

GENERAL MEDICAL COUNCIL

FITNESS TO PRACTISE PANEL (MISCONDUCT/PERFORMANCE)

On:
Sunday, 11 November 2007

Held at:
St James's Buildings
79 Oxford Street
Manchester M1 6FQ

Case of:

GORDON ROBERT BRUCE SKINNER MB ChB 1965 Glasg SR

Registration No: 0726922

(Day Nineteen)

Panel Members:
Mrs S Sturdy (Chairman)
Dr M Elliot
Mr W Payne
Mrs K Whitehill
Mr P Gribble (Legal Assessor)

MR A JENKINS, Counsel, instructed by RadcliffesLeBrasseur, Solicitors, appeared on behalf of the doctor, who was present.

MR T KARK, Counsel, instructed by Eversheds, Solicitors, appeared on behalf of the General Medical Council.

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STRANGERS HAVING BEEN READMITTED

THE CHAIRMAN: Before I read the Panel's determination on sanction, I will ask the Legal Assessor to repeat in public the legal advice that he gave to us *in camera*.

B

THE LEGAL ASSESSOR: Whilst the Panel was *in camera*, I gave them legal advice on two matters that concerned documentation that was put before them by Mr Jenkins on behalf of Dr Skinner.

The first question that I was asked was to establish the status of the document D33, which is a report of a passage from the House of Lords Select Committee on Science and Technology. I advised the Panel that that report is not legal authority and that it is for the Panel to say what importance they give to it as a result.

C

The second matter that I was asked to advise on was the status and result of the Interim Orders Panel decision, which was put in as D28. That was put forward and it was apparent, as a result of that document being put forward, that Dr Skinner had been subject to conditions on his registration since 29 June 2005. That impacted, in the sense that it preceded some of the dates of the paragraphs in the allegation, namely paragraphs 31d, e, f, g, h, and probably i, all of those being paragraphs that post-dated the imposition of the conditions by the Interim Orders Panel. I was therefore asked to clarify the position.

D

The Panel then took a decision as to what that effectively meant. They noted that some of the paragraphs in the allegation took place after that date of 29 June. They considered whether, as a result of that, they should add any weight to the allegations that they had found proved and decided not to do so. In those circumstances, having given that advice, I felt that it was appropriate to proceed and deal with it on the basis of the advice given at the commencement of the proceedings.

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THE CHAIRMAN: Does either counsel wish to comment on that advice?

MR KARK: I do not entirely understand it, to be frank. I do not understand what was meant by "whether they should add weight to the charges that they had found proved" as a result of the IOP conditions.

F

THE LEGAL ASSESSOR: May I clarify that? Normally, of course, a panel would not be aware of any of the IOP conditions. Information having been specifically put before the Panel that some of the paragraphs in the allegation took place after the imposition of conditions, at first sight it may be thought in some way that that may make it a more serious matter and in some way that it may have been a breach of the conditions. It was decided that it did not and that it had no impact as to the weight. I hope that that clarifies the matter.

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MR KARK: I am grateful for that clarification.

THE CHAIRMAN: Are you happy with that, Mr Jenkins?

H

MR JENKINS: I am.

A THE CHAIRMAN: In that case, I will now read the Panel's determination on the sanction to be imposed on Dr Skinner.

D E T E R M I N A T I O N

B THE CHAIRMAN: Dr Skinner, the Interim Orders Panel (IOP) order for conditions is hereby revoked.

C The Panel has already found proved that your fitness to practise is impaired by reason of your misconduct and your deficient professional performance.

D In considering the matter of sanction, the Panel has borne in mind Mr Kark's submissions on behalf of the GMC, and those made by Mr Jenkins on your behalf, as to the appropriate sanction, if any, to be imposed on your registration. Mr Kark has submitted, on behalf of the GMC, that it would be appropriate to suspend your name from the Medical Register in order to mark the gravity of your behaviour and to send a signal to the profession as a whole. Mr Jenkins has submitted that a period of conditions would be an appropriate and proportionate sanction in this case.

F The Panel has noted the GMC's Indicative Sanctions Guidance, which states, at page S1-3, that Panels may take action in relation to the registration of a doctor in the interests of the public. The public interest can be defined as having three related but distinct strands, namely the protection of patients, the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of professional behaviour and conduct. The Panel considers that these three elements are pertinent in this case.

H The Panel has at all times borne in mind the principle of proportionality, weighing the

A public interest against your own interests. It has considered each sanction in turn, beginning with the least restrictive.

B The Panel has heard a great deal of evidence during this case about the various approaches that can be taken in the treatment of the symptoms of hypothyroidism. In deciding on the appropriate sanction to be imposed in this case, however, the Panel has restricted itself to considering only your actions in relation to the facts found proved. It is not the remit of this Panel to decide whether your approach to treatment is correct or incorrect, but to determine what sanction is necessary in order to protect patients and the public interest.

