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RED TOP CORRESPONDENCE

STANDARDS AND FITNESS TO PRACTISE DIRECTORATE

Assignee: Robert Loughlin

Section: Adjudication

Date: 08-02-10

DO Reference:	2010-102	
DO SR:	SR1-310358682	
OCCE Reference:	320438	
Complaint Reference(s):	numerous	
Correspondent's Name:	Mr Don Aston	UID:
Doctor(s) concerned:	Dr Jane Barton	UID: 587920
Subject:	letter of support for Dr Barton	

Action Required:

- Acknowledge
 Reply direct
 Draft reply for:
 - AD / HoS
 - DCE / Director – Paul Philip
 - Chief Executive – Niall Dickson
 - Chair – Peter Rubin Provide Case Summary

Deadline:

18-02-10

Notes:

11/02 - Reply sent RL.

General Medical Council	
Original was a Photocopy	Page 3-
Original was Poor Quality	
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Original has been Photocopied to improve Scan Quality	
Document had physical objects ref:	

Code A

From: Tyrieana Long Code A
Sent: 05 February 2010 17:01
To: Paul Philip Code A
Cc: Christine Couchman Code A; Marisa Hathorn Code A
Code A
Subject: OCCE 000320438 D Aston
Attachments: DOC001.pdf



DOC001.pdf (140
KB)

Paul

Please see the attached correspondence from Mr Don Aston who has made some comments on the Jane Barton case.

Please consider a response.

Thanks

Ty

-----Original Message-----

From: Ben Jones Code A
Sent: 05 February 2010 15:07
To: Tyrieana Long Code A
Subject: RE: Correspondence for Niall

Please send to Paul P for consideration

Thanks
Ben

-----Original Message-----

From: Tyrieana Long Code A
Sent: 05 February 2010 13:42
To: Ben Jones Code A
Subject: Correspondence for Niall

Ben

Please see the attached letter on the subject of the Dr Jane Barton case.

Do we want to respond?

Thanks

Ty

RECEIVED - 5 FEB 2010

Code A**Code A**

Niall Dickson,
Chief Executive & Registrar
GMC

4/2/10

Dear Mr Dickson,

Re: Dr Jane Barton

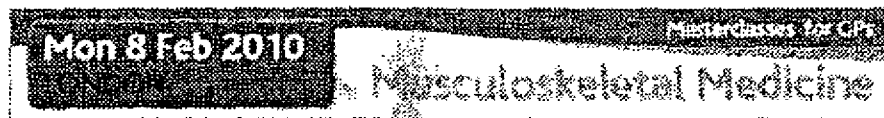
You will probably already have seen Clare Dyer's BMJ news report on this case on their website and which should appear in this Saturday's paper BMJ. There is also a rapid response already on the site - copies of both are attached.

There does not seem much point in references to fitness to practise panels in cases of this type if the GMC immediately tries to disown their conclusions? Of all the professionals involved she is surely the least blameworthy (if at all) - in fact it is difficult to see what else she could have done even if she had further exceeded the hours she was appointed to work (under 3% of the hours in the week). Given your previous career you will be aware that published sources of guidance to doctors and others prescribing opioids and sedatives in palliative care remain extremely confused and inconsistent including the two published by the BMA (BNF and the BMJ's ABC of palliative care) and were even more so in the 1990's.

I would be delighted to have her as my GP if I lived in Gosport and was terminally or seriously ill (I am already elderly). How about you?

Yours sincerely,

Code A



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Cite this as: BMJ 2010;340:c619

News

Relatives are furious that GP can continue practising

Clare Dyer

¹ BMJ

A GP who prescribed potentially hazardous doses of sedatives and painkillers to elderly patients has been found guilty of "multiple instances" of serious professional misconduct by a General Medical Council panel but is allowed to continue practising.

The fitness to practise panel decided that Jane Barton should not be struck off but should be permitted to practise, subject to conditions that will be attached to her registration for three years.

In an unusual though not unprecedented move the GMC was quick to state its disagreement with the panel's decision. It thought she should have been struck off and could support an application by the Council for Healthcare Regulatory Excellence for a High Court ruling that the sanction is unduly lenient.

The GMC's chief executive, Niall Dickson, said, "We are surprised by the decision to apply conditions in this case. Our view was the doctor's name should have been erased from the medical register following the panel's finding of serious professional misconduct.

"We will be carefully reviewing the decision before deciding what further action, if any, may be necessary."

The Council for Healthcare Regulatory Excellence said that it had called for the fitness to practise panel's transcripts and would announce its decision in due course.

Relatives of patients reacted with fury to the decision to allow Dr Barton to continue in practice, and one branded her a "monster."

Dr Barton's role as clinical assistant at the Gosport War Memorial Hospital in Hampshire from 1996 to 1999 was at the centre of an investigation that saw the police look into 92 deaths. The Crown Prosecution Service decided not to prosecute, but the GMC hearing followed an inquest last year into 10 deaths that concluded that prescribed drugs had been a factor in five.

