegations made against pharmacists and registered pharmacy technicians. But I also have a role in monitoring conditions or undertakings given by registrants as a result of a disciplinary hearing.

D MS GREY: And as a result of that role, or those two roles, you visited, I think, on three occasions, premises at which Ms Lotay was employed, and you prepared a report for the assistance of this Committee, is that right?

MR SMITH: That's correct.

MS GREY: Could you just read through that, please?

E MR SMITH: Of course. "On the 9th of November 2009 I visited Jardines Pharmacy, The Bull Ring, Market Hill, Buckingham, MX18 1JX" - which I refer to as Jardines Pharmacy. "During the visit, which lasted approximately one hour, [I] found that the pharmacy was operating with two counter assistants. The pharmacy's dispenser who normally works in the pharmacy between 9.30am and 3pm was not due to arrive until 1pm due to a private appointment. Therefore Mrs Lotay was working alone in the dispensary.

F Mrs Lotay had made the necessary entry in the pharmacy record to show that she was the responsible pharmacist in charge of the pharmacy on that day. This record was maintained electronically. The pharmacy record was marked to indicate that Mrs Lotay had read and accepted the pharmacy's standard operating procedures.....a notice was.....displayed, as required by the responsible pharmacist requirements, to show that Mrs Lotay was the responsible pharmacist.

G The pharmacy had SOPs in place. However they had not been signed by Mrs Lotay to show that she had read and accepted them. This contradicted the annotation in the pharmacy record which indicated that Mrs Lotay had read and accepted the pharmacy's SOPs. The Inspector advised Mrs Lotay to read all the SOPs and [to] ensure [that] she signed and dated them, if she accepted them. Mrs Lotay accepted this advice.

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A Mrs Lotay was unable to locate the pharmacy's near miss and error logs when requested to produce these by the Inspector. Mrs Lotay stated that there had been no near misses when she had worked in the pharmacy and no dispensing errors that she was aware of at that time and therefore she had not needed to locate these documents.

B The Inspector located the template for recording near misses and errors by referring to the pharmacy's SOPs. The Inspector highlighted this as an example of why it is important that the pharmacist reads and accepts the procedures of the pharmacy.

C The Inspector also advised that Mrs Lotay [should] consider keeping her own personal record of near misses and errors, in addition to recording such incidents in line with the pharmacy's procedures, so that she may be able to identify any learning points for her own practice. In doing so Mrs Lotay was advised to ensure that she respected patient confidentiality.

The dispensary process adopted by Mrs Lotay allowed for a mental break between the assembly of a medicine against a prescription and the accuracy check.

D The process observed by the Inspector included:

[A] Professional check of the prescription [a] legal and clinical check [that is];

Generating the dispensing label;

E Picking the items" – and that was against the prescription and not the label;

"Assembly of the medicines" – that includes counting the tablets, etc., and attaching the dispensing label to the box; and

F "[An] accuracy check (a mental break was created by working on another prescription or undertaking another brief task before checking the assembled items).

Mrs Lotay used baskets to keep items together with the prescription during the dispensing process. Mrs Lotay fully understood the importance of using baskets to reduce the risk of errors.

G Mrs Lotay used the dispense by/check by boxes on the dispensing label to show that she had assembled and checked the dispensed medicines.

Ms Sue Cammas, one of the pharmacy's counter assistants, told the Inspector that she was not aware of any errors or problems associated with Mrs Lotay's practice when she worked at Jardines Pharmacy. Ms Cammas stated that Mrs Lotay interacts well with patients and appears very calm and in control.

H

A On the 21st of December 2009, the Inspector visited Jardines Pharmacy. During the visit, which [again] lasted approximately one hour, the Inspector found that:

Mrs Lotay had made the necessary entry in the pharmacy record to show that she was the responsible pharmacist in charge of the pharmacy on that day. A notice was also displayed, as required by the responsible pharmacist requirements, to show that she was the responsible pharmacist.

B The pharmacy was operating with two counter assistants. The pharmacy's dispenser was off sick. Mrs Lotay had spoken [to] head office and requested help in the dispensary as the pharmacy was busy [on that day] in the run up to Christmas. A dispenser from another branch arrived at Jardines Pharmacy during the Inspector's visit.

C Mrs Lotay had implemented the advice given by the Inspector on the 9th of November 2009 and had read and signed all of the pharmacy's SOPs.

