

FITNESS TO PRACTISE PANEL

11 – 15 MAY 2009

7th Floor, St James's Buildings, 79 Oxford Street, Manchester, M1 6FQ
Room 4

Name of Respondent Doctor: Dr Ravindra Purushottam, MENE

Registered Qualifications: MB BS 1973 Nagpur University

Area of Registered Address: Lancashire

Registration Number: 2324573

Type of Case: New case of impairment by reason of:
misconduct

Panel Members: Mr A Popat, Chairman (Lay)
Mrs E Shend'ge (Lay)
Prof R Gupta (Medical)

Legal Assessor: Mr J Widdup

Secretary to the Panel: Dr A Gandy

Representation:

GMC: Mr Jason Pitter, Counsel, instructed by Field Fisher Waterhouse, represented the Council.

Doctor: Dr Mene was present and was represented by Mr Andrew Kennedy, Counsel, instructed by the Medical Protection Society.

ALLEGATION

"That being registered under the Medical Act 1983

'1. You were at all material times during June 2004, a general practitioner on the Performers List for the Trafford PCT and practised from the Chester Road and Mitford Street surgeries in Stretford and Manchester; **Admitted and found proved**

'2. a. During a consultation with Patient A on 10 June 2004 you

i. Stopped her prescription of Dalmane, **Admitted and found proved**

ii. Reduced her Valium prescription to "1 x 10 mg" per day, **Admitted and found proved**

b. During the consultation set out at 2(a) above you did not

- i. adequately explain the reasons for the course you intended to take, **Found not proved**
 - ii. explain or discuss the fact that the alterations to her medication may lead to withdrawal symptoms, **Found not proved**
 - iii. properly seek her consent to the proposed course, **Found not proved**
 - iv. place Patient A on replacement therapy, **Admitted and found proved**
 - c. You reduced the dosage of benzodiazepines by such an amount that she was liable to develop withdrawal symptoms, **Found proved**
 - d. You failed to follow guidance and accepted medical practice in relation to gradually reducing the dosage of benzodiazepines; **Admitted and found proved**
- '3.
- a. Your acts and/or omissions as set out in paragraph 2(a) were
 - i. inappropriate, **Admitted and found proved**
 - ii. not in the best interests of Patient A, **Found proved**
 - iii. below the standard to be expected of a registered medical practitioner, **Admitted and found proved**
 - b. Your acts and/or omissions as set out in paragraph 2(b) were
 - i. inadequate, **Found proved in relation to paragraph 2(b)(iv) and not considered in relation to paragraphs 2(b)(i), (ii) and (iii) as a consequence of the Panels previous findings**
 - ii. not in the best interests of Patient A, **Found proved in relation to paragraph 2(b)(iv) and not considered in relation to paragraphs 2(b)(i), (ii) and (iii) as a consequence of the Panels previous findings**
 - iii. below the standards to be expected of a registered medical practitioner; **Found proved in relation to paragraph 2(b)(iv) and not considered in relation to paragraphs 2(b)(i), (ii) and (iii) as a consequence of the Panels previous findings**
- '4.
- a. When Patient A's withdrawal symptoms were brought to your attention on or about 22 June 2004, you did not
 - i. take adequate steps to address those symptoms, **Found not proved**

ii. increase her dosage of benzodiazepines sufficiently to alleviate ~~ef~~ or stop those symptoms, **Found not proved**

iii. reinstate her Dalmane; **Admitted and found proved**

'5. Your acts and/or omissions at paragraph 4 above were

a. Inadequate, **Found not proved in relation to paragraph 4a(iii) and not considered in relation to paragraphs 4(a)(i) and (ii) as a consequence of the Panels previous findings**

b. Not in the best interests of Patient A, **Found not proved in relation to paragraph 4a(iii) and not considered in relation to paragraphs 4(a)(i) and (ii) as a consequence of the Panels previous findings**

c. Below the standard expected of a registered medical practitioner; **Found not proved in relation to paragraph 4a(iii) and not considered in relation to paragraphs 4(a)(i) and (ii) as a consequence of the Panels previous findings**

