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, a locum GP, used a system of falsifying prescriptions for patients to replenish his emergency doctor's bag on a number of occasions over a number of years. He used elderly patients' names and signed the prescriptions himself.

Relevant paragraphs of *Good Medical Practice*

The case relates to the *Probity* section of GMP, specifically paragraph 56 on being honest and trustworthy, paragraphs 63 and 65 on signing documents, and paragraph 73 on financial and commercial dealings. It also relates to paragraphs 21b and 21c of the *Relationships with patients* section on the doctor-patient partnership.

Determination on impaired fitness to practise

The Panel has considered, on the basis of the admitted allegations and the allegations found proved, whether your fitness to practise is impaired by reason of your misconduct. In doing so, it has taken into account all the evidence before it and the submissions of Mr K on behalf of the General Medical Council (GMC), and those of Mr M on your behalf. Mr K has submitted that the finding of dishonesty is a serious one and that your fitness to practise is impaired. In the light of your admissions and the facts found proved, Mr M has accepted, on your behalf, that it is appropriate to find that your fitness to practise is impaired. However, in considering the issue of impairment, the Panel has exercised its own independent and professional judgement.

The Panel has heard that you have been working as a locum general practitioner (GP) since [*date removed*]. You have admitted that during this time you used a system of falsifying prescriptions for patients to replenish your emergency doctor's bag on five or six separate occasions. Elderly patients were selected so that there would be no prescription charge. The Panel has heard evidence from you and Dr D, a GP principal for whose practice you have provided regular locum cover for the last

five years, that in the past this was common practice for locum GPs. You claimed that many pharmacists had been aware of and complicit with this method of obtaining drugs for locum doctors' emergency bags.

You have also told the Panel that you have never received any guidance on the correct procedure for obtaining the drugs needed for your emergency bag. This was confirmed by way of formal admission by the GMC as follows,

> "Formal admission
>
> 1 It is admitted that XXXA Primary Care Trust upon whose Performers' List Dr X was registered did not give him any training or guidance on the proper way to stock a doctor's bag or proper use of NHS prescription forms.
>
> 2 It is admitted that XXXB Primary Care Trust, in whose area Dr X provided locum care, did not give him any training or guidance on the proper way to stock a doctor's bag, or proper use of NHS prescription forms."

This admission, however, does not absolve you from your own professional responsibilities as set out in Good Medical Practice July 1998 and May 2001 editions, and cannot excuse your actions and the methods that you have dishonestly used to obtain supplies for your bag.

You have admitted at the outset of this hearing that in doing this your actions were inappropriate, misleading, unprofessional, carried out to avoid having to pay for the items on the prescription and below the standard to be expected of a reasonably competent general practitioner.

In addition, amongst the items dispensed in [*date removed*], there were 5 x 5mg ampoules of Diamorphine and 3 x 100mg ampoules of Pethidine. These are controlled drugs. You have admitted that you did not comply with the legal storage requirements in respect of these drugs and nor did you keep a proper controlled drugs register. At the outset, you admitted that this was inappropriate, unprofessional, not in accordance with statutory requirements and below the standard to be expected of a reasonably competent general practitioner.

You last repeated this method of falsifying prescriptions in [*date removed*], when you falsely signed ten prescriptions for a total of 27 different drugs for an elderly patient, Mrs B. You knew that the drugs were not for her but were to re-stock your emergency bag. On the back of each of these prescriptions there was a declaration which you signed. The declaration read:

> "I declare that the information I have given on this form is correct and complete. I understand that if it is not, appropriate action may be taken. I confirm proper entitlement to exemption. To enable the NHS to check I have valid exemption and to prevent and detect fraud and incorrectness, I consent to the disclosure of relevant information from this form to and by the Prescription Pricing Authority, the NHS Counter Fraud and the Security Management Service, the Department for Work and Pensions and Local Authorities."

In all the instances when you signed these false declarations, you knew that the named patient did not require the drugs listed, but they were to re-stock your bag, and therefore, that you had no entitlement to exemption from the cost. You admitted in evidence that you falsified prescriptions so that you could obtain drugs you needed for your bag, thereby enabling you to be “a good doctor”. However, whilst this may explain the motivation behind your actions, it can never justify the dishonest method which you employed.

Good Medical Practice (May 2001) lists the duties of a doctor. In particular it requires you to be honest and trustworthy and to avoid abusing your position as a doctor. It further states that, “serious or persistent failures to meet the standards in this booklet may put your registration at risk”.

In determining whether your fitness to practise is impaired, the Panel considered Page S1-2, Paragraph 11 of the GMC’s Indicative Sanctions Guidance (April 2005), which states:

> “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.”

In the light of your repeated dishonesty, spread over many years, together with your admissions that your actions were inappropriate, unprofessional, not in accordance with statutory requirements and below the standard to be expected of a reasonably competent GP, the Panel has determined that your fitness to practise is impaired.