

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

MS ALINA GRECKO MRCVS

DECISION ON FACTS

1. Mrs Grecko is a Registered Veterinary Surgeon who qualified in 2006 in Lithuania and was first registered with the Royal College of Veterinary Surgeons (“the College”) in May 2006.

The Allegation

2. The formal charges against Mrs Grecko are as follows:

THAT, being registered in the Register of Veterinary Surgeons and whilst in practice at Vets4Pets Rhyl, Clwyd Retail Park, LL18 2TJ (“the practice”), you:

1. *On or about 19 January 2022:*

- a. caused and/or allowed your colleague TLW RVN to place an order from the practice for griseofulvin, a prescription only medicine, when that griseofulvin was intended for human use rather than legitimate veterinary use;*

- b. caused and/or allowed your colleague BE SVN to record the said griseofulvin on the*

Practice Management System:

- (i) in the name of your colleague TC MRCVS, when TC had not been involved in the order or prescription of griseofulvin; and/or*

- (ii) in clinical records for your dog, when the said griseofulvin was not for your dog;*

2. *Your conduct in relation to 1(a) and/or 1(b) above was:*

- a. dishonest; and/or*

- b. misleading;*

AND that in relation to the matters set out above, whether individually or in any combination, you are

guilty of disgraceful conduct in a professional respect.

3. Mrs Grecko was employed as a veterinary surgeon at Vets4Pets, in Rhyl, Wales, (“the Practice”) having been first engaged on 1 November 2021. It was alleged that, on or about 19 January 2022, Mrs Grecko had asked a veterinary nurse to order on her behalf an anti-fungal medication, Griseofulvin, which Mrs Grecko knew was for her husband’s use. It was alleged that Mrs Grecko had caused or allowed the student nurse to enter the order in the clinical records for Mrs Grecko’s dog and had caused or allowed the order to be recorded in the name of the Head Veterinary Surgeon, even though that person had not been involved in the order. It was further alleged that this had been dishonest and/or misleading conduct.

The Charges

4. At the start of the hearing, the charges having been read, Mrs Grecko admitted the following particulars of the Allegation:

1(a), 1(b)(ii), 2(a) in respect of 1(a) and only 1(b)(ii), 2(b) in respect of 1(a) and only 1(b)(ii).

In accordance with Rule 23(5) of the College’s Disciplinary Committee (Procedure and Evidence) Rules 2004 (“the Rules”), as amended, the Committee accepted Mrs Grecko’s admissions and dispensed with further proof of those facts admitted.

5. Mrs Grecko also admitted that the facts to which she had made admissions amounted to disgraceful conduct in a professional respect. The Committee noted Mrs Grecko’s admissions but was mindful that this was a matter for its own determination in due course.

Preliminary Matters

6. The Committee considered an application by the College to introduce into evidence a previous determination against Mrs Grecko in relation to her conduct. Ms Curtis submitted that the determination had relevance as evidence in the current case. She said that the facts of the previous misconduct had probative value. Although there would be some prejudicial effect, this was outweighed by the probative value.
7. Ms Curtis submitted that the probative value lay in the underlying facts which included that the previous determination concerned a finding of dishonesty in relation to the obtaining of prescription only medicines. There was some evidence of motive

and potentially propensity. Ms Curtis submitted that, as Mrs Grecko had admitted some of the facts in this case and dishonesty in relation to those facts, the prejudicial effect of admission was lessened.

