

..
..
INVESTIGATION COMMITTEE ORAL HEARING

2-4 OCTOBER 2012

St James's Building, Oxford Street, Manchester, M1 6FQ

Name of Respondent Doctor: Dr Sarah Myhill

Registered Qualifications: MB BS 1981 University of London

Registration Number: 2734668

Type of Case: Investigation Committee oral hearing

Committee Members:

Chair – Dr Christopher Hanning

Medical – Dr Andrew Jackson

Lay – Mr John Matharu

Legal Assessor: Mr Peter Kyte QC

Secretary to the Panel: Mr Gareth Eaton

Representation:

Ms Sarah Ellson of Field Fisher Waterhouse represents the GMC.

Dr Myhill was present and unrepresented.

Determination

Dr Myhill: At this hearing, the Investigation Committee carefully considered all the material before it, including the submissions made by you, and those made on behalf of the GMC by Ms Ellson. The Committee accepts the advice of the Legal Assessor.

The Committee is aware that it must have in mind the GMC's duty to act in the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct and behaviour. In deciding whether to issue a warning the Committee must apply the principle of proportionality and balance the interests of the public with those of the practitioner.

You have held full registration with the GMC as a medical practitioner since 1982. In 2010 you set up the website www.drmyhill.co.uk ('Your Website') for which you have editorial control.

In an email dated 9 February 2010 Mr A, Senior Clinical Scientist, wrote to the GMC with concerns that patients were being misled by the advice on your website. Specifically, your advice was actively discouraging mammograms in breast cancer screening and actively discouraging the use of the oral contraceptive pill ('the Pill').

Mr A alleged that the advice contained on your website was contrary to national guidelines, specifically those of the NHS, The Department of Health and NICE. He was concerned that the advice was placing patients at serious risk.

In respect of mammograms in breast cancer screening your website stated that standard tests currently available for breast cancer are not very satisfactory because they lack sensitivity and because the testing involves radiation. It went on to state that 'we now have top cancer specialists telling us that overall routine screening with mammograms barely changes the rate of diagnosis or care of breast cancer' and it recommended that thermal imaging was much better.

Your website stated that if there was a lump, patients should not let someone stick a needle in it to biopsy it as the needle spreads tumour cells and seeds them elsewhere. It stated that a recent report suggests 22% of all breast tumours regress spontaneously which you emphasised made the point that the body is well able to cure itself of cancer given the right impetus.

In respect of the Pill your website stated that 'contraception is an entirely unnatural state of affairs' and that 'using the pill as a contraceptive is 'dangerous medicine'. It went on to state 'unprotected sex also puts one at great risk of getting nasty infections which may result in infertility, life long fatal infections (HIV and hepatitis B and C), human papilloma virus (increases risk of cervical cancer) and many other cancers. Furthermore the immuno-suppressive effects of the Pill make any infection more virulent'.

Your website stated that 'the pill increases one's risk of cancer (breast, cervix, uterine and ovary) especially when the pill is started in young women. The

longer the pill is taken, the greater the risk'. It stated further 'the pill has many other life threatening side effects such as increased risk of thrombosis and heart disease, depression and suicide as well as lesser symptoms'. Your website also stated that 'the incidence of cancer of the cervix has increased 2000% since the early 1960's when the pill was first introduced'. It also stated that you had similar reservations about long term injected contraceptive such as Depo-Provera.

The GMC commissioned Dr H, a GP Principal, to review the contents of your website. Dr H stated that he did not consider that you were acting inappropriately although he considered that your reference to 'dangerous medicine' was inappropriate. He added the caveat that you should ensure that the information given should be accurate and not alarmist. Overall, he considered that your actions were appropriate and of a reasonable competent standard. However, Dr H acknowledged that he was not an expert in the relevant fields.

Thus, the GMC commissioned two experts to review further the contents of your website, Dr S, a GP with expertise in family planning and Dr HB, Consultant Radiologist and Director of Breast Screening at The Humberside Breast Screening Service.

Dr S concluded that overall your statements on contraception fell seriously below the standard expected of a reasonably competent medical practitioner. He added that your website was misleading and factually incorrect and recommended that your website should be clearer regarding the research on combined oral contraception and cervical and breast cancer. He concluded that the relevant page on your website was contrary to the guidelines set out in *Good Medical Practice*.

Dr HB concluded that the information on your website was inaccurate, presented in a biased and misleading form and contrary to national guidelines. It encouraged the use of an alternative breast screening method which has no proven value in screening for breast cancer. She stated it discourages the use of routine mammography screening advised by NICE and NHS cancer screening programmes. Dr HB concluded it put the lives of women at unnecessary risk.

On 12 January 2011 the GMC wrote to you in accordance with Rule 7 of the GMC's (Fitness to Practise) Rules 2004 ('the Rules'). The GMC made the allegations that are the subject of this hearing.

You submitted a formal response to these allegations in an email dated 30 January 2011 in which you said that the statements are factually correct, evidence based and consistent with national guidelines. You submitted that the '*Bolam Test*' sets the legal standard for the required standard of care and that

this test simply requires that the opinions on your website are supported by a responsible body of medical peers.

On 21 November 2011 the GMC wrote to you in accordance with Rules 7 and 11 of the Rules, and advised you that the Case Examiners may be minded to issue you with a warning. You indicated on 28 November 2011 that you were not prepared to accept the proposed warning.

Subsequently, supplemental reports were obtained from Dr S and Dr HB. Their opinions remained unchanged. On 13 June 2012, the GMC advised you that in accordance with Rules 7 and 11 of the Rules your case had been referred to this Committee.

At this hearing, the Committee has heard oral evidence from Dr S, Dr HB and you in accordance with Rule 11 (7) (a) and (b) of the Rules.

