

## **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 did not adequately assess a patient presenting for weight loss treatment. He did not provide enough information about the treatment and its side-effects to enable the patient to make an informed decision. His record-keeping was inaccurate and he did not inform the patient's GP about the treatment.

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

The case relates to the *Good clinical care* section of GMP, specifically paragraphs 2a, 3b and 3f on providing good clinical care. It also relates to paragraphs 22b on good communication, and paragraph 36 on consent, of the *Relationships with patients* section. Finally it relates to the *Working with colleagues* section, specifically paragraphs 52 and 53 on sharing information with colleagues.

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

Dr X: The Panel has considered, on the basis of the facts found proved, whether your fitness to practise is impaired by reason of misconduct. It has taken account of all the evidence presented including the oral evidence of Dr A, an expert called on behalf of the General Medical Council (GMC), and the witness statements of Patient A. The Panel has considered Mr D's submission on behalf of the GMC that your fitness to practise is impaired and noted that Mr C, on your behalf, did not seek to argue with the GMC's submission but stated it was a matter for the Panel.

At the outset of the hearing you admitted the allegation against you in its entirety and all the following matters were found proved.

On [date removed], Patient A attended a consultation (the "Consultation") with you at "XXXX" (the "Clinic"), XXXX. During the Consultation, Patient A informed you that she was taking Fluoxetine. You advised Patient A in relation to weight loss and prescribed Phentermine to her. You did not measure Patient A's weight or blood

pressure. You did not inform Patient A that Phentermine has been indicated in the development of primary pulmonary hyper-tension, and valvular heart disease.

You did not provide Patient A with sufficient information in order for her to make an informed decision about the use of Phentermine. You did not have arrangements in place at the Clinic to measure weight or blood pressure. You did not inform Patient A's General Practitioner that you had prescribed Phentermine to Patient A.

Your assessment of Patient A's physical state was inadequate. Your assessment of Patient A's mental state was inadequate. The standard of your record keeping in respect of the Consultation was inadequate.

Your actions and omissions during the consultation with Patient A were inappropriate, unprofessional, and not in her best interests.

In determining whether your fitness to practise is impaired, the Panel considered the GMC's Indicative Sanctions Guidance (April 2005). In particular, at paragraph 11 of section 1, it states that:

*“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 on registration or at all.”*

Good Medical Practice (2001) applicable at the time states at paragraph 2:

*“Good clinical care must include:*

*- an adequate assessment of the patient's conditions, based on the history and symptoms and, if necessary, an appropriate examination;”*

Patient A came to you seeking treatment for her weight. You did not conduct an appropriate physical examination of Patient A as you did not measure her weight or her blood pressure. Dr A was critical of the limited space allowed in your records to note a patient's mental health history. He also stated that you could not have conducted a thorough mental health assessment during the time allowed for the entire consultation. Your assessment of her physical and mental state was, therefore, inadequate. As such, you failed to follow the guidance set out at paragraph 2 of Good Medical Practice.

At paragraph 3 it states:

*“In providing care you must:*

*- keep clear, accurate, legible and contemporaneous patient records which report the relevant clinical findings, the decisions made, the information given to patients and any drugs or other treatment prescribed;”*

You recorded Patient A's weight and blood pressure in your note of the consultation but you have admitted that you did not measure either. You therefore included information in the note of the consultation which was not based on accurate

measurements. The Panel is also of the view that your record of the consultation was not contemporaneous. You thereby breached the guidance set out at paragraph 3 of Good Medical Practice.

At paragraph 21 it states:

*“Good communication between patients and doctors is essential to effective care and relationships of trust. Good communication involves:*

*- giving patients the information they ask for or need about their condition, its treatment and prognosis, in a way they can understand, including, for any drug you prescribe, information about any serious side effects and, where appropriate, dosage;”*

Although you gave Patient A a leaflet entitled “Appetite-Suppressant Anti-Obesity Drugs – what you should know”, you did not inform her why Phentermine is not licensed for general use and not commonly prescribed. Further, according to Patient A’s statement, when she asked for any information about the possible side-effects of Phentermine, you were “vaguely dismissive” of any negative side effects. You did not provide sufficient information to Patient A in order for her to make an informed decision about the use of Phentermine and, as such, you breached the guidance set out at paragraph 21 of Good Medical Practice.

The Panel is particularly concerned that you did not inform Patient A’s GP that you had prescribed Phentermine to Patient A. Your omission to do so, when Patient A did not ask you to withhold this information, is clearly in breach of paragraph 45 of Good Medical Practice. It states:

*“If you provide treatment or advice for a patient, but are not the patient’s general practitioner, you should tell the general practitioner the results of the investigations, the treatment provided and any other information necessary for the continuing care of the patient, unless the patient objects. If the patient has not been referred to you by a general practitioner, you should inform the general practitioner before starting treatment, except in emergencies or when it is impracticable to do so...”*

The Panel has noted that as a registered practitioner you are entitled to prescribe Phentermine to patients. It has also noted, however, that Phentermine is not in the British National Formulary and, as such, should be prescribed with greater care. The Panel has heard evidence that it should not be prescribed unless the patient has a Body Mass Index (BMI) of 30 or over. Patient A had a BMI of 24. In Dr B’s opinion, it was inappropriate to prescribe Phentermine to someone with a BMI of 24, particularly without a proper assessment and particularly in terms of the potential interactions between Fluoxetine and Phentermine. He believed that to prescribe Phentermine to Patient A, with her BMI and then medical condition, without very clear warnings about the potential risk from the drug itself and the possible interaction with Fluoxetine (which had previously been prescribed by her GP), was very significantly below the standard expected of a reasonably competent practitioner. The Panel concurs with Dr B’s opinion.

The Panel is conscious of its responsibility to protect the public interest, particularly with reference to the protection of patients, maintaining public confidence in the profession and declaring and upholding proper standards of conduct and behaviour. The Panel is in no doubt that prescribing Phentermine in the manner which you have admitted was inappropriate, unprofessional and not in the best interests of Patient A, and that your behaviour has fallen seriously below the standards expected of a registered medical practitioner.

In all the circumstances, the Panel has, pursuant to Section 35C (2) (a) of The Medical Act 1983, as amended, concluded that your fitness to practise is impaired by reason of misconduct.