D Mrs Lotay had also ensured that a log to record all near misses and errors was easily available in the pharmacy. This showed that there had been one near miss involving Mrs Lotay whereby on 20th November 2009 Mrs Lotay [had] selected Lipitor 40 mg tablets instead of Lipitor 20mg tablets when dispensing a prescription. The record shows that Mrs Lotay noticed the picking error when labelling the medicine and therefore this did not reach the patient. As a result of the incident Mrs Lotay separated the different strengths of Lipitor on the dispensary shelves to reduce the risk of the same picking error occurring in the future.

E Mrs Lotay's method of dispensing remained the same as on the 9th November 2009 and included the use of baskets to keep items together with the prescription during the dispensing process.

F There were no concerns raised by other members of staff working in the pharmacy about Mrs Lotay's practice.

On 17th February 2010 the Inspector visited Frosts Pharmacy, Hardwick Shopping Centre, Ferriston, Banbury, OX 16 1XE" – hereafter referred to as 'Frosts Pharmacy' – "During the visit, which lasted approximately one hour, the Inspector found that:

G Mrs Lotay had made the necessary entry in the pharmacy record to show that she was the responsible pharmacist in charge of the pharmacy on that day. A notice was also displayed, as required by the responsible pharmacist requirements, to show that she was the responsible pharmacist.

H Mrs Lotay had read and signed the relevant standard operating procedures under which she was working.

A

The pharmacy was operating with one trained counter assistant and two dispensers who were both undergoing the relevant training.

B

Mrs Lotay was fully aware of how to report near misses and errors that occurred during the dispensing process so that the pharmacy team could learn from any errors to reduce the risks of those occurring again. However there had been no errors or near misses to report while Mrs Lotay was working in the pharmacy that she was aware of.

C

Mrs Lotay's method of dispensing remained the same as on the 9th November 2009 and 21st December 2009 and included the use of baskets to keep the items together with the prescription during the dispensing process.

D

The Inspector checked a sample of five prescriptions assembled under Mrs Lotay's supervision and checked by Mrs Lotay and which were awaiting collection. These were found to be in order and evidenced the use of dispensed by/checked by boxes, which provides an audit trail.

The dispensers working in the pharmacy (Ms Becky Williams and Ms Karen Pharazyn) both informed this Inspector that they had no concerns about Mrs Lotay's practice and commented that Mrs Lotay was very thorough in her approach to her work.

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On 9th and 10th of Marcy 2010 the Inspector spoke to Mr William Dodd [Registration Number] 66863. Mr Dodd is the Pharmacy Manager at Jardines Pharmacy. The Inspector contacted Mr Dodd in order to ascertain his impressions of Mrs Lotay's work. Mr Dodd informed the Inspector that he believed that Mrs Lotay's confidence had suffered as a result of this case. However, Mr Dodd stated that Mrs Lotay's attitude was good and that he would be happy if she continued to work as a locum pharmacist at Jardines Pharmacy.

F

Mr Dodd informed the Inspector that he was aware of two dispensing errors that had occurred when Mrs Lotay was in charge of Jardines Pharmacy in the past six months.

G

The first error occurred on the 28th September 2009 when a patient who was prescribed Subutex tablets as part of a substance misuse programme was supplied with more tablets than requested on the prescription. Mr Dodd thought that this error was due to misreading the prescription.

The second error occurred on the 14th December 2009 when a patient received a Salbutamol inhaler which was not prescribed for them. Mr Dodd said that he believed that the cause of this error was that the inhaler was not labelled in the correct patient's name due to prescriptions for different patients not being separated.

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In both cases Mr Dodd made a record of the errors in line with the pharmacy's SOPs. These records were maintained electronically and sent to the

A pharmacy's head office. Mr Dodd informed the Inspector that neither patient came to any harm as a result of the incidents.

B On 10th March 2010 the Inspector spoke to Mr Stuart Gale [Registration Number] 86101. Mr Gale is the Superintendent Pharmacist at Frosts Pharmacy. The Inspector contacted Mr Gale in order to ascertain his impressions of Mrs Lotay's work. Mr Gale informed the Inspector that he thought Mrs Lotay was very thorough in her approach to her work and that her knowledge seems to be up to date. Mr Gale also commented that Mrs Lotay proactively checked the controlled drugs register running balances when working in the pharmacy. Mr Gale stated that he was not aware of any errors that had occurred when Mrs Lotay was in charge of the pharmacy.

C Mrs Lotay cooperated fully during the visits of the Inspector and in the preparation of this report.”