D The Panel was provided with a copy of the determination from your last hearing before the IOP on 16 August 2007, from which it notes that conditions were first placed on your registration on 29 June 2005. It notes that some of the paragraphs in the allegation took place after that date. The Panel has considered whether this added weight to any of the matters alleged against you and decided that it did not.

F The Panel has taken full account of the mitigation submitted on your behalf. It has read the numerous testimonials submitted by both patients and colleagues and has noted the testimony of the 17 patients who have given evidence on your behalf, and that of Dr Ahmad, who assists you with the administration at the Louise Lorne Clinic. It is clear that you are a caring and compassionate doctor whose overwhelming concern is the care and well being of your patients, many of whom have pleaded that you should be allowed to continue to practise. The Panel has taken account of the fact that the majority of the written testimonials, and all of the oral evidence, were given in full knowledge of the facts

A found proved against you, and of the Panel's finding of impairment. A large body of evidence has been submitted throughout this case demonstrating that many patients have benefited from the medication which you have prescribed.

B
The Panel considers that a profession's most valuable asset is its collective reputation and the confidence that it inspires in members of the public. It has therefore also borne in mind the words of Lord Bingham, Master of the Rolls, in the case of *Bolton v Law Society*
C [1994] 2 All ER 486, quoted in the Privy Council case of *Dr Gupta* [2002] ICR 785:

“The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is part of the price.”

D In the light of the Panel's findings of impairment, and in particular your prescribing, which put a patient at risk, and your failure to submit to a performance assessment without adequate reasons, it has determined that taking no action in this case would be insufficient to protect patients and the public interest.

E
The Panel then considered whether conditions should be imposed on your registration. It notes that, following the intervention of the IOP and the Healthcare Commission, you
F have changed your practice in a number of ways since the incidents in this case took place. It notes, for example, that without exception, you now only see new patients with a doctor's referral. The Panel also notes that it is your usual practice to confer with a
G patient's GP before instigating treatment and that you undertake regular ongoing monitoring in tandem with him or her. It is evident from the testimonials that, notwithstanding the cases considered by this Panel, such liaison with patients' GPs was
H your usual practice even prior to the imposition of the interim order.

A However, the Panel remains concerned that, in the past, you have prescribed thyroxine without taking blood tests and without regular review and monitoring. In addition, it is concerned that you did prescribe, without review, knowing that a patient was

B biochemically thyrotoxic and had palpitations. The Panel considered whether conditions could be formulated which would protect patients.

C The Panel is mindful that any conditions would have to be appropriate, proportionate, workable and measurable. The Panel has borne in mind the guidance at S1-13 of the Indicative Sanctions Guidance, which states that conditions may be appropriate where, *inter alia*, the following factors are present:

- D**
- No evidence of harmful deep-seated personality or attitudinal problems;
 - No evidence of general incompetence;
 - The conditions will protect patients during the period they are in force;
 - It is possible to formulate appropriate and practical conditions to impose on
- E** registration.

F The Panel considers that all the above factors are present in this case. In the light of the above, the Panel has determined that your registration should be made subject to the following conditions:

- G**
1. You must notify the GMC promptly of any post you accept for which registration with the GMC is required and provide the GMC with the contact details of your employer.
 2. You must allow the GMC to exchange information with your employer, or any organisation for which you provide medical services.

H

A 3. You must inform the GMC of any formal disciplinary proceedings taken against you, from the date of this determination.

4. You must inform the GMC if you apply for employment outside the UK.

B 5. You must accept new patients for endocrine treatment only if they have been referred to you by a fully registered medical practitioner. On a six monthly basis, you must provide to the GMC anonymised copies of patients' referral letters in a separate, paginated and indexed bundle (patients being identified by initials and NHS number).

C 6. Prior to initiating or varying any treatment regime, you must ensure that you have communicated your diagnosis and suggested care plan to the patient, his or her GP, and any other referring medical practitioner. On a six monthly basis, you must provide to the

D GMC copies of the letters sent to GPs or referring medical practitioners in a separate, paginated and indexed bundle (patients being identified by initials and NHS number).

7. You must keep a contemporaneous logbook of all patients seen in relation to work carried out as a registered medical practitioner. This book must identify the patients only by their initials and NHS numbers and the name and contact number of the referring practitioner, and should be initialled and dated by the patient. The logbook must indicate:

- E**
- in the case of a new patient, the reason for the consultation;
 - in the case of all patients, the reason for any prescribing outside of UK recommended guidelines.

On a six monthly basis, you must provide the GMC with a copy of the logbook.

G 8. You must inform the following parties that your registration is subject to the conditions, listed at (1) to (7), above:

- a. Any organisation or person employing or contracting with you to undertake medical work;

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- b. Any locum agency or out-of-hours service you are registered with or apply to be registered with (at the time of application);
- c. Any prospective employer (at the time of application).

