

IN THE GENERAL MEDICAL COUNCIL
FITNESS TO PRACTISE PANEL

CASE OF:-

JANE ANN BARTON

SUPPLEMENTARY NOTE
TO ADVICE OF 28/02/10

1. In my advice of 28 February 2010, I indicated that there might be an arguable case that the conditions imposed on Dr Barton's registration by the Fitness to Practise Panel on 29 January 2010 were unduly lenient because they did not prevent Dr Barton from prescribing orally administered opiates. I indicated that the strength of this case would depend, to a large extent, on the exact wording of the conditions previously imposed by the Interim Orders Panel, of which I had not had sight.
2. I have been provided with a transcript of a determination of the Interim Orders Panel made on 12 November 2009, which refers back to previous determinations of 21 June 2001, 11 July 2008, 22 December 2008 and 1 June 2009. The transcript indicates that:
 - a. The conditions imposed by the Interim Orders Panel (from 11 July 2008) required Dr Barton not to prescribe diamorphine and to restrict her prescribing of diazepam in line with BNF guidance.
 - b. No restrictions were imposed by the Interim Orders Panel in respect of any other opiates.
 - c. Dr Barton's prescribing was monitored by Neil Hardy, Head of Medicines Management for Hampshire NHS, who considered that Dr Barton had complied with the conditions imposed by the Interim Orders Panel.
 - d. The voluntary restrictions to which Dr Barton was subject from October 2002 were in the same terms as the restrictions imposed by the Interim Orders Panel.

3. In light of the above, it is clear that the conditions (first voluntarily imposed and then imposed by the Interim Orders Panel) under which Dr Barton was practising as a GP in the ten years since the events at GWMH were less restrictive than the conditions imposed by the Fitness to Practise Panel on 29 January 2010 [Day 57, p.12-13]:
 - a. The Fitness to Practise Panel's conditions prohibit Dr Barton from prescribing or administering any opiates that are administered by injection, not just diamorphine.
 - b. The Fitness to Practise Panel's conditions require Dr Barton to keep a log of all prescriptions of opiates.
 - c. The Fitness to Practise Panel's conditions require Dr Barton to comply with BNF guidelines in respect of all opiates.
 - d. The Fitness to Practise Panel's conditions prohibit Dr Barton from undertaking palliative care work.
4. In these circumstances, it was, in my opinion, reasonable for the Panel to conclude that the conditions that they imposed on Dr Barton's registration were sufficient to protect patients from the risk of individual harm. Dr Barton was practising safely for ten years under conditions less restrictive than those imposed by the Fitness to Practise Panel.
5. I referred in my original advice to the case of patient H (Robert Wilson); the Fitness to Practise Panel found that a prescription of Oramorph (an orally administered opiate) was excessive to the patient's needs. I considered that the conditions imposed on Dr Barton's registration might not have been sufficient to protect against a similar prescription being written and administered in the future. However, on further consideration, I consider that it was not unreasonable for the Fitness to Practise Panel to have concluded that the conditions that they imposed were sufficient to protect future patients from such risk:
 - a. Crucially, the conditions imposed by the Fitness to Practise Panel do not permit Dr Barton to undertake palliative care. Although patient H was admitted for rehabilitation, Dr Barton assessed him as requiring palliative care and administered analgesia on this basis (see [Day 29, p.75E]). She could not do this under the Fitness to Practise Panel's conditions.
 - b. The conditions imposed by the Fitness to Practise Panel also require Dr Barton to prescribe only in accordance with BNF guidelines. The prescription in the case of patient H, for 10mg of Oramorph, written on 14 October 2008 to replace paracetamol and codeine, may have been contrary to these guidelines given the patient's alcoholism and liver disease. Although the initial dose was not outside the guidelines for a normal

patient,¹ arguably it was not in accordance with specific BNF advice to reduce the dose where there is hepatic impairment.²

6. For the reasons set out above, in light of the wording of the conditions imposed by the Interim Order Panel and the further information contained in the transcript of their determination, I conclude, on balance, that the conditions imposed on Dr Barton's registration by the Fitness to Practise Panel on 29 January 2010 were not manifestly inappropriate, such as would warrant reference of this case to the High Court.

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9 March 2010

¹ The BNF 34th Edition states: "A dose of 5–10mg is enough to replace a weaker analgesic (such as paracetamol or co-proxamol), but 10–20mg or more is required to replace a strong one (comparable to morphine itself)" [Exhibit C1, Tab 3, p.2].

The wording in the current (58th) edition is the same save for removal of reference to co-proxamol.

² The BNF 34th Edition states: "**Cautions**.... may precipitate coma in hepatic impairment (reduce dose or avoid but many such patients tolerate morphine well)... **Palliative Care**. In control of pain in terminal illness these cautions should not necessarily be a deterrent to the use of opioid analgesics. **Contra-Indications**. Avoid in... acute alcoholism." [Exhibit C1, Tab 3, p.9]

The current (58th) edition states: "**Cautions**... A reduced dose is recommended... in hepatic impairment (avoid if severe;)... **Palliative Care**. In control of pain in terminal illness these cautions should not necessarily be a deterrent to the use of opioid analgesics."