MS GREY: Thank you very much, Mr Smith. Just one question, really: when the undertaking was provided by Ms Lotay in September of last year, or October, it was envisaged that up to six unannounced visits might be made by the Inspector. Is there any particular reason why in fact I think some three visits actually occurred?

D MR SMITH: I think the main reason is to try and – my intention was to try and visit Ms Lotay at as many different pharmacies as possible, and I think Ms Lotay had some difficulties obtaining work in some pharmacies, possibly as a result of this case, and therefore it was difficult with workload to ensure that I could get to her six times, but I did manage to visit her in a pharmacy on three occasions.

E MS GREY: Thank you very much. That is all the questions I have for Mr Smith.

THE CHAIRMAN: Thank you. Yes, Ms Shiels.

MS SHIELS: I don't have any questions, sir.

THE CHAIRMAN: Yes. I will just ask my colleagues.

F MR MALLINSON: Just one question, Mr Smith. On page 4 of your report, at item 6, you refer to an error that occurred on the 28th of September. That error pre-dates the signing of the undertaking. Is there any particular reason why you included that in the report?

G MR SMITH: The reason is that the report was factual, based on what I had been told by her employers, and Mr Dodd thought it was relevant when I was speaking to him, and he wanted the Committee to be aware of this because it was an error that he was aware of – that's the only reason.

MR MALLINSON: Fine. Thank you very much.

THE CHAIRMAN: Thank you very much. Mrs Way?

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A MRS WAY: Yes. Good morning, Mr Smith. I just wanted to follow up on Ms Grey's question about the number of visits, and I have noted your response. But I just wondered whether you got any impression about how much Mrs Lotay had managed to get employment during the six months since we last saw her.

B MR SMITH: I mean, that might be a question Ms Lotay might be able to answer better than myself. She seemed to have regular employment at Jardines Pharmacy. Mrs Lotay is very good at her compliance with the undertaking of sending through all the dates she was working. A number of the dates with Jardines were for two days a week, a few days at Frosts, and there may have been another pharmacy, the name of which escapes me, which I was unable to visit her. A lot of that comes down to, obviously, work pressures on our side; the dates when Ms Lotay might have employment may be dates that aren't possible for me to attend that pharmacy on that day. And that very much comes down to why there was three visits rather than the six.

C MRS WAY: Thank you. So there were more dates available than those that you have visited her on?

MR SMITH: Absolutely, yes.

D MRS WAY: Thank you very much.

THE CHAIRMAN: Thank you very much. I think that concludes our questions, Mr Smith. Thank you very much for coming to help us and for producing a very useful and comprehensive report.

MR SMITH: Thank you.

E THE CHAIRMAN: The Committee appreciates that. Thank you very much.

MS GREY: Sir, that is all the evidence, as it were, on behalf of the Society. I can address you very briefly on the subject of sanctions, perhaps at this stage, in advance of any contribution from Ms Lotay, but essentially you will be well aware already, and it is summarised of course in the Indicative Sanctions Guidance, of the powers that are available to you, sitting as you do still as the Statutory Committee.

F Essentially your powers are to direct that, firstly, the case should be adjourned again and that further terms should be imposed pending a final decision. That is a power that's available to you if you are concerned that further information still needs to be obtained; it is not one that on behalf of the Society I would positively urge upon you, given in particular the fact that this matter has now been hanging over Ms Lotay's head for some considerable period of time.

G If that option is rejected I am going to move up the sanctions in ascending order, as I think now is correct practice: you have the option of imposing a reprimand or admonition, and if those options are unsuitable you move next to removing the name of the pharmacist from the register.

H Sir, I don't propose to address you on which of those alternatives is the most suitable – that is a matter for this Committee's judgment. All I would say is that having regard to

A the evidence of Mr Smith you may look at both positive and negative evidence contained in it. There is a great deal of positive evidence, the Society acknowledges. Firstly, of course, Ms Lotay's own attitude in cooperating with these inspections, these visits; in cooperating also with recommendations made by Mr Smith, in so far as we can see that although there was a question mark about her adherence to reading and signing as being aware of standard operating procedures on the first visit, that deficiency had been remedied by the time Mr Smith inspected on the second occasion in respect of a different pharmacy.

B It is also right to say that he records good practice in her dispensing and checking procedures, both the procedures that he laid out at paragraph 1.8 of the report, and also the reference to the use of baskets and taking a mental break.

C Also on the positive side we can see that Ms Lotay's colleagues and those who employ her speak positively of her skills, her interaction with patients, and wish her to be able to continue employment with them.