In oral evidence Dr S and Dr HB's opinions remained unchanged from those expressed within their reports. They said that when applying the '*Bolam Test*', no responsible body of medical opinion would have endorsed the inclusion on your website of the statements complained of.

In this hearing Ms Ellson for the GMC submitted that this was a case in which a warning was an appropriate and proportionate response. She said that your website made statements that were factually incorrect, clinically unsubstantiated and contrary to national guidelines.

Ms Ellson submitted that you have used your status as a registered medical practitioner to express your personal beliefs in a way which exploited patients' lack of medical knowledge and you have exploited patient vulnerability by arousing ill founded fears for patient health.

Ms Ellson said that this conduct does not meet with the standards required of a doctor, it risks bringing the profession into disrepute and must not be repeated. The required standards are set out Good Medical Practice; in particular paragraphs 57, 60, 61, 62 and 65 were relevant.

Ms Ellson said that the GMC does not need to establish that patients have been harmed in order to take action on your registration; however, it must ensure that they are not placed at risk. She submitted that the civil law concept of breach of duty of care has no place in this hearing. The GMC are not alleging negligence. She reminded the Committee that the '*Bolam Test*' may only have relevance in the context of whether a responsible body of medical opinion would endorse the offending words on the website.

You submitted that the investigation by the GMC into the content of your website relies on three key assertions being true.

1. 'That expressing my evidence based opinions and participating in the well-documented debate re the risk/benefits analyses of Mammography and Needle Biopsies and the Contraceptive Pill on my website I am giving doctor to patient 'advice' and that in doing so there is established a 'duty of care' to anonymous readers
2. That I have breached this yet to be proven 'duty of care' in providing this yet to be proven 'advice' because the said yet to be proven 'advice' is asserted to have fallen below the standard of care expected from a reasonably competent medical practitioner.
3. That in breaching this yet to be proven duty of care patients have been harmed or put at risk of harm'.

You said that the GMC must prove that the advice on your website is not supported by a body of responsible doctors in order for this advice to be said to have fallen below the standard of care expected of a registered doctor.

You submitted that the content on your website was supported by evidence and referred the Committee to a number of research papers in support of your opinions. You asked whether these opinions can be said to be a breach of the requisite standard of care required within the meaning of a doctor patient relationship.

In your oral evidence you said that there had been seven GMC cases against resulting in no action being taken against you. You said that no patient had been harmed and that this hearing was an attempt by the GMC to justify its eleven year investigation against you.

You acknowledged that certain aspects of the advice you gave on your website were slapdash, a little informal, not very subtle and contrary to national guidelines; however, no patient had been harmed. You said it would be unhelpful and unattractive to put links to national guidelines on each page however you confirmed that you would not offer advice in this way again and you would always ensure that any opinion had a good evidence base.

In considering whether to issue you with a warning the Committee has had in mind the GMC's duty to act in the public interest, which includes the protection of patients and maintenance of public confidence in the profession.

The Committee accepts that you are a committed, well respected and caring practitioner and notes the significant number of patients who use your website and hold you in high regard.

The Committee accepts the evidence given under oath by Dr S and Dr HB, including their conclusions that the statements on your website could place patients at risk and that they know of no responsible body of medical practitioners who would place such advice upon a website open to the public.

The Committee considers that the relevant statements in relation to breast cancer screening and contraception are neither factually correct nor clinically substantiated and they contravene national guidelines. The Committee is concerned that the way in which these statements had been written could mislead patients and place them at significant risk. In your oral evidence you accepted that some of statements were both slapdash and contrary to national guidelines.

In coming to these conclusions, the Committee reminded itself that the burden of proof in relation to the areas of dispute is on the GMC and that the appropriate standard is the civil one.

The Committee considers it important to have open debate regarding medical opinion, research and developments in treatment. However, the contents of those parts of your website under consideration did not provide a balanced view. The Committee considers that you expressed your personal beliefs in a way which has exploited patients' lack of medical knowledge and vulnerability by arousing ill founded fears for their health.

The Committee considers the significant number of people who use your website reflects the influence you hold as a registered medical practitioner and considers that this increases your duty to provide accurate and factual information and balanced opinions.

The Committee acknowledges that you have shown a level of insight at this hearing in accepting that your opinions are against national guidelines and that you would not write statements in this way again. It accepts that despite a number of previous investigations, you have a previous good history and no action has been taken on your registration. The Committee has taken note of the substantial number of testimonials and correspondence in support of your practice.

The Committee has a duty to ensure proper standards of care are maintained. It considers your actions to be a significant departure from those standards. It has balanced your interests with those of the public and in doing so the Committee

has determined that the following warning is an appropriate and proportionate response in this case;

"On your website you made statements in relation to contraception and breast cancer screening that were factually incorrect; clinically unsubstantiated; and contrary to national guidelines. In so doing you used your position as a registered practitioner to exploit patients' lack of medical knowledge by arousing ill founded fears for their health.

This conduct does not meet with the standards required of a doctor. It risks bringing the profession into disrepute and must not be repeated. The required standards are set in Good Medical Practice and associated guidance. In this case, paragraph 57, 62 and 65 are particularly relevant: 'You must make sure that your conduct at all times justifies your patients' trust in you and the public's trust in the profession.' You must not put pressure on people to use a service, for example by arousing ill-founded fears for their future health' and 'You must do your best to make sure that any documents you write or sign are not false or misleading. This means that you must take reasonable steps to verify the information in the documents and that you must not deliberately leave out relevant information.'

Whilst this failing in itself is not so serious as to require any restriction on your registration, it is necessary in response to issue this formal warning".

You will be notified of this decision in writing within the next two working days.

That concludes the determination of the Investigation Committee in this case.