'6. a. During a consultation with Patient B on 10 June 2004 you

i. stopped his prescription of Dalmane, **Admitted and found proved**

ii. reduced his dosage of Thyroxine to 100 m_cg per day, **Admitted and found proved**

iii. reduced the dosage of benzodiazepines by such an amount that he was liable to develop withdrawal symptoms, **Found proved**

iv. failed to follow guidance and accepted medical practice in relation to gradually reducing the dosage of benzodiazepines, **Admitted and found proved**

b. During the consultation set out at 6(a) above you did not

i. adequately explain the reasons for your views and the course you intended to take, **Found not proved**

ii. explain or discuss the fact that the reduction in his dosage of benzodiazepines may lead to withdrawal symptoms, **Found not proved**

iii. carry out a thyroid function test before reducing the dosage of Thyroxine, **Admitted and found proved**

- iv. Properly seek his consent to the proposed course, **Found not proved**
 - v. Place Patient B on an adequate course of replacement therapy; **Admitted and found proved**
- '7.
- a. Your acts and/or omissions as detailed in paragraph 6(a) were
 - i. inappropriate, **Admitted and found proved in relation to paragraphs 6(a)(i) and 6(a)(ii) and found proved in relation to paragraphs 6(a)(iii) and (iv)**
 - ii. not in the best interests of Patient B, **Admitted and found proved in relation to paragraph 6(a)(ii) and found proved in relation to paragraphs 6(a)(i), (iii) and (iv)**
 - iii. below the standard to be expected of a registered medical practitioner; **Admitted and found proved in relation to paragraphs 6(a)(i) and 6(a)(ii) and found proved in relation to paragraphs 6(a)(iii) and (iv)**
 - b. Your acts and/or omissions as detailed in paragraph 6(b) were
 - i. inadequate, **Found proved in relation to paragraph 6(b)(v), found not proved in relation to paragraph 6(b)(iii) and not considered in relation to paragraphs 6(b)(i), (ii) and (iv) as a consequence of the Panels previous findings**
 - ii. not in the best interests of Patient B, **Found proved in relation to paragraph 6(b)(v), found not proved in relation to paragraph 6(b)(iii) and not considered in relation to paragraphs 6(b)(i), (ii) and (iv) as a consequence of the Panels previous findings**
 - iii. below the standard to be expected of a registered medical practitioner; **Found proved in relation to paragraph 6(b)(v), found not proved in relation to paragraph 6(b)(iii) and not considered in relation to paragraphs 6(b)(i), (ii) and (iv) as a consequence of the Panels previous findings**
- '8.
- a. When Patient B brought his withdrawal symptoms to your attention on or about 22 June 2004, you did not
 - i. take adequate steps to address those symptoms, **Found not proved**
 - ii. increase his dosage of benzodiazepines sufficiently to alleviate or stop those symptoms, **Found not proved**
 - iii. reinstate his prescription of Dalmane, **Found not proved**

- ‘9. Your acts and/or omissions as detailed in paragraph 8 above, were
- a. Inadequate, **not considered in relation to paragraph 8 as a consequence of the Panels previous findings**
 - b. Not in the best interests of Patient B, **not considered in relation to paragraph 8 as a consequence of the Panels previous findings**
 - c. Below the standard expected of a registered medical practitioner.” **not considered in relation to paragraph 8 as a consequence of the Panels previous findings**

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct.

Determination on facts

Dr Mene: The Panel has given careful consideration to all the evidence, written and oral, adduced in this case. It has taken account of the submissions made by Mr Pitter on behalf of the General Medical Council (GMC), and those made by Mr Kennedy on your behalf. It has borne in mind that the burden of proof rests on the GMC and that the standard of proof to be applied is the civil standard, namely the balance of probability.