D On the more negative side of things, you obviously have – and it is for you to evaluate their importance – firstly the issue of the adherence to standard operating procedures, or rather to procedures for being aware and being able to locate them – that's recorded at paragraph 1.4. Then you have got the evidence of the near miss at paragraph 2.4, although of course it is fully recognised that Ms Lotay herself noted and picked up on that, so that the near miss didn't reach the patient, and that she recorded it appropriately.

E Finally you have got the evidence from Mr William Dodd of her involvement in two dispensing errors whilst in charge in Jardines Pharmacy in the past six months. The first of those, as Mr Mallinson has already observed, obviously occurred prior to signing this undertaking; the second was thereafter, and I don't think that I could, on behalf of the Society, invite you to make any particular conclusions on error rates, given the limited information available as to how often Ms Lotay was working at that pharmacy or, as it were, standard error rates or comparisons with other pharmacists.

F If the Committee wanted further information to assess that on a slightly more scientific basis it is obvious that there would need to be further investigations, and I think you are well aware, from your previous investigation into the facts, the difficulty of coming into the territory of, as it were, standard error rates or comparative error rates from one pharmacist to another.

G Sir, those are all the things that I would highlight from Mr Smith's report, and it is a matter for you, in the exercise of your judgment, to determine the appropriate steps to be taken as a result. Of course, although I haven't referred to it expressly, in the light of all the findings that you have previously made on the nature of the thirteen prescribing errors that were found as facts previously, the fact that they amounted to misconduct, and the fact that you were able to find her fitness to practise was impaired as a result, even as at the present date when looking at this matter is September 2009. Sir, unless I can assist the Committee any further, those are the Society's submissions.

THE CHAIRMAN: Any questions?

H MR MALLINSON: No, thank you.

A MRS WAY: No, thank you.

THE CHAIRMAN: Ms Grey, thank you very much. We have no questions.

MS GREY: Thank you, sir.

B THE CHAIRMAN: Ms Shiels.

MS SHIELS: Thank you, sir. Sir, if I could just assist the Committee, I do understand from speaking with Ms Lotay that she has been working two days per week, it would appear to be a regular Monday and Saturday in Jardines Pharmacy – I do apologise, sir – Frosts, not Jardines Pharmacy.

C THE CHAIRMAN: So it is Frosts on Monday and Saturday, regularly two days a week, and I think Jardines is two days a week as well, is that right?

MS SHIELS: (Conferred with Ms Lotay – inaudible) Monday at Jardines, Saturday at Frosts.

THE CHAIRMAN: I see. Okay.

D MS SHIELS: Two days a week.

THE CHAIRMAN: So two days in total regularly.

MS SHIELS: Two days regularly.

E THE CHAIRMAN: And the odd one on top.

MS SHIELS: Yes sir. I understand she has a few bookings in place, but again it's not regular bookings.

THE CHAIRMAN: Yes.

F MS SHIELS: Sir, you should have in front of you submissions that have been prepared by Mr Edwards. Unfortunately he couldn't make it today, but he very kindly prepared some submissions, so I am going to be very much guided by those, if that's okay.

THE CHAIRMAN: Certainly, yes.

G MS SHIELS: We have already covered her presence here at the proceedings, and, just briefly, the Committee has provided Ms Lotay with an opportunity for her practise to be assessed by the random, unannounced visits from an Inspector, Mr Smith, . That was for a period of six months, but as we now know there have been three visits that were able to be carried out.

H Ms Lotay did find after the last hearing that the vast majority of her locum bookings had been cancelled by the main users of her services. That was very unfortunate for her, and despite her best efforts and the efforts of Mr Edwards as well at the time, it did prove impossible to dissuade employers or the principal contractors involved from their actions in suspending the use of her services, so understandably they are quite eager to hear the

A final determination of this case. That does appear to be the reason why there were only three visits in the last six months as opposed to the six visits that were planned.

Ms Grey has very kindly gone through the Indicative Sanctions Guidance, and I won't bother you with any further detail about that.

B If I could just start with the sanctions themselves, if I could just start with admonishment. I think I have to start by conceding the facts of the case and the number of dispensing errors made over a period of approximately 18 months, and as such an admonishment may be considered by the Committee to be too lenient and inappropriate in this case.

With regard to the next option of a reprimand, I would submit that this is the appropriate sanction in this case, at this very time, and there are a few reasons for that, if I am able to give you those and quickly take you through them.