8. Mrs Grecko opposed the application, on the basis that it was not in issue that she had ordered the medications for her own use and she had been open with her employer's staff about this. Therefore, she submitted that there was no relevance to the previous decision.
9. The Legal Assessor advised the Committee that it had broad powers under the Rules to admit evidence that it considered to be relevant. However, that was subject to an overriding obligation of fairness. He advised that fairness meant being fair to Mrs Grecko as a prime consideration but also being fair to the College, which represented the interests of the public.
10. The Committee considered that the previous determination relating to dishonest misconduct in ordering medication was relevant to this case. Further, Mrs Grecko having made admissions to a number of the allegations and in addition the associated dishonest and misleading behaviour, the remaining factual issues to be determined were narrow.
11. The Committee agreed that the information concerning the previous matters did have potential probative value, in relation to explaining the other evidence, in particular the evidence of Dr TC as to his interactions with Mrs Grecko and the reasoning of Mrs Grecko, as illustrated in her response to the College.
12. The Committee was confident that it could make a decision on the facts and minimise the risk of being influenced by the existence of a previous finding. The Committee decided to admit the previous determination as evidence, and also unredact references to it in the witness statements.
13. The Committee was asked to determine a further application from the College, for witness Ms TLW to give evidence from Greece. The College drew the attention of the Committee to the requirements of the Practice Direction issued under Part 32 of the Civil Procedure Rules 1998 (as amended) ("CPR") relating to witnesses giving evidence from abroad. It was submitted that, whilst the Committee was not strictly bound by the CPR, the issues which gave rise to the application merited consideration.

14. Ms Curtis submitted that it would be fair to allow the witness to give evidence, as her evidence was relevant to the issues in the case. It was also fair, she submitted, to allow the opportunity for Mrs Grecko to cross-examine the witness on her evidence.
15. Ms Curtis submitted that there was no direct caselaw authority or guidance on the application of the underlying principles to regulatory proceedings, although the Foreign and Commonwealth and Development Office (“FCDO”) had told those instructing her that, in their view, these were the kind of proceedings in which it was appropriate to seek permission. Ms Curtis told the Committee that a request had been made, but no response received.
16. Mrs Grecko supported the application by the College for the witness to be allowed to give evidence from overseas.
17. The Legal Assessor advised the panel that the issue arose from the case of *Sec. State for Home Department v Agbabiaka* [2021] UKUT 00286 (IAC) an appeal in the Upper Tribunal of the Immigration and Asylum Chamber. As a result, several tribunals had issued guidance and the CPR Practice Direction had been issued. This required the party proposing to call a witness who was overseas to contact the Taking of Evidence (“ToE”) unit at the FCDO.
18. The issue in the case was the risk of causing a diplomatic incident, by being seen to conduct proceedings in another sovereign jurisdiction. He also advised that, in their own terms, the CPR do not state that they are applicable to regulatory proceedings before the College.
19. The Legal Assessor advised the Committee that there does not appear to be precedent case law in regulatory law relating to this issue and no guidance has been issued for regulatory tribunals. The Rules allowed the admission of evidence, on the basis that the Committee considered that it was relevant and fair to admit it.
20. The Committee should consider first, whether the evidence was relevant to the case, if it was, whether the Rules permitted the evidence to be given and then whether the risk of causing diplomatic concern overrode the reasons for calling the evidence.
21. The Committee considered that the evidence was relevant to the case, as Ms TLW had directly witnessed the interaction between Mr BE and Mrs Grecko and allegedly overheard relevant conversations. Further Mrs Grecko had an interest in being able to challenge Ms TLW’s account.

22. The Committee took into account that Ms TLW is apparently a UK resident, on holiday in Greece. Although a request had been made via the FCDO, there had been no response to date and to await one would require an adjournment, unless the application was refused. The Committee considered that to hold the hearing without hearing the evidence of Ms TLW (unless a further application for her written evidence was made and granted) was not in the interests of justice. If cross-examination was reduced to written questions and answers alone, this would not assist an efficient hearing.
23. The Committee decided to allow the application and allow the witness to give evidence via video link.

Proceedings

24. The College was represented in the hearing by Ms Curtis, counsel and Mrs Grecko represented herself in the hearing.
25. In accordance with Rule 11.1(a) of the 2004 Rules the College called evidence in relation to the matters not admitted.

Evidence

26. Ms Curtis opened the case to the Committee and called evidence on behalf of the College on the facts. The following is a summary of the main points relating to the remaining particular 1(b)(i) only of the evidence of the witnesses.

