

**BEFORE THE FITNESS TO PRACTISE COMMITTEE
OF THE GENERAL OPTICAL COUNCIL**

GENERAL OPTICAL COUNCIL

IO(11)01

AND

MARK MORGAN (01-19963)

**DETERMINATION OF APPLICATION FOR AN INTERIM ORDER
- 24 MARCH 2011 -**

The Fitness to Practise Committee considered the Council's application for an Interim Order on 24 March 2011

Decision

The Committee has considered whether an Interim order should be made in this case under Section 13L of the Opticians Act 1989.

The Committee has reached its determination taking into account the material placed before it, the submissions of Counsel and the advice of the Legal Adviser.

It is not satisfied that such an order is necessary on the independent public interest ground. Having regard to the fact that it is a relatively rare case where the bar is met for an order on that basis the Committee is not satisfied that this ground justifies an order in this case.

Undoubtedly the nature of the allegations involve dishonesty of a serious nature and that aspect has been taken into account by the Committee in arriving at its determination that it is satisfied that an interim order is necessary to protect the public. The conduct alleged against the Registrant amounts to a prolonged period in which he dishonestly recorded tonometry examinations on patients which he had not carried out. He has admitted that this was the case. The Committee agrees with the submission made on behalf of the council that such conduct gives rise to a concern that other professionals might have been misled by those records, in addition to the obvious concern that the patients themselves were put at risk. The Committee notes the context in which these events occurred and has had regard to

both the circumstances prevailing at the time and since. It concludes that there is a continuing need to protect the public.

Having reached that conclusion the Committee went on to consider whether conditions would be proportionate and workable and would be sufficient to meet the need to protect the public. The Committee decided that the conditions outlined below would be sufficient.

The conditions are that

1. The Registrant should be employed by Scrivens Opticians and should work only at branches of Scrivens within the Southern Regional Area currently managed by Mr Smith
2. He should be supervised by a named supervisor who is a registered optometrist acceptable to the GOC
3. He and his supervisor should meet in person not less than once each fortnight to review the standard of his work
4. His patient records should be audited monthly by or on behalf of the supervisor using a random sample of not less than 10 patients per month. The audit should include review of the appropriateness of examination and the adequacy of record keeping
5. He should continue to comply with treatment as advised by his GP
6. Reports from his GP and from his supervisor should be provided prior to any review hearing of the interim order not less than 7 days before the hearing date. The reports should outline his progress both professionally and medically and give details of the results of the audits
7. The GOC will enter these conditions against your name in the register save any conditions which relate to your health. You must allow the Registrar to share any information, including confidential information, with any employer, supervisor, professional colleague or any organisation for which you provide ophthalmic services for the duration of your conditional registration. You must also allow the Registrar to share this information with other regulatory bodies and the Department of Health.
8. You must inform the Registrar within 14 days of any criminal convictions, police cautions or formal disciplinary proceedings taken against you from the date of this determination
9. You must inform the Registrar:
 - a. If you cease working;
 - b. If your work takes you out of the UK for a significant period of time; or
 - c. Of any employment you apply for outside of the UK (and in which countries) as conditions of registration only apply to practice undertaken in the UK (you must consider whether your time out of work or out of the UK will allow you to

fulfil the conditions during the period of conditional registration). The Registrar may inform the relevant competent authorities in that country of your current conditions of UK registration

10. You must continue to fulfil the CET requirements under the GOC CET scheme to secure appropriate points for continued inclusion on the GOC register
11. You must inform the following parties that your registration is subject to conditional registration:
 - a. Any organisation or person employing or contracting with you to undertake ophthalmic services (to include any locum agency);
 - b. Any prospective employer (whether within the UK or EC);
 - c. Chairman of the Local Optometric Committee;
The PCT in whose ophthalmic practitioners list you are included or seeking inclusion
12. You must ensure that your GOC registration is renewed by 15 March annually while you are subject to the GOC FTP conditional registration procedures. Should you fail to renew your registration a review hearing will be arranged immediately

The Committee determined that an Interim Order should be made that the Registrant should be permitted to practice only subject to the above conditions. The Committee ordered that the registrant's registration be subject to conditional registration for a period of 18 months from today. The order will be reviewed within 6 months from today unless all matters are resolved within that time, or earlier should new evidence be made available, or if the registrant, at any time after three months from today's date, requests an early review.

Chairman of the Committee: Margaret Hallendorff

Signed _____

Date 24 March 2011