C The events complained of are now between four and six years old, and whilst serious at the time are a matter of history in an otherwise long and unblemished career for Ms Lotay. No complaint has been made against Ms Lotay previously and there is nothing known about her from past fitness to practise proceedings.

D Apart from very vague suggestions during the course of the Inquiry, as I understand it, Ms Lotay may have made one, two or possibly three errors in the period between February 2006 and the start of the Inquiry in September 2008. There has not been any evidence of any continued making of errors.

E Even if correct, such an error rate would be below average, and I understand that that is according to evidence heard by the Committee in the course of the Inquiry, and I understand that there may be a document - and I do apologise for not having that to hand - but I do understand that there was evidence that was placed before the Committee earlier which detailed research showing that 250,000 errors were reportedly made by pharmacists, and the evidence of various witnesses who gave their opinion on error rates as being well over two to three a year.

F The report from Mr Smith's visits is entirely satisfactory; it is self-explanatory, and, save for minor failings relating to the signing of SOPs and knowledge of the whereabouts of the log at the first visit in November 2009, these matters were corrected, by the time of the next two visits, by Ms Lotay, and Mr Smith appears to have been entirely satisfied with her practise at that time.

G There do not appear to be any incidents detailed in the Inspector's report of any staff complaining about Ms Lotay's work; in fact it is the opposite. The staff reported Ms Lotay to be very calm and very thorough in her approach to her work, and no-one had anything negative to say about her practise.

H Mr Dodd mentioned in the Inspector's report - he is the Superintendent of Jardines Pharmacy - he said he would be happy to continue using Ms Lotay's services, and he also observed that the Inquiry had affected Ms Lotay's confidence, and I think I would suggest that it's hardly surprising, and that hopefully with time her confidence will improve once she can put all this behind her.

A Mr Gale, as detailed in the Inspector's report, is the Superintendent of Frosts Pharmacy, I think, said he thought Mrs Lotay was very thorough in her work again.

B Since the last hearing in this Inquiry there has only been one error attributed to Ms Lotay's practise, and I understand from the report that was an inhaler that was given to a patient when it had not been prescribed for that particular patient, and I understand that was on the 14th of December 2009. As detailed in the report, I understand it did not cause any harm to the patient.

C Mr Smith's report does state that on the day before the last hearing, on the 28th of September, and on a day on which Ms Lotay, who, as we have heard earlier today was easily distracted by worry, and I understand that was referred to earlier in the proceedings which I did not have any part in, she might well have been expected to be very nervous and apprehensive as to the events over the next two days, and the error was made with regard to the Subutex tablets dispensed to a patient. It is unclear at this stage whether this was a dispensing or a checking error by Ms Lotay, but we do understand that no harm was caused to the patient.

D Taking those two errors detailed above, plus the reports heard during the Inquiry, of perhaps one to three errors between February 2006 and September 2008, this gives a possible error rate of perhaps five to six errors in four years, and as I understand it that is a lot less than the average reported which I have already referred to.

In all the circumstances I would suggest that it is clear that the very unfortunate and troubled period in which there was a repeated making of errors by Ms Lotay in 2004 to 2006 is now firmly in the past.

E The public, which I suggest clearly now benefits again from Ms Lotay's thorough and dedicated practise, and from her experience of over thirty years as a practising pharmacist, would be deprived of that service if she was not now able to continue to provide it.

F It would be my submission that it would be appropriate at this time to issue a reprimand to Ms Lotay to mark the Committee's dissatisfaction with her previous misconduct, and to remind her of her duties as a professional to continue to take the utmost care in her practise in the future.

Ms Lotay's conduct was capable of being remedied, it has been remedied, and it is highly unlikely to be repeated to the extent.

G Moving on now to the direction for removal from the register, in all the circumstances I would have to submit that it is absolutely not necessary to remove Ms Lotay from the register. Both she and the public she now again serves very well would be the losers in this scenario, as, I would suggest, indeed would be the profession. In the past Inquiry Chairmen have often speculated as to what the average member of the public would think. I would submit that the average member of the public, knowing the full facts of this case and the state of Ms Lotay's current practise, would think that any direction at this time to erase Ms Lotay's name from the register would be quite wrong.

H

A Further, I would suggest that any average practising member of the profession would also find such a direction quite unbelievable.

Those are my submissions, sir.

B THE CHAIRMAN: Thank you very much. If there are no further submissions from either party we will retire to consider sanction.