Royal College

27. The College called Mr BE to give evidence. At the time, Mr BE had been a student nurse at the Practice. Mr BE gave evidence that on 19 January 2022 he had assisted Mrs Grecko in pricing a dental procedure in her own dog's records on the Practice Management System ("PMS"), which involved creating a 'visit' on PMS. He stated that Mrs Grecko had asked him to include and to price Griseofulvin on her own dog's records, and said she had management permission to do so. Mr BE stated that when he raised concerns about putting the 'visit' in his own name, Mrs Grecko had said "*oh well it can't be in my name either, just put it in Tizzy's name*" or similar words. Mr BE stated that he thought that Mrs Grecko had permission to do this and he selected Dr TC's name from the dropdown. Mr BE stated that it was later that day that Mrs Grecko had said the Griseofulvin was for her husband. He said he later raised concerns with Ms TLW. Mr BE was clear on responding to cross-examination that

Mrs Grecko had told him to put the visit in the name of Dr TC. Mr BE stated that later on Mrs Grecko had suggested to him that she had not known about entering Dr TC's name, but this was not true. He was shown a set of WhatsApp exchanges with Mrs Grecko following her dismissal and referred to a telephone conversation with her. Mr BE stated that he did not want to respond to Mrs Grecko about this, because she was quite angry and he wanted to avoid confrontation.

28. The College called Ms JK to give evidence. At the material time, Ms JK had been the Practice Manager and a Joint Venture Partner at the practice. She stated that she had been contacted at home by Mrs Grecko and been asked for permission to order an anti-fungal for her own use. She stated that she had told Mrs Grecko to ask the receptionist to create an account for her and put her dog on it and the order for the anti-fungal. She exhibited the relevant WhatsApp message chain.
29. Ms JK said that the decision as to what medicines to order was a clinical matter and she was not a clinician. She said her concern was only to control the costs of medications. Ms JK said that she had been aware of Mrs Grecko's previous misconduct via conducting an internet search, and the finding had been discussed in her presence at Mrs Grecko's interview. Mrs Grecko disputed this.
30. The College relied on the evidence of Ms TLW, who gave her evidence via remote video link. Ms TLW adopted her witness statement as her evidence. She stated as part of her evidence that, when moving between a consultation room and the Practice pharmacy area, she had overheard a conversation between Mrs Grecko and Mr BE on 19 January 2022 in which she thought Mr BE said "*oh well I don't think I'm allowed to do it*". Mrs Grecko said "*I can't do it*" and Mr BE said "*I can't as I'm a student it can't be in my name*", and after a pause Ms TLW thought Mrs Grecko said "*well put it in Tizzy's name then*", 'Tizzy' she said was Dr TC, the Practice Head Veterinary Surgeon. She stated that this conversation had occurred whilst Mr BE and Mrs Grecko were at the preparation room computer.
31. In response to cross-examination by Mrs Grecko, Ms TLW stated that she was clear that words to that effect had been said. The Committee noted that in her witness statement, Ms TLW had put that she "*I think*" the words had been said. Ms TLW told the Committee that she had been asked by Dr TC to help Mr BE with writing his statement after the matter had been reported. Ms TLW and Mr BE exhibited their short, typed statements, prepared around the time of the investigation at the Practice.

32. The College called Dr TC to give evidence. Dr TC is the Practice owner and a Joint Venture Partner at the Practice. He adopted his witness statement. Dr TC stated in his witness statement that, on being challenged about the 'visit' record and the Griseofulvin having been issued in his name, that Mrs Grecko had told him in an informal meeting that she had not wanted the visit to be in her name because of what happened previously. However, on being questioned, Dr TC said that in fact he had put this to Mrs Grecko as a proposition and she agreed to it.
33. Dr TC told the Committee that he had not immediately confronted Mrs Grecko about the matter. He had spoken on a number of occasions to Mr BE and Ms TLW to check their accounts and had asked Ms TLW to support Mr BE in writing his statement, as he was nervous. Dr TC agreed with Mrs Grecko that her previous misconduct finding had not been discussed at her interview. He said he had learned of it from a colleague and spoke with Mrs Grecko after she had started at the Practice, Mrs Grecko offering assurance of no repetition of that behaviour.
34. The Committee was provided with a copy of a determination of a previous finding of disgraceful conduct made by a Disciplinary Committee of the College against Mrs Grecko, following application by Ms Curtis as a preliminary matter. In that determination, Mrs Grecko had admitted having prescribed medicines for her own use, dishonestly representing that they were for legitimate veterinary use.

