

DC/DOF

2 July 2023

Ms Aoife Hegarty
Prime Time Investigates
RTE
Donnybrook
Dublin 4
BY EMAIL TO:

Re: Ms Andreia Almeida Funico

Dear Aoife,

I refer to your letter of the 28 June 2023 regarding Ms Andreia Almeida Funico.

In this Dental Council response, I will first answer your questions and then I will make some general comments on the Dental Council's powers under the Dentists Act, 1985 and gaps in dental regulation relevant to this case.

RTE INVESTIGATES QUESTIONS

I have grouped my responses to some of your questions as they deal with related issues.

Questions 1, 2, 5 and 6

Ms Funico is not and never has been registered with the Dental Council.

Due to the vigilance of some members of the dental profession and others, the Dental Council is in receipt of information which confirms that Ms Funico applied to work in a number of dental practices in Ireland. The Dental Council has no information that personnel in dental practices knowingly permitted Ms Funico to practise while unregistered in Ireland. If true, this would be of concern.

The Dental Council has no information that she secured work as a dentist over a period of years in Ireland. The Dental Council was informed that Ms Funico was practising as an orthodontist in a practice in Dublin. The Dental Council investigated this within the limitations of the Dentists Act, 1985 (see further below) and it could find no evidence that Ms Funico was practising there.

Question 3

Only dental health care professionals are regulated under the Dentists Act, 1985. There is no cohesive regulation of dental practices, and it is not possible to sanction a dental practice. There is no register of dental practices nor any restrictions on who can open or operate a dental practice. There is also no code of practice governing the operation of dental practices and no statutory entity has the power to enter dental practices to investigate matters of concern such as those raised in this case. As set out in more detail below, the lack of an inspection regime and relevant enforcement powers in respect of dental practices limits the council's ability to investigate allegations of illegal practice and other potentially serious matters. This is a significant legislative weakness in terms of the protection of public.

Question 4

Ms Funico applied for registration on three previous occasions but withdrew her application on each occasion before the registration process was completed. Ms Funico's most recent registration application was considered by the Dental Council on 15 June 2023.

Question 7 and 11

From the information available to the Dental Council, Ms Funico generally sought positions in her own name. The Dental Council is aware of one allegation that the name of another orthodontist was used in an application for a position in a group of dental practices. The Dental Council is also aware of a number of false documents circulating with Ms Funico's name, including a false Dental Council certificate of registration. These matters were also part of the Dental Council's consideration on 15 June 2023.

Questions 8 and 12

Ms Funico gave the following undertaking to the Dental Council at its meeting on 15 June 2023. The undertaking was not provided to the High Court. The Dental Council took this step, which is beyond the direct provisions of the Dentists Act, 1985, to secure the immediate and future protection of the public.

"I hereby withdraw my application for registration dated 20th October 2022 and undertake as follows:

- 1. Never to apply in the future to the Dental Council of Ireland for registration.*
- 2. Never to engage in the practise of dentistry in Ireland.*
- 3. Never to use the title dentist, dental surgeon or dental practitioner in Ireland or use any title or description which implies that I am a registered dentist in Ireland.*
- 4. Never to represent or hold myself out, whether directly or by implication, as practising, or being willing and ready to practise dentistry in Ireland.*
- 5. Never to seek employment and/or apply for any dentistry, dental surgeon, dental practitioner or orthodontic position in Ireland.*

I further consent to the above-mentioned undertakings being communicated to the Portuguese competent authority."

The Dental Council has informed the Ordem dos Médicos Dentistas in Portugal of Ms Funico's undertaking.

Arising from concerns in respect of the conduct of Ms Funico the following notice is available on the Dental Council website:

"Please note that the Dental Council is aware that there are currently in circulation false registration certificates on Dental Council of Ireland headed papers stating that Ms Andreia Almeida Funico is a registered dentist, where she is not a registered dentist. Concerned parties should contact the Registrar of the Dental Council of Ireland".

This notice has been drawn to the attention of the Orthodontic Society of Ireland.

Question 9

The Dental Council considered this matter in the context of Ms Funico's application for registration and not in the context of fitness to practise. The fitness to practise provisions of the Dentists Act, 1985 only apply to dentists or dental specialists registered with the Dental Council. These provisions cannot be used in this case as Ms Funico was never a registered dentist in Ireland. The undertaking given to the Dental Council will allow it to take further action if the undertaking is breached.

Question 10

The facts of this case were only established over time. As you can appreciate, investigating any allegation takes time. The information concerning the false certificates of registration only came to light towards the end of this process. The Dental Council met at the earliest practicable opportunity once the relevant facts were available to the Dental Council.

Comment in relation to the Dental Council's Actions

The Dental Council is satisfied that the action it has taken using the powers open to it under the Dentists Act, 1985 protects patients and is in the public interest. She will not practise dentistry in Ireland in the future. There is a prominent notice on the homepage of the Dental Council website warning of false documentation being circulated in her name. The undertaking given to the Dental Council will allow it to take further action if it is breached.