At the start of the hearing, two typographical errors in the allegation were corrected; the word “of” was changed to “or” in paragraph 4(a)(ii), and the unit “mg” was altered to “mcg” in paragraph 6(a)(ii).

Mr Kennedy made a number of admissions on your behalf. At the start of these proceedings he admitted paragraphs 1, 2(a)(i), 2(a)(ii), 2b(iv), 4(a)(iii), 6(a)(i), 6(a)(ii) and 6(b)(iii). As a consequence of Patient B’s evidence, Mr Kennedy made the following further admissions on your behalf: Paragraphs 2(d), 3(a)(i), 3(a)(iii), 6(a)(iv) and 6(b)(v); 7(a)(i), (ii) and (iii) in relation to 6(a)(ii); and 7(a)(i) and (iii) in relation to 6(a)(i). All of these admissions were announced as found proved.

The Panel has considered each of the remaining paragraphs of the allegation separately and has made the following findings on the facts:

Paragraphs 2(b)(i), (ii), and (iii) have been found not proved on the basis of your contemporaneous consultation notes, your evidence, and the evidence of Patients A and B. The Panel finds that the consultation lasted between 30 to 40 minutes, during which you explained to Patients A and B the similarities between the effects of Temezepam and Dalmane. You told the Panel that Patient B stated that he and Patient A chose to stop taking Dalmane because they were paying for it. On 21 June 2004, Patient A wrote to you. In that letter she said that she understood that you were trying to help her. The Panel finds this statement to be at odds with her evidence that no explanation was given for the alteration in her medication.

Paragraph 2(c) has been found proved on the basis of your evidence and the evidence of Dr A.

Paragraph 3(a)(ii) in relation to 2(a) has been found proved on the basis of Dr A's evidence.

As a consequence of the Panel's previous findings, paragraph 3(b) in its entirety falls in relation to paragraphs 2(b)(i), (ii) and (iii). Paragraph 3(b) in its entirety has been proved in relation to paragraph 2(b)(iv).

Paragraphs 4(a)(i) and (ii) have been found not proved on the basis of Patient A's letter of 21 June 2004, in which there is no mention of past withdrawal symptoms except insomnia; and your contemporaneous notes of the consultation on 22 June 2004 with Patient B, which record that Patient B informed you that Patient A was experiencing problems sleeping, but do not record that she was experiencing other withdrawal symptoms. The notes record an increase in the dosage of benzodiazepines prescribed to Patient A.

As a consequence of the Panel's previous findings, paragraph 5 in its entirety falls in relation to paragraphs 4(a)(i) and (ii). Paragraph 5 in its entirety has been found not proved in relation to paragraph 4(a)(iii). The Panel finds that, as you were not informed that Patient A was experiencing withdrawal symptoms, there was no requirement for you to reinstate Dalmane.

Paragraph 6(a)(iii) has been found proved on the basis of your evidence and the evidence of Dr A.

Paragraphs 6(b)(i), (ii) and (iv) have been found not proved on the same basis as the Panel's findings in relation to paragraphs 2(b)(i), (ii), and (iii).

Paragraphs 7(a)(i) and (iii) have been found proved in relation to paragraphs 6a(iii) and (iv).

Paragraph 7(a)(ii) has been found proved in relation to paragraphs 6(a)(i), (iii) and (iv).

Paragraphs 7(b)(i), (ii) and (iii) have been found not proved in relation to paragraph 6(b)(iii) on the basis of Dr A's evidence.

Paragraphs 7(b)(i), (ii) and (iii) have been found proved in relation to paragraph 6b(v).

Paragraph 8 in its entirety has been found not proved on the basis on your contemporaneous consultation notes which record that Patient B was experiencing problems with his legs, but do not record that he was suffering from withdrawal symptoms.

Paragraph 9 in its entirety falls as a consequence of the Panel's finding in relation to paragraph 8.

Having reached findings on the facts, the Panel now invites both parties to adduce further evidence and to make any further submissions as to whether, on the basis of the facts found proved, your fitness to practise is impaired.