Mrs Grecko

35. Mrs Grecko gave evidence to the Committee. She told the Committee that she had moved to the Practice from her sole practice in Greenford. She had been interviewed on 04 October 2021 and offered the job on 06 October. There had been little induction to the Practice.
36. Mrs Grecko accepted having requested the ordering of Griseofulvin, knowing that it was for human use and that she should not have done this. Mrs Grecko explained that she had felt pressure to order the antifungal as she had been contacted by her husband, who was working away in London, asking if it was possible to obtain the medication.
37. Mrs Grecko said that her husband had previously had a serious fungal infection about two years before which had been successfully treated with Griseofulvin. She

said that there was a shortage of time and, in the circumstances that the country was entering the second 'lockdown' there was a difficulty in obtaining a GP appointment.

38. Mrs Grecko denied having asked Mr BE to put the 'visit' into the name of Dr TC. She told the Committee that she had been completely open with Ms JK, whom she thought had been the appropriate person to give permission. She had been clear with everyone that the medication was for her husband. She said that she had told Mr BE it was for her husband when he was working at the computer entering the 'visit'. She had been at the computer when Mr BE had entered the visit but did not see to whom he had assigned the 'visit'. She thought that it had been in her name.
39. Mrs Grecko told the Committee that the first time that she learned that the 'visit' had been recorded on the PMS in Dr TC's name and not her name was when Dr TC confronted her about it in a meeting, on 03 February 2021, after her probation period had been extended at a meeting on 01 February. Mrs Grecko denied having made any admission to Dr TC. She put to Dr TC that the meeting had not been recorded.
40. Mrs Grecko said that her relationships with staff at the Practice had been fine but had deteriorated after Ms TLW had returned from holiday to the Practice. She said that clinical staff had become uncooperative towards her.
41. Mrs Grecko admitted that her conduct in asking for the medication to be ordered which was intended for human use but put onto a record for her dog had been dishonest and misleading conduct. However, she completely denied having caused or allowed the recording of Griseofulvin in the name of Dr TC on the PMS system and therefore denied that this had been either dishonest or misleading conduct.
42. Mrs Grecko suggested that Mr BE and Ms TLW may have decided to put the entry in Dr TC's name, in order to prevent her 'getting away with it'. However, she said, the more likely position had been that Mr BE had put it into the name of Dr TC by accident and then failed to admit that, blaming Mrs Grecko. Mrs Grecko said that she could not explain why things had got worse for her at the practice, following the return of Ms TLW.

Submissions on the Facts

43. Ms Curtis submitted that the College had to prove the remaining facts to the Committee, so that it was sure. She invited the Committee to reach its conclusion based on the evidence and submitted that the College's evidence was compelling.

She said that this was not 'one word against another' but there were three witnesses who gave direct evidence that Mrs Grecko had told Mr BE to make the entry, or that she had admitted doing so. Ms Curtis submitted that the only rational explanation was that this was correct.

44. Mrs Grecko submitted that she had known it was wrong to order the medication for human application, but she strongly denied having asked Mr BE to put it in Dr TC's name.

Legal Advice

45. The Legal Assessor advised the Committee that the burden of proving the factual allegations lay on the College. He advised that Mrs Grecko did not bear any burden to prove she was innocent of the misconduct. This was subject to the exception that, Mrs Grecko having admitted some of the facts, the Rules provided that those facts may be taken as proved, without more. The standard to which the College had to prove the facts was the highest civil standard, so that the Committee was 'sure'.
46. The Legal Assessor advised the Committee of the test for dishonesty in *Ivey v Genting Casinos* [2017] UKSC 62 and also made reference to *GDC v Amir* [2021] EWHC 3230 (Admin), paragraph 52.

Committee's Decision on the Facts

47. The Committee noted that Mrs Grecko had admitted particulars of the Charge 1(a), 1(b)(ii) and that the conduct in both had been dishonest and misleading. As a result of her admissions, the Committee had found those particulars proved.
48. The remaining, disputed particular was therefore paragraph 1(b)(i) and the issues alleged in particulars 2(a) and 2(b) whether, if proved as fact, that conduct had been either dishonest and/or misleading.

