

## **Fitness to Practise Determination**

The following case was heard by a Fitness to Practise Panel. It is presented here to give an example of one possible outcome of breaching a principle in *Good Medical Practice*. It is not intended to give a clear threshold between acceptable and unacceptable behaviour. Each case which comes before a Fitness to Practise Panel is judged on its own merits and assessed on the particular circumstances of the case.

### **Summary**

The doctor arrived late for, then walked out of, a baby clinic. He was also abusive and aggressive towards staff at the health centre where he worked.

The doctor also retained blank prescription forms from several practices after working for them as a locum, and used them to self-prescribe medication worth nearly £2400, continuing to self-prescribe after his name was suspended from the medical register.

### **Relevant paragraphs of *Good Medical Practice***

The case relates to the *Working with colleagues* section of GMP, specifically paragraph 41b on working in teams, paragraph 46 on respect for colleagues and paragraph 48 on arranging cover. It also relates to the *Probity* section, specifically paragraph 57 on being honest and trustworthy and paragraph 77 of the *Health* section.

### **Determination on impaired fitness to practise**

Dr X: Having announced its findings on the facts, the Panel must now decide, on the basis of the facts found proved, whether your fitness to practise is impaired. In doing so, the Panel has taken account of Mr M's submissions on behalf of the GMC, and those made by Mr H on your behalf.

The Panel has accepted the advice of the Legal Assessor that the question of impairment is a matter for the Panel to determine, exercising its own independent judgment.

The facts of this case are that from [date removed] to [date removed], you were a medical practitioner registered in the United Kingdom. On [date removed], whilst employed as a locum General Practitioner at the XXXX Health Centre, XXXX, you arrived late for an afternoon baby clinic at the Health Centre. The Panel has found

your conduct in this regard to be inappropriate, unprofessional and not in the best interest of your patients. You admitted that you walked out of the baby clinic, leaving the clinic without a doctor and with patients waiting; and that your conduct in this regard was inappropriate, unprofessional and not in the best interest of your patients.

On [date removed], at the XXXX Health Centre, you were abusive and intimidating to the Practice Manager, Ms A, and said to her words to the effect "If I don't get paid, I'm coming for you". The Panel has found your conduct in this regard was inappropriate and unprofessional.

On or about [date removed], you presented a self-prescription for Diazepam and Chlorpheniramine at a Preston pharmacy, prescription number XXXX, which bore the name of Dr B of the X Medical Centre, although the prescription was not signed by Dr B. At this time you were not a patient of the X Medical Centre nor were you employed by the X Medical Centre; although you had previously worked for the X Medical Centre in [date removed].

On or about [date removed], you possessed at your home, blank prescription forms from a number of medical practices in the XXXX, XXXX and XXXX areas.

From about [date removed] to [date removed], you self-prescribed medication worth £2391.06.

On [date removed], you were convicted and fined by XXXX Magistrates Court for an offence of resisting arrest on or about [date removed].

On [date removed], your registration was suspended by the General Medical Council Interim Orders Panel for a period of 18 months.

On or about [date removed], you presented a self-prescription for Inderal (56 capsules x 80 mg), Itraconazole (56 capsules and 30 tablets x 100 mg) at XXXX Chemist, XXXX, prescription number XXXX. The prescription bore the name of Dr C of the Y Medical Centre, although it was not signed by Dr C. At the time you were not a patient of the Y Medical Centre, nor were you employed there and had, in fact, been suspended from the Medical Register, although you had previously worked for the Y Medical Centre in XXXX.

You have admitted that you possessed blank prescription forms at your home address, and presented and obtained self-prescriptions on a number of occasions to the value of £2391.06; which bore the name of a doctor but were not signed by that doctor; at a time when you were not a patient or employed by those Medical Centres. In this respect you have admitted that your conduct was inappropriate, unprofessional, liable to damage public confidence in the medical profession and an abuse of your professional position. You have also admitted that your conduct in self-prescribing, whilst suspended from the Medical Register, was inappropriate, unprofessional, liable to damage public confidence in the medical profession and an abuse of your professional position.

In considering whether your fitness to practise is impaired on the basis of the facts admitted and found proved, the Panel has borne in mind the guidance provided in

the GMC's Indicative Sanctions Guidance (April 2005). The Guidance states at S1-2, paragraph 11:

“Neither the Act nor the Rules define what is meant by impaired fitness to practise but for the reasons explained below, it is clear that the GMC's role in relation to fitness to practise is to consider concerns which are so serious as to raise the question whether the doctor concerned should continue to practise either with restrictions or at all.”

