

## **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 established an internet site offering private medical services, and issued prescriptions for a number of patients without adequately assessing their conditions and without seeking permission to inform their GPs.

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

The case relates to the *Good clinical care* section of GMP, specifically paragraphs 2a and 3b on providing good clinical care. It also relates to the *Working with colleagues* section, specifically paragraphs 50, 52 and 53 on sharing information with colleagues.

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

Dr X: The Panel has considered all the information presented to it including the submissions by Mr E for the GMC and by Mr J on your behalf.

The Panel has considered, on the basis of the allegations found proved, whether your fitness to practise is impaired by reason of your misconduct, pursuant to Section 35C (2) (a) of The Medical Act 1983, as amended. The Panel notes that Mr E has submitted that your fitness to practise is impaired by reason of your misconduct. In submitting that that your fitness to practise is not impaired, Mr J has argued that the Panel is entitled to take into account the improvements that you have made to the XXXX website, in particular your prescribing, so that it could not be said that your current fitness to practise is impaired.

In keeping with the advice of the Legal Assessor, the Panel has accepted that it is entitled to consider the events upon which it has made findings, and use its own judgment, in determining whether your fitness to practise is impaired. It has read carefully the testimonials to which it has been referred and taken care not to take into account matters which might be said to be relevant at a later stage in these proceedings, ie those that deal with personal mitigation.

In deciding whether your fitness to practise is impaired, the Panel has had regard to the fact 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 his registration or at all.

At all material times you were a registered medical practitioner and the Medical Director of XXXX, a web site offering on line private medical services.

The Panel has heard about your treatment of five patients, two of whom were subsequently revealed to be investigative journalists.

On [date removed] Mrs F registered with XXXX and completed an on line questionnaire in which she indicated that she was suffering from back pain and chronic sciatica, that she was having difficulty sleeping and that her mother was terminally ill.

Based on the information contained in this questionnaire you prescribed dihydrocodeine and diazepam to Mrs F without examining or taking an adequate history from her, and without adequately assessing her condition or asking whether her GP had considered alternative medication. You did not seek to contact her GP either before or after the prescription, nor did you ask her if she wished for her GP to be contacted. You did not advise her that she should inform her GP of the medication prescribed and you have admitted that you did not put yourself in a position to adequately judge whether she was misleading you. You therefore put her at risk.

You have admitted to the Panel that thereafter for about one year you prescribed on line repeat prescriptions for dihydrocodeine and diazepam to Mrs F approximately monthly. You carried out no adequate review of her condition when repeat prescribing, nor did you seek to contact her GP during this period. You have admitted that your conduct was inappropriate, irresponsible, and not in the best interests of this patient.

The Panel also heard from Patient X who registered with XXXX in or around [date removed]. You have admitted that he told you he was not registered with a general practitioner and that he was suffering from insomnia and back pain. Between [dates removed] you issued a number of prescriptions for Zolpidem and Zopiclone (sleeping tablets) to Patient X without first adequately assessing his condition. You have also admitted that you issued a total of 43 prescriptions for a month's supply of Zolpidem and eight prescriptions for a month's supply of Zopiclone, and you suggested to him that he order his prescriptions a week in advance. On a number of occasions Patient X telephoned you and told you that his prescription had been lost in the post, and you provided him with a replacement prescription. You have admitted that you failed to check whether the prescription said to have been lost had been dispensed and that you did not investigate the veracity of Patient X's claims that he had lost the prescriptions.

The Panel found that, prior to [date removed], there was no face to face consultation with Patient X, and eventually, when you did see him in London, you failed adequately to review his condition. You did not ask him if he had registered with a general practitioner since initial registration nor did you recommend him to do so.

You failed during the course of your prescribing for this patient to monitor his condition adequately, and you admitted to the Panel that your prescribing for this patient was excessive, irresponsible, and not in his best interests.