Particular 1(b)(i)

49. The Committee took into account that it had been provided with a copy of the record of the visit, showing that Dr TC's name had been recorded as the responsible veterinary surgeon. It had been told in evidence that this entry was made by selecting the relevant veterinary surgeon from a 'drop down' menu on the PMS screen. The

Committee had also been provided with the screen print from an IT audit carried out, which indicated that there had been no alteration from the original entry.

50. It was not in dispute that Dr TC had not been involved in the order or prescription of the Griseofulvin. His evidence was that he had been in Italy at the time for personal reasons and this had not been challenged.
51. The Committee took into account that Mrs Grecko had been open in admitting the facts of the other particulars of the Charge. She had gone so far as to have admitted dishonesty and misleading conduct in relation to the admitted facts. Mrs Grecko had also admitted that her conduct in this respect had been disgraceful conduct in a professional respect.
52. The Committee noted that it had seen a previous determination relating to Mrs Grecko having prescribed medicine inappropriately. However, it considered that the facts alleged in the remaining particular of the charge did not bear a great degree of similarity and so this did not carry much weight in the Committee's determination of the facts. Mrs Grecko had admitted the particulars of the Charge which bore similarity to the previous finding.
53. The Committee took into account that Mrs Grecko strenuously denied that she had caused or allowed Mr BE to record the Griseofulvin on the PMS under the name of Dr TC. She had fully challenged each of the witnesses on this point.
54. The Committee considered, however that Mr BE had been clear and measured in giving his evidence about what he had been told by Mrs Grecko. He had not wavered under cross-examination from the position that Mrs Grecko told him to put the 'visit' in "*Tizzy's name*" or words to that effect.
55. The Committee considered the exchange of text messages between Mr BE and Mrs Grecko, after Mrs Grecko had been terminated from her position. It considered the point that Mr BE had not raised in those messages with Mrs Grecko that she had told him to make the entry under the name of Dr TC. However, it also took into account that, by then Mr BE had already made his position clear by confirming the events in question to Dr TC and Mrs Grecko had been subsequently dismissed. It accepted Mr BE's explanation, noting his age and relatively junior position, that he had not wanted to enter into a confrontation with Mrs Grecko, either by text or in a phone call.

56. The Committee took into account that Ms TLW had been an eyewitness to the conversation and supported that words or similar words to that effect had been said by Mrs Grecko. It noted that Mrs Grecko accepted that Ms TLW had indeed been present at the relevant time. In her written response to the College, Mrs Grecko had indicated a view that Ms TLW *“was with us at that time and heard the conversation”*.
57. The Committee took into account that Dr TC had asked Ms TLW to support Mr BE in writing his statement. It considered that this might have some effect on the reliability of their accounts, because they had clearly discussed what had occurred. However, the Committee also noted that they were consistent about the key matter that a statement had been made by Mrs Grecko to Mr BE to put the ‘visit’ in Dr TC’s name. This had been maintained throughout.
58. The Committee considered that Ms TLW gave evidence in a measured and reasonable manner and had been clear of her recollection of the words said, in recounting the events to the Committee.
59. The Committee took into account that Mrs Grecko was also said, in the evidence of Dr TC, to have admitted to him that she had not wanted to have the ‘visit’ in her name because of the previous matter, which all parties agreed referred to the previous disciplinary finding. The Committee considered that, as the evidence came out in the hearing, the weight of this evidence had been affected, when Dr TC conceded that, rather than Mrs Grecko volunteering the comment, he had put it to her and she had agreed with it.
60. The Committee considered that Dr TC had given his evidence openly and in a measured way. Some of his evidence had contradicted the evidence of Ms JK and he had effectively conceded some of the points put by Mrs Grecko on her account compared to that of Ms JK, so the Committee considered him a fair and balanced witness.
61. The Committee also took into account and gave some weight to the submission that, on being spoken to by Dr TC, Mrs Grecko did not challenge Dr TC on the point that his name was recorded on the PMS, despite, on her account, at that point believing the ‘visit’ was recorded in her own name. Mrs Grecko did not ask to see the record, and told the Committee she had not seen the evidence that it was in Dr TC’s name until the College provided its evidence to her.