B

The Panel has considered whether it would be appropriate to order an assessment of your professional performance as part of any sanction imposed. The Panel has already found that you did not give adequate reasons for your failure to cooperate with the GMC

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performance assessment. Cooperation with your regulatory body is essential to allow the GMC to carry out its function to regulate doctors and ensure good medical practice. The Panel views very seriously your failure to cooperate. However, it accepts that the

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Registrar based his decision that a performance assessment was necessary on the allegations presented to him at that time. This Panel has since made findings of fact and must make its decision in the light of those findings only. The Panel has determined that it would not be appropriate, based on the findings of fact, to order a performance

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assessment. The Panel wish you to be in no doubt, however, that you would be expected to cooperate with any appropriate request for assessment should this be deemed necessary by the GMC in the future.

F

In deciding on the length of the order for conditions, the Panel has borne in mind the seriousness of the facts found proved against you. In the light of this, the Panel has

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determined that it is both proportionate and appropriate to impose conditions for the maximum period allowed under the Medical Act, namely three years.

H

The effect of this direction is that, unless you appeal against this decision, your registration will become subject to the above conditions for a period of three years

A beginning 28 days from the date on which written notification of this determination is deemed to have been served on you.

B Before the end of the period of conditional registration, a Panel will meet to review your case. A letter will be sent to you about the review hearing, which you will be expected to attend. At that hearing, the Panel reviewing the case will expect to receive from the GMC caseworker copies of the assessments of the documentation submitted in relation to
C conditions 5, 6 and 7 above, which should be undertaken on a six monthly basis by a suitably qualified registered medical practitioner appointed by the GMC.

D Having directed that your registration be subject to conditions for a period of three years, the Panel will now consider whether it is necessary to order that your registration be subject to immediate conditions. Before doing so, however, the Panel would invite submissions from both Counsel on this matter.

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MR KARK: Madam, under Section 38(2) of the Act, you have the power to make the order immediate. There is some guidance to be found in the Indicative Sanctions Guidance, which you will find at paragraph 47 onwards of the 2005 document, or page S1-10. Perhaps I can just read it to you:

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“The Panel has the power to impose an immediate order where it is satisfied that it is necessary for the protection of members of the public or it is in the public interest or it is in the best interests of the practitioner.

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The interests of the practitioner may include, for example, avoiding putting him/her in a position where he may come under pressure from particular patients or may repeat misconduct such as irresponsible prescribing. This should be balanced against the doctor’s wider interests, which may be to return to work...” –

H and that would be relevant, of course, to suspension –

“... Where the Panel has directed a period of conditional registration

A

as the substantive outcome of the case, it may impose an immediate order of conditional registration.”

The test is the one that I have just outlined.

B

In my submission, it follows logically that having removed the IOP conditions but nevertheless having taken the view that it is necessary for the protection of the public to impose conditions, it would be wrong to have a 28-day interregnum, as it were, when there are no conditions at all. It would therefore be our submission that, following the guidance in the Indicative Sanctions Guidance, the order should be made immediate.

C

MR JENKINS: Madam, I agree that it would be logical to impose conditions straight away. It would seem strange to have conditions for nearly two and a half years, impose them for three years in the future, but with an interregnum of 28 days, so I certainly do not oppose the imposition of conditions starting today.

THE CHAIRMAN: Thank you for that. Legal Assessor.

D

THE LEGAL ASSESSOR: There is nothing much that I can formally add. You have been told what your powers are, and indeed you have the power to impose an immediate order where you are satisfied that it is necessary for the protection of members of public, in the public or in the best interests of the practitioner, which you may find is quite relevant here, particularly bearing in mind the time lapse that has passed and been referred to. You will bear in mind, of course, that the application made by Mr Kark is not opposed.

E

THE CHAIRMAN: Thank you. We will now go into private session to write our determination on immediate sanction.

A MEMBER OF THE PUBLIC: Madam Chairman, what sanction applies to all the NHS doctors who misdiagnosed and mistreated all these patients?

SEVERAL MEMBERS OF THE PUBLIC: Hear, hear!

F

STRANGERS THEN, BY DIRECTION FROM THE CHAIR, WITHDREW AND THE
PANEL DELIBERATED IN CAMERA

STRANGERS HAVING BEEN READMITTED

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D E T E R M I N A T I O N

THE CHAIRMAN: Dr Skinner, the Panel has considered Mr Kark’s submission on behalf of the GMC that an order for immediate conditions is necessary. It notes that Mr Jenkins has not opposed this view.

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A In view of the seriousness of the facts found proved, the Panel considers that it is necessary for the protection of members of the public, in the public interest and in your own interests to exercise its powers under Section 38(2) of the Medical Act 1983, as amended.

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The effect of this direction is that your registration will be made subject to the conditions as set out in the previous determination with effect from today and, unless you exercise your right of appeal, the substantive direction for conditions will take effect 28 days after notice of the outcome of this hearing is deemed to have been served upon you. The immediate order for conditions will remain in place until the substantive order takes effect.

C

D That concludes the hearing.

E MR KARK: On behalf of both counsel, can I thank you for the courtesy that you have afforded us by allowing us, for instance, to leave the building and return on half an hour's notice? We never take it for granted, but it is very helpful, so thank you very much for that.

THE CHAIRMAN: Thank you, Mr Kark. This hearing is now concluded.

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