You have admitted to the Panel that at 11:56 hours on [date removed], Patient A sent an e mail to XXXX in which he indicated that he was suffering from very intense anxiety states and panic attacks, that he was interested in obtaining benzodiazepine medication without having to see a doctor face to face, and that he was in crisis and felt that he needed medication urgently.

You responded by e mail and indicated that a face to face consultation would be necessary before prescribing a benzodiazepine for the first time. You also indicated that if he were to join XXXX he could be prescribed propranolol for immediate use against anxiety. You made no enquiry as to his age, history or condition. Later that day, at approximately 16:00 hours, Patient A registered with XXXX, paid the annual joining fee and sent a completed XXXX questionnaire.

You have admitted that he indicated in that questionnaire that he was aged sixteen and claiming incapacity benefit having obtained a sick note for acute anxiety state. He did not wish his own GP to be contacted. He gave you a history which included that both his parents had a history of depression, that he may have "borderline personality disorder", that he had a lot of mental health difficulties, that he was suffering from insomnia and panic attacks, and that he would on occasion self harm. He also stated that he was being treated weekly by the child and adolescent mental health service as an out patient, that he had had in patient psychiatric treatment, and that he had a history of allergy.

Patient A sent a further e mail to XXXX at 16:22 hours on [date removed] in which he indicated that he was a regular smoker of cannabis, that he was suffering from confusion and intense anxiety and that he needed some medication urgently. You responded by e mail at 20:50 hours on [date removed] and indicated that you had prescribed Propranolol 40 mg, three times a day, 60 in total, and that the prescription had been e mailed to the pharmacy. You made no further enquiry about the patient's condition or history and made no attempt to find out more about the treatment he was receiving, in particular whether medication of the type he was seeking or the type you were prescribing had ever been considered by his treating doctors. You have further admitted to the Panel that you did not advise the patient that you should inform his GP or specialists of any proposed treatment, nor did you offer to speak to any of his carers on his behalf.

You have further admitted that you did not advise the patient that he would need to see a doctor face to face before any prescription could be given, and that you failed to consider the history of allergy as a contra-indication associated with Propranolol. You have admitted that your conduct in respect of this patient was inappropriate and the Panel also found proved that it was irresponsible and not in his best interests.

Patient A sent a further e mail on [date removed] to XXXX in which he indicated that he had started to self harm at the age of 13, and that around that time he had attempted suicide by taking an overdose, following which he had been a psychiatric in patient between the ages of 14 and 15. You admitted that he had stated that he continued to have suicidal thoughts, and thought it would be helpful for him to have a

face to face consultation with you. He also said that his treating doctors from the child and adolescent mental health service would not give him any medication and that he hated them because of that. You responded by e mail and invited him to arrange a face to face consultation. However, you did not make any further attempt to seek Patient A's permission to contact either his GP or his treating doctors so that you could advise them of the prescription which you had instigated, nor did you advise him to tell his doctors that he had been prescribed Propranolol by you. You did not counsel the patient against misuse of the drugs which you had prescribed to him and you have further admitted that you did not advise that he should not take the medication you had already prescribed in the light of the information you now had. You did not offer to speak to his carers on his behalf and you have admitted that these omissions were inappropriate. The Panel has found that these were also irresponsible and not in the best interests of this patient.

Patient A emailed you further on [dates removed] and sought various alternative medications which you indicated you were not prepared to prescribe without a face to face consultation, but, on [date removed], the patient sought a repeat prescription of Propranolol, which you confirmed the next day. You have admitted that the issuing of a repeat prescription was, in the circumstances, inappropriate. The Panel has found that it was also irresponsible, and not in this patient's best interests.

On [date removed] Patient A's treating psychiatrist reported that patient A had taken six tablets of Propranolol in over dosage.