Determination on impaired fitness to practise

Dr Mene: The Panel has considered whether, on the basis of the facts found proved, your fitness to practise is impaired under Section 35C (2) of the Medical Act 1983 (as amended) by reason of misconduct. It has taken account of the evidence adduced in the case, written and oral, the submissions made by Mr Pitter on behalf of the General Medical Council (GMC) and those made by Mr Kennedy on your behalf.

Mr Pitter submitted that, by looking at the cumulative effect of your errors, your fitness to practise is impaired.

Mr Kennedy invited the Panel to consider a two-stage test when considering impairment. He submitted that the Panel must first determine whether your errors are so serious as to amount to misconduct. He submitted that unless the Panel found that your actions and omissions were serious enough to amount to misconduct, the Panel could not find that your fitness to practise was impaired. The Panel followed this two-stage test during its discussions.

Mr Kennedy referred to the case of *Calhaem v GMC* [2007] EWHC 2606 (Admin) and to the words of Mr Justice Jackson who said:

“Mere negligence does not constitute ‘misconduct’ within the meaning of [section 35C(2) of the Medical Act]. Nevertheless, and depending on the circumstances, negligent acts or omissions which are particularly serious may amount to ‘misconduct’.”

He also said:

“A single negligent act or omission is less likely to cross the threshold of ‘misconduct’ than multiple acts or omissions. Nevertheless, and depending upon the circumstances, a single ... act or omission if particularly grave, could be characterised as ‘misconduct’.”

Mr Kennedy submitted that your acts and omissions amounted to no more than mere negligence. They did not amount to misconduct.

In June 2004, you worked as a general practitioner on the Performers List for the Trafford PCT and practiced from the Chester Road and Mitford Street surgeries in Stretford and Manchester.

The case involved consideration of your treatment of Patients A and B who are husband and wife. Patient B is Patient A’s registered carer. They both suffer from various conditions, some of which required the prescription of a variety of Benzodiazepines. You visited Patient A at home in May 2004 and became aware of the excessive quantities of Benzodiazepines she had been taking over a prolonged

period. You informed the Panel that you arranged for the consultation on the 10 June 2004 in order to review the medication of Patients A and B. They both attended this joint consultation with you. At the time of your consultations with them, both patients had been taking a combination of Benzodiazepines for some 15 years.

Your notes of the consultation on 10 June 2004 record that you explained to Patients A and B the rationale of weaning them off Benzodiazepines. It was not necessary for Patients A and B to take Dalmane (a Benzodiazepine) if they were also taking Temazepam (also a Benzodiazepine). Both addressed their sleeping problems. You stated that both patients agreed to stop taking Dalmane for which they were paying privately.

During this consultation, you stopped Patient A's prescription of Dalmane and reduced her Valium prescription to 1 x 10mg per day. You also stopped Patient B's prescription of Dalmane and reduced his dosage of Thyroxine to 100 mcg per day. You reduced the dosage of Patient A and B's Benzodiazepines by such an amount that they were liable to develop withdrawal symptoms. Furthermore, you failed to follow guidance and accepted medical practice in relation to gradually reducing the dosage of Benzodiazepines. The Panel found that your actions were inappropriate, not in the best interests of Patients A and B, and below the standard to be expected of a registered medical practitioner

During this consultation you did not place either Patient A or B on an adequate course of replacement therapy. The Panel found that your actions were inadequate, not in the best interests of Patient A or B and below the standard to be expected of a registered medical practitioner.

Patient B had a consultation with you on 22 June 2004. He provided you with a letter, dated 21 June 2004, from Patient A. The Panel found that Patient B did not inform you at that time of the severity of any withdrawal symptoms. Your contemporaneous notes indicate that he told you that Patient A was suffering from insomnia and that he was experiencing problems with his legs. Her letter to you referred to her insomnia. As a result of this you increased Patient A's dosage of Benzodiazepines.

