

Fitness to Practise Panel 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 this principle. 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 was convicted of fraud offences. The doctor prescribed medicines for himself to fictitious patients over the age of 60 and was therefore able to obtain the drugs without paying NHS prescription charges. When questioned about the prescriptions and fictitious patients the doctor did not initially admit the truth.

Relevant paragraphs of *Good Medical Practice*

This case relates to the Health section of Good Medical Practice, specifically paragraph 77.

This case also relates to the Probity section of Good Medical Practice, specifically paragraphs 56 and 57 on being honest and trustworthy, 63, 65 and 68 on writing reports and CVs, giving evidence and signing documents and paragraph 73 on Financial and commercial dealings.

Determination on impaired fitness to practise

The Panel has received an extract from a certificate of conviction dated [date removed] confirming that on [date removed] you were convicted at the XXX Court in XXXX of seven offences of fraud. You were fined £1,750 cumulatively for all seven offences. The Panel has already announced that this conviction is admitted and therefore found proved.

The Panel has been informed of the circumstances leading up to your conviction. It has heard that at the relevant times, you were a partner in the XXXX Centre in

XXXX. The Panel has heard that between [date removed] and [date removed] seven prescriptions for various quantities of Losec, Nasonex, Paracetamol, Mometasone nasal spray and Desloratadine were presented to the same pharmacy in XXXX for dispensing. The prescriptions were made out in the name of fictitious patients and were signed by you. The reverse of the prescription forms indicated that the drugs prescribed were being collected on behalf of the patient and were signed by you on six occasions, and on one occasion by your wife. On each occasion it was indicated on the prescription form that the person for whom the drug was prescribed was over the age of 60 and therefore exempt from NHS prescription charges (and taxes). The prescribed drugs were therefore obtained without payment.

Following concerns regarding the issue of the above prescriptions, the matter was referred to the Counter Fraud Services. An investigation was undertaken and as a result of which you were asked by letter dated [date removed] to either submit or allow access to the medical records of the patients concerned. You responded, indicating that you had made a cursory check but had been unable to locate the records within the practice. You were again contacted on [date removed] and asked to search for the medical records of the patients in whose names the prescriptions had been issued.

On [date removed] when you were interviewed under caution (accompanied by your legal representative) regarding the above events you denied prescribing medications for any patients whom you knew to be fictitious. You were again interviewed under caution on [date removed]. On this occasion, you admitted that you had issued four prescriptions using fictitious names and offered to repay any costs incurred by NHS XXX. You stated amongst other matters that:

“Having now seen the contents of 4 prescriptions presented to me, I can confirm that I wrote these prescriptions using fictitious names. The medicines supplied were solely for my own personal use having developed 2 minor ailments I elected to treat myself obtaining medicines in this way. Some years ago I had seen a colleague behaving in this way. I now realise of course that it is incorrect, fraudulent and unprofessional...”

You appeared at the XXX Court in XXXX on [date removed] and admitted to seven offences of fraud. You had already repaid £995.56 to the NHS.

The Panel has carefully considered whether your fitness to practise is impaired. In doing so, it has considered all the evidence adduced. It has also had regard to the submissions made by Mr B on behalf of the GMC, those made by Mr G on your behalf and the advice of the Legal Assessor, which it accepts.

Good Medical Practice (May 2001) which was applicable at the time of these events states that doctors “must be honest and trustworthy”. It also states that doctors must “be honest in financial and commercial dealings with employers, insurers, and other organisations or individuals.” It further states that doctors must “co-operate fully with any formal inquiry into the treatment of a patient and with any complaints procedure which applied to your work. You must give, to those who are entitled to ask for it, any relevant information in connection with an investigation into your own, or another health care professional's conduct, performance or health.”

This Panel has a duty to act in the public interest. This includes the protection of patients, maintaining public confidence in the profession and upholding proper

standards of conduct and behaviour. The public is entitled to expect that registered medical practitioners will be honest and trustworthy and that they will adhere to the highest standards of probity. The Panel considers that you acted fraudulently, inappropriately and unprofessionally in misappropriating funds which might otherwise have been used for patient care. You compounded your wrongdoing by indicating that the patients concerned were over the age of 60, and therefore exempt from payment, and also by failing initially to co-operate fully with the subsequent investigation into your actions. It is of further concern to this Panel that by asking your wife to present and collect the prescription/medications you involved others in your deception.

The Panel has determined that your behaviour has fallen well below the proper standards of conduct expected of a member of the medical profession. It has therefore determined that your fitness to practise is impaired pursuant to Section 35C(2)(c) of the Medical Act 1983 as amended.