The charity Action against Medical Accidents reiterated its call for an inquiry into the events at the hospital. Its chief executive, Peter Walsh, said, "Whatever one thinks about this individual doctor, there are systemwide lessons that need to be learnt from this. There is still inadequate supervision and monitoring of drugs in care homes."

The panel, which heard that patients were left in "drug induced comas," criticised media comment that compared the case to that of Harold Shipman, the GP who deliberately killed hundreds of patients with drug overdoses. But it found that there had been instances when Dr Barton's acts and omissions had put patients at increased risk of premature death.

It listed a catalogue of failings relating to her prescribing practices, poor note keeping, failure to consult colleagues, and

http://www.bmj.com/cgi/content/full/340/feb02_1/c619

02/02/2010

inadequate assessments, examinations, and investigations.

The panel said that although Dr Barton conceded that she should have refused to continue working in circumstances that were increasingly dangerous for patients, she insisted that she would not behave differently today if the circumstances were the same, giving an image of a doctor "convinced that her way had been the right way."

On the other hand she had been practising safely for 10 years since then and produced nearly 200 testimonials from patients and colleagues.

The panel attached 11 conditions to her registration, including no prescribing or administering of opiates by injection and no involvement in palliative care.










Dr Barton, who still practises as a GP in Hampshire, said, "Anyone following this case carefully will know that I was faced with an excessive and increasing burden in trying to care for patients at the Gosport War Memorial Hospital. I did the best I could for my patients in the circumstances until finally I had no alternative but to resign."

She said she drew "great comfort" from the evidence of the leading cancer specialist Karol Sikora, "who told the panel that, given the situation, my general practice and procedure were perfectly reasonable."

Dr Sikora told the *BMJ*: "Gosport War Memorial Hospital at the time of the incidents was a busy dumping ground for elderly patients. The nurses did their best, and Jane devised a variety of strategies to keep things going. She was, after all, a part time sessional clinical assistant. There were two consultants and a pharmacist who reviewed prescriptions. The families were simply told a lie when their relatives were shunted there. There were absolutely no resources for rehabilitation at all.

"I really believe she has been offered up as a sacrifice to save the stark reality of the failure of the NHS to provide any rehabilitation service for elderly patients coming to light. Places like Gosport still exist. Blaming a single doctor for all their failings will not make things better."

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Rapid Responses to:

NEWS

Clare Dyer

Relatives are furious that GP can continue practising

BMJ 2010; 340: c619 [Full text]

Rapid Responses: Submit a response to this article

Rapid Responses published:

The GP as scapegoat

Don C Aston (3 February 2010)

The GP as scapegoat

3 February 2010



Don C Aston,
Retired
34 Burman Road, Shirley,
Sobhuil B90 2BG

Send response to

journal:

Re: The GP as scapegoat

Dr Karol Sikora's comments to the BMJ go to the heart of the shameful scapegoating of Dr Barton over the last decade of enquiries, investigations and inquests. He could also have added that she was employed as a clinical assistant for just 5 hours a week but had to provide medical cover for two wards with almost 50 elderly sick patients whose theoretical status (were they for rehabilitation, slow or very slow rehabilitation or palliative care?) was unknown and whose relatives had often been given unjustifiably optimistic progress reports to get them to agree to their being transferred to these Gosport wards. Although she was also working as a local full-time GP she in fact devoted far more time than she was contracted to. The consultant in charge was said to have visited fortnightly. Obviously she should never have agreed in the first place to work on this basis. It would be interesting to learn how those now pontificating on her professional conduct would themselves have behaved in similar circumstances. After all the circumstances at Gosport were very similar to those in innumerable nursing homes where the medical input is even less and the residents just as sick and what there is, is also provided by GPs.

Competing interests: None declared

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11 February 2010

Mr Don Aston

Code A

Dear Mr Aston

Re: Dr Jane Barton

Thank you for your letter of 4 February 2010, addressed to Niall Dickson, our Chief Executive, with enclosures, about the outcome of Dr Barton's Fitness to Practise Panel hearing. I have been asked to reply as the Assistant Director responsible for Adjudication at the GMC.

The Fitness to Practise Panel (the panel) reached its decision to impose conditions on Dr Barton's registration after considering all of the evidence presented to it by both the GMC and Dr Barton. The panel's determination includes particular reference to the legal advice it received, the issue of proportionality, the context in which Dr Barton was working and the mitigating factors presented to it.

As you note, Niall Dickson's statement did express surprise about the panel's decision to apply conditions in this case. Our view was that Dr Barton's name should have been removed from the medical register. This reflected the GMC's submission to the panel on the appropriate sanction. The decision however, was a matter for the panel, taking into account all of the evidence presented to it and the GMC's Indicative Sanctions Guidance.

Yours sincerely

Robert Loughlin
Assistant Director
Adjudication

Code A