The Panel has heard that Patients A and B complained to the Trafford North Primary Care Trust about the severe withdrawal symptoms they believed they had experienced as a consequence of stopping taking Dalmane. The Panel has noted Patient A's letter of complaint, dated 19 July 2004, in which she states that the withdrawal symptoms were so severe that they had to visit an Accident and Emergency Department.

The Panel has noted the minutes of a meeting, held on 9 August 2004, with Patient B, you, your practice manager and a prescribing adviser. The minutes state that, at the conclusion of the meeting, the conflict appeared to have been resolved. However, Patients A and B stated during their evidence to the Panel that they remained highly dissatisfied by the treatment they received by you, including the fact that you took them off Dalmane.

The Panel considered the evidence of the GMC's expert witness Dr A. He informed the Panel that, given the length of time Patients A and B had been taking Benzodiazepines and the excessive dosages they had been prescribed, you should have placed the patients on a "weaning off" programme which may have taken some years. He stated that it was not appropriate for you to stop their prescriptions abruptly as this would be liable to cause severe withdrawal symptoms. However, he commended you for the fact that you recognised that they needed to reduce their intake of Benzodiazepines. Dr A stated that reducing Patient B's prescription of Thyroxine, and the reduction of Benzodiazepine prescriptions, was not in his best interest and was below the standard to be expected of a registered medical practitioner but not seriously so.

The Panel accepts Mr Kennedy's submission that it is first necessary to consider whether your acts and omissions were so serious as to amount to misconduct.

Having had regard to all the evidence in the case, and in particular the evidence of Dr A, the Panel does not find that your conduct was so grave as to amount to misconduct.

If Mr Kennedy's submission on misconduct is wrong, the Panel has considered whether there could be impairment of your fitness to practise. The issue of impairment is a matter for this Panel using its own professional judgement.

In reaching its decision the Panel has taken account of Good Medical Practice (2001) which states that "serious or persistent failure to follow this guidance will put your registration at risk."

The Panel was advised by the Legal Assessor of the observations of Mr Justice Silber in *Cohen v GMC* (2008) EWHC 581. At paragraph 64 he states:

"There must always be situations in which a Panel can properly conclude that the act of misconduct was an isolated error on the part of a medical practitioner and that the chance of it being repeated in the future is so remote that his or her fitness to practise has not been impaired."

At paragraph 65 he states:

"It must be highly relevant in determining if a doctor's fitness to practise is impaired that first his or her conduct which led to the charge is easily remediable, second that it has been remedied, and third that it is highly unlikely to be repeated."

The Panel has noted that immediately following the incident you completed a Significant Event Record Sheet. In your 2004/2005 appraisal you stated that by doing so you were more aware of the pitfalls in managing Benzodiazepine prescribing. You also stated in this appraisal that you had researched and re-read the management of Benzodiazepine dependency and that you would ensure that these guidelines were to be followed in the future.

The Panel has also noted the Benzodiazepine Policy for the Chester Road Surgery which you wrote following the incident and which is used by all members of staff at the surgery. The Panel also notes that you now work closely with the local drugs team.

The Panel considers the steps you took following the incident demonstrate that you recognised the deficiencies in your management of Patients A and B, and that you are determined not to make the same errors again. The Panel considers that you have shown clear insight into your deficiencies and that you have remedied those deficiencies. It is confident that you will not make the same mistakes in the future.

The Panel has also considered the numerous testimonials which all attest to your excellent practice, and state that the errors you made were not typical of your usual standard of medical practice and that your actions were out of character. It notes that a fellow practitioner describes you as being part of the “bedrock of General Practice in Stretford”. The Panel considers that your errors may have occurred due to the complexity of Patient A and B’s case. The Panel has noted that you have never been the subject of GMC or PCT complaints in the past.

In all the circumstances the Panel does not find that your fitness to practise is impaired.

That concludes the case.

Confirmed

15 May 2009

Chairman