On [date removed] you were providing medical services to XXXX.co.uk, a web site offering on line medical services when a journalist, Mr O, sought to buy some Reductil from the company. He filled out a questionnaire in which he indicated that his weight was 150lbs and his height 5ft 11inches and the medication was refused on the basis that his body mass index was too low. On [date removed] he resubmitted the same questionnaire, but this time recorded his weight as 18 stones. On the basis of the information in this questionnaire you prescribed 28 Reductil (appetite suppressant) 10mg tablets to him. However, you did not seek a face to face consultation with him, examine him, take an adequate history, nor take his blood pressure. You did not weigh him nor advise him adequately regarding diet and exercise. You did not seek to advise his GP of the medication you were prescribing nor advise him adequately regarding the possible side effects of the medication. You have admitted that you did not make adequate arrangements for the monitoring of Mr O's condition following the prescription and that you failed to take into consideration the form he submitted previously on [date removed]. You have admitted that your conduct in respect of this patient was inappropriate and irresponsible and the Panel found that it was also not in his best interests. It rejected your argument that he was not a patient because he was in fact a journalist, and concluded that at the time of prescribing, you entered into a doctor-patient relationship.

On [date removed] you were providing medical services to XXXX.co.uk, a web site offering on line medical services. A journalist working for the Independent on Sunday newspaper accessed the site and filled in an on line questionnaire with a view to purchasing erectile dysfunction medication. You authorised the prescription of the medication within approximately two minutes of receipt of the questionnaire, without examining him or taking an adequate history, or seeking any information outside that

which was contained in the questionnaire. You have admitted that you did not consider the contents of the questionnaire sufficiently carefully or at all, nor seek to establish possible psychological causes for the dysfunction referred to in the questionnaire. You did not advise him that he should speak to his GP nor seek his permission to contact him yourself. The Panel found your conduct in this regard not to be in the notional patient's best interests, although it has accepted the evidence of Dr P, the expert witness called on behalf of the GMC, that, in the circumstances of this case, your conduct was neither irresponsible nor inappropriate.

The Panel wishes to make it clear that it does not seek to criticise new technology that may enable patients to have better access to medical services. However it wants to ensure that any new developments are implemented safely and appropriately after due consideration and in accordance with the principles of good medical practice. It is particularly concerned that when a doctor has not had the opportunity for a face-to-face consultation, he should be cautious in his approach to prescribing potentially dangerous medications, especially those open to abuse, misuse and dependence.

The Panel is very concerned with your apparently cavalier approach to prescribing in the cases of these patients. It accepts that on establishing the website, XXXX, you sought the views of, amongst others, the GMC and the BMA. You have criticised the scant advice received by you from the GMC with regard to doctor-patient services over the internet. However, the Panel found that the advice, albeit brief was succinct – that you should make sure you can treat patients in accordance with the principles of Good Medical Practice. You, as a treating General Practitioner, were familiar with the guidance issued by the GMC, which states that good clinical care must include an adequate assessment of the patient's condition, based on the history and symptoms, and if necessary an appropriate examination. It also makes clear that repeat prescriptions should only be issued where you have adequate knowledge of the patient's health and medical needs. By your own admissions, you did not.

Good Medical Practice (May 2001), paragraph 45, also provides that:

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 necessary for the continuing care of the patient, unless the patient objects.

The Panel has heard that at first the XXXX service did not ask whether a patient was already registered with a GP and that you had made a conscious decision not to so enquire. At around the time that the GMC began investigating allegations against you, the site was changed to include this question although the Panel heard that the relevant question "Do you wish your GP to be informed" was set as a default to "no". This was not rectified until [date removed].

Paragraph 45 (Good Medical Practice, May 2001) goes on to state:

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. If you do not...you will be

responsible for providing or arranging all necessary after-care until another doctor agrees to take over”

The Panel has determined that, in view of the serious failures in relation to a number of instances where you prescribed dangerous medication over a length of time in the cases of Mrs F and Patient X, your conduct fell well below the standards expected of a registered medical practitioner, and represents a breach of the principles that are central to good medical practice. It was particularly concerned that, in the case of Patient A, where it was clear that he was a complex and vulnerable young man who had not sought to hide his numerous problems, you still issued a repeat prescription and he used that medication in an overdose.

Having considered all the evidence the Panel has found that your fitness to practise is impaired by reason of your misconduct.