We remind ourselves that the purpose of sanction is the protection of the public, the maintenance of public confidence in the profession, and the maintenance of proper standards of behaviour, and that the purpose of sanction is not to punish or further punish the registrant.

C We remind ourselves that any sanctions imposed must be proportionate and fair in all the circumstances of the case, and not impose any further restriction unless it is absolutely necessary to achieve the objective. We must have regard to the Society's Indicative Sanctions Guidance document. We will retire to consider our sanction now.

(At 10.22 the Committee went into camera to consider sanction.)

(At 11.27 the hearing re-opened.)

D

### SANCTION

E THE CHAIRMAN: We retired to consider sanction. We reminded ourselves that sanction was for three purposes: the protection of the public, the maintenance of public confidence in the profession, and maintenance of proper standards of behaviour. It was no purpose of sanction to punish or further punish the registrant. Any sanction we impose must be fair and proportionate in all the circumstances of the case, and we must impose no greater restriction than is absolutely necessary to achieve its objectives.

F We had regard to the Society's Indicative Sanctions Guidance and, in particular, regard to the heading "Aggravating Features." We found three such features. We accepted first of all the misconduct had been repeated over a long period of time, there being some thirteen dispensing errors over a period of 18 months. We further accepted that by reason of the dispensing errors there was potential injury to patients, albeit no actual injury had been caused. We further accepted Mrs Lotay was the pharmacist in charge when the errors were committed.

G We next had regard to the list of "Mitigating Features" set out in the Indicative Sanctions Guidance, and found none of the features contained in that list. In mitigation, however, we did have regard to the three character references submitted by Ms Lotay. Those references were from a Superintendent Pharmacist at one of the pharmacies where she had worked, and two Managers of pharmacies where she had worked. These people had known her between two to five years, and she was described as hard working, competent, and an asset to the profession; as being careful, diligent and experienced, and someone who took her profession seriously.

H We also had regard to the six months of monitored professional performance. Ms Lotay's sanction was considered by the Statutory Committee on the 30th of September, on the

A final day of the hearing, when it was decided to adjourn sanction determination for six months on Ms Lotay providing an undertaking to cooperate with unannounced visits by a Society Inspector to gather information on her practise. A report was to be produced by the Inspector which would be considered by the Committee at a review hearing of today's date.

B The report of Society Inspector Andrew Smith dated 17th March 2010 showed a number of very positive developments in Ms Lotay's professional practise. There were three visits to pharmacies rather than the six envisaged, due to difficulties in securing suitable dates.

There was just one error in the period since the undertaking had been signed, which had not caused actual harm to patients, which was in our view a significant improvement in her error rate, giving a strong indication to the Panel of safe practise.

C A further near-miss was detected by Ms Lotay, who had taken the appropriate remedial action in respect of it.

The Inspector observed Ms Lotay's dispensing processes and commented on her use of baskets to keep items and prescriptions together, the use of mental breaks between assembly of medicines and the accuracy check, and the full use of 'Dispensed by/Checked by' boxes on the label.

D The comments by staff and managers who had worked with Ms Lotay were positive. She was described as calm and in control, interacting well with patients, very thorough in her approach to work, with a good attitude and with up to date knowledge. A manager said he would be very happy to continue employing her.

E We noted that after the first visit the Inspector had given Ms Lotay advice on reading and signing standard operating procedures, advice which she demonstrated she had accepted and implemented in later visits.

We accepted overall that Ms Lotay had shown a significant improvement to her working practises. We accepted she had demonstrated sufficient insight into her practises and could now practise safely without risk to the public.

F In these circumstances and for these reasons we accepted the correct, fair and proportionate sanction was a reprimand, a sanction which we impose. That is our ruling.

MS GREY: Thank you, sir. I have no further matters to raise with the Committee in the light of that finding.

G THE CHAIRMAN: Thank you very much.

MS SHIELS: I also don't have anything further either, sir.

H THE CHAIRMAN: Right, well, thank you very much. We would like to thank both advocates for all their help in this case. We would, I think, just like to state that we hope that Mr Edwards recovers; we understand he has been ill. And I think we would like to say that a little bit of history has passed with this case, because I think this is the last case

A now under the old Rules; so as I say, we have had that bit of history today. Thank you, Ms Lotay; we wish you well in the future.

MS LOTAY: Thank you.

MS GREY: Thank you, sir.

B MS SHIEL: Thank you.

(At 11.32 the hearing ended.)

C L SOWREY  
Shorthand Writer  
For TA REED & Co Ltd  
19th March 2010

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