62. The Committee considered the alternative proposition, that Mr BE, Ms TLW and Dr TC had all conspired in some way to present an untrue position. However, the Committee did not consider that there was any evidence of this. It considered Mrs Grecko's point that Mr BE and Ms TLW could have conspired together, but this left no explanation for Dr TC's evidence as to Mrs Grecko's admission to him. The Committee considered Mrs Grecko's suggestion that Mr BE had made an error in the entry and then not admitted this. However, this did not deal with Ms TLW's evidence that she had heard the conversation, in which Mrs Grecko had asked Mr BE to make the entry in Dr TC's name.

63. The Committee considered that, in the final analysis, it had the evidence of two witnesses who were consistent in their eyewitness evidence that Mrs Grecko had told Mr BE to put the 'visit' and thus authorisation for the Griseofulvin in Dr TC's name. It also had the supporting evidence from Dr TC that Mrs Grecko had made an admission to him.

64. The Committee found it as a fact and it was sure that Mrs Grecko had said words to Mr BE to the effect that the order for the Griseofulvin should be put into Dr TC's name. The Committee therefore found as a fact and was sure that Mrs Grecko had caused Mr BE to record the Griseofulvin on the PMS in the name of Dr TC, when Dr TC had not been involved in the order or prescription of the medication.

65. The Committee found particular 1(b)(i) of the Charge proved.

Particular 2(a) in relation to 1(b)(i)

66. Based on the Committee's findings in relation to particular 1(b)(i) the Committee went on to find that Mrs Grecko had in mind that the record of Griseofulvin should appear on the PMS as having been ordered or prescribed by Dr TC as the responsible veterinary surgeon and that it would therefore also be concealed that it had been Mrs Grecko who had been responsible.

67. The Committee was in no doubt and was sure that ordinary decent people would regard this conduct as dishonest by their own standards. It considered that ordinary decent people would expect that the PMS would correctly identify any veterinary surgeon who had actually been responsible for ordering or prescribing any medication.

68. The Committee found particular 2(a) of the Charge proved, as it related to particular 1(b)(i).

Particular 2(b) in relation to 1(b)(i)

69. Since the effect of entering the wrong veterinary surgeon would give anyone referring to the PMS the incorrect information, the Committee also decided that it was sure that this had been misleading conduct. It must have been intended by Mrs Grecko to mislead anyone reading the record as to who had been responsible for prescribing the Griseofulvin.

70. The Committee found particular 2(b) of the Charge proved, as it related to particular 1(b)(i).

71. The Committee had found all of the particulars of the Charge proved, whether by accepting Mrs Grecko's admissions or by its own findings. Notwithstanding that dishonesty had been admitted by Mrs Grecko in relation to particulars 1(a) and 1(b)(ii), the Committee considered what it made of the dishonesty in relation to all the matters in the Charge.

72. The Committee accepted Mrs Grecko's point that she had sought and obtained authorisation from Ms JK for the ordering of the Griseofulvin. The Committee understood Mrs Grecko's evidence that there had been a clinical need for her husband to be prescribed an anti-fungal and that Griseofulvin had previously been effective. The Committee accepted that it may have been difficult to obtain a regular GP appointment but did not consider it would have been impossible. The Committee considered that there had been alternatives to the course Mrs Grecko took, such as seeking a private GP appointment or telephone consultation.

73. The Committee also noted that Ms JK was not a clinician. Mrs Grecko had been in the position of being the responsible clinician and the veterinary surgeon. The Committee considered that responsibility had remained with Mrs Grecko but she had ignored the requirements of her own professional standards. She had admitted to the Committee that she was aware at the time that it was wrong for her to be ordering a medication for human use and wrong to be causing it to be entered on the record for her dog. Further, as the Committee had found, Mrs Grecko had also tried to conceal her actions from scrutiny, by her instructions to Mr BE. The Committee was clear that

this was dishonest and misleading conduct. In totality, the Committee placed the dishonesty at the high end of the scale.

Disciplinary Committee

20 September 2023