GAPS IN DENTAL REGULATION

Identity is important in professional regulation and it is difficult to take against a person a person who cannot be identified. If Ms Funico had not also applied for registration, it probably would not have been possible for the Dental Council to take the actions it did.

Dentists are obliged by law to display their certificate of registration where they practice. This is a very key public protection measure. It is not possible to monitor compliance with this measure. The Dental Council has concerns that there are unidentified people who are not registered and who are holding themselves out as dentists.

One key problem is that the Dental Council has no statutory powers to properly investigate a matter, such as entering a practice where it has good reason to believe that a person may be practising illegally or to check if registration certificates are displayed. No action can be taken against practices.

Over the last twelve months, the Dental Council has received information concerning the following situations in addition to the matters concerning Ms Funico. It has been unable to pursue these concerns due to the absence of inspection powers:

- A person purporting to be a registered dentist giving a false name to the mother of a child presenting with a suffering a severe dental infection. The infection was not addressed and became progressively more serious over a period of weeks as it wasn't treated. The name of the dentist given to the mother was that of a dentist working in another dental practice. The Dental Council is satisfied that the named dentist was not the treating dentist and has no connection with the practice. The identity of this person who treated the child remains unknown.
- A dentist contacted the Dental Council to say that a referral letter purporting to be signed by him was presented by a patient to another practice to request an x-ray. This practice contacted the dentist to query this request, but the patient was not his and he has never worked in the practice named on the referral letter. It is not known who signed this letter.
- Allegations from more than one source that a number of unnamed and unregistered dentists were working at a practice in Dublin. The identities of these individuals remain unknown.
- An unregistered person who was convicted of sexual assault and who may be practicing as a dentist.

In all these cases, the appropriate regulatory reaction would be to inspect the practice and investigate the allegations further, but this is not possible under the Dentists Act, 1985. An aggravating factor in some of these cases is that the many of the patients being treated are non-Irish nationals.

In August 2022 and April 2023, RTÉ Investigates reported on a situation concerning an orthodontist. The Dental Council had soft information that there may have been problems in this practice several months before it received a formal complaint. While this soft information was not sufficient to meet the legal threshold required for the action the Dental Council ultimately took, it is conceivable that an earlier and different type of intervention may have helped the situation in that practice.

The Dental Council is aware of a case from 2015, where a dentist who was erased in two other countries, opened a dental practice in Dublin. There is no register of dental practices nor any restrictions on who can open or operate a dental practice. (Anyone can open a dental practice, but a person must be registered to practice dentistry). The Dental Council could take no action as he never applied for registration in Ireland. The practice eventually folded, and the Dental Council is aware of approximately thirty people who were stranded mid-treatment and with no referral options. The Council also suspects that some of the people practising dentistry at that location may have been unregistered. An aggravating factor in this case was that many patients were encouraged to pay up front for treatment in exchange for a discount and have been left significantly out of pocket and with no recourse (see Appendix A for reference).

The Dental Council has no power to enter practices to investigate and it is difficult to properly investigate allegations of illegal practice and other possibly serious matters without this ability. This power would be an important provision of any future regulatory scheme so that the public can adequately protected.

The Dental Council has been calling for a proper regime of practice regulation since 2008. In October 2021, the Dental Council sent its '*Submission Regarding Legislative Change in Dental Regulation*' to Minister for Health (copy enclosed). The comprehensive nature and scope of this document outlines the very significant limitations under which dental regulation operates in Ireland, not only in the matters referred to above, but also in many other aspects of its work. This submission was made at the request of the Department of Health.

Please attribute any of the foregoing to a spokesperson for the Dental Council.

Please feel free to contact me if you have any further questions.

Your sincerely

David O'Flynn
Registrar

Appendix A – Dental Magic and Koppany Kiss

Introduction from Irish Independent Article from 2015

David Kearns

Fri 17 Apr 2015 at 13:09



A dentist who never registered to practice in Ireland has vanished without a trace, leaving dozens of patients facing expensive medical bills.

Hungarian dentist Koppany Kiss, who ran the Dental Magic clinic in Spencer Dock in Dublin, is believed to have fled after it was discovered by some patients he had no license to practice dentistry in this country.

It is thought that Mr Kiss took advantage of a loophole in Irish law that does not require those running dental clinics to register with the Irish Dental Council.

Gardai are believed to have launched a criminal investigation into the rogue dentist as practising dentistry without being registered is “often treated as criminal assault”.

“We cannot comment on ongoing inquiries, however, we would ask anyone that might have been treated by Mr Kiss to contact Gardai if they feel they’ve grounds to make a complaint,” a Garda spokesperson said.

Full article available at:

<https://www.independent.ie/irish-news/bogus-dentist-vanishes-without-a-trace-leaving-patients-with-expensive-bills/31150555.html#:~:text=Hungarian%20dentist%20Koppany%20Kiss%2C%20who,practice%20dentistry%20in%20this%20country.>