The Panel first considered whether your fitness to practise is impaired by reason of your misconduct. There are two main aspects to your misconduct. Firstly, your conduct whilst employed at the XXXX Health Centre; which involved your disregard for your responsibilities as a doctor to your patients on [date removed], and your abusive and aggressive behaviour towards Health Centre Staff on [date removed]. The second aspect of your misconduct deals essentially with matters of self-prescribing.

In considering the matters relating to your misconduct at the XXXX Practice the Panel has had regard to Good Medical Practice (May 2001), applicable at the time which states that as a doctor you must:

“make the care of your patient your first concern.”

Also, under the heading “Arranging Cover”, it states:

“You must be satisfied that, when you are off duty, suitable arrangements are made for your patients' medical care. These arrangements should include effective hand-over procedures and clear communication between doctors.”

You told the Panel that you accept that you should not have left the Practice on [date removed] without advising Dr F and ensuring that the Clinic had adequate cover. You accept that your actions were inappropriate, unprofessional and not in the best interests of your patients. The Panel considers that this is a serious instance of misconduct where you failed to adhere to the standards set out in Good Medical Practice.

The Panel recognises that on [date removed] there was an obvious breakdown in communication and an apparent tension between yourself and the Practice manager. It has also considered that at the time of the incident you were using Diazepam which may have impaired your judgement. However, the Panel does not accept that this excuses your abusive and intimidating behaviour towards the Practice Manager.

Good Medical Practice states that:

“You must always treat your colleagues fairly.”

The Panel has concluded that you failed to adhere to this fundamental principle. As a doctor you should communicate effectively with colleagues and act in a manner which is professional and courteous.

In considering the matters relating to your self-prescribing the Panel has had regard to the GMC's Guidance, dated July 1998, which states that:

"It is good practice for doctors and their families to be registered with a general practitioner outside the family, who takes responsibility for their health care. This gives the doctor and family members ready access to objective advice and avoids the conflicts of interest that can arise when doctors treat themselves....From time to time, sad cases occur where self-medication with Controlled drugs leads to drug misuse...Doctors should avoid treating themselves...wherever possible. This is a matter of common sense as well as good medical practice"

The Panel has borne in mind the quantity and nature of drugs concerned, and in particular that you prescribed Diazepam, a Class C Controlled drug on a number of occasions, over a long period of time. You have admitted that your use of Diazepam became excessive between [dates removed], and that this may have affected your behaviour and judgement. You stated in your evidence that at this time you were dependent on benzodiazepines. You have also admitted that you were aware of the GMC's guidance, dated July 1998, on the matter of self-prescribing.

The Panel is concerned that you retained blank prescription forms from several practices on conclusion of your locum positions with them. The Panel has taken into account the statements provided by Dr B and Dr C, whose blank prescription forms you retained and used to self-prescribe. Both doctors explained that a locum would not be given a prescription pad in their own name but would be given several blank prescriptions, in the name of a Practice Doctor, to be used, if required, to prescribe on home visits. Although there was no written policy for returning the blank prescription forms it would be expected that locums would do so once their duties at that practice had finished. The Panel is concerned by your inappropriate and unprofessional conduct in that you retained blank prescriptions in order to self-prescribe and in this regard you abused your position as a doctor.

The Panel is also concerned that you continued to self-prescribe following your suspension by the Interim Orders Panel (IOP) in [date removed]. You told the Panel that you understood the suspension to mean you were unable to work in a medical capacity and that you did not believe this precluded you from self-prescribing. Furthermore, you explained that as the IOP had concerns about your self-prescribing of Diazepam you refrained from prescribing this and only self-prescribed for minor ailments. However, the Panel does not accept your explanation and considers that even if this was your belief, you knew that you should not have blank prescription forms which bore the name of another doctor in your possession for your personal use. You were aware that the police had removed a number of blank prescription forms from your home address on [date removed]. The Panel considers that you should have realised that any unused prescription forms should not have been retained by you and should have been returned to the appropriate practice. At this time you were also registered with a general practitioner whom you could have consulted.

Mr H submitted to the Panel that, when considering the severity of your conduct, it should take into account your state of health at the time. The Panel has considered all the reports submitted and has determined that although they may go some way to

explaining your behaviour they do not excuse it. Notwithstanding the contents of the reports the Panel is satisfied that the facts admitted and found proved are sufficient to find that your fitness to practise is impaired by reason of your misconduct.

The Panel next considered whether your fitness to practise is impaired by reason of your conviction. It has been provided with a copy of the certificate of conviction of the Magistrates Court at XXXX, dated [*date removed*]. The Panel takes a serious view of your conviction. You resisted arrest and this undermines the confidence which the public is entitled to place in the medical profession. Your actions fell below the proper standards of conduct and behaviour expected of a registered medical practitioner. For these reasons, the Panel has determined that your fitness to practise is impaired by reason of your conviction.