Q&A
Dr Jane Barton GMC Fitness to Practice Hearing
June 8 – August 21, 2009

Dr Barton

Q. What charges are the GMC putting before Dr Barton?
A. They relate to her employment as a clinical assistant at Gosport War Memorial Hospital from April 1, 1988 until June 2000 (particularly the period from 1996 to 1999).

The case is being considered by a Fitness to Practise Panel applying the GMC Professional Conduct Committee Rules 1988. 15 detailed charges relating to 12 patients are being heard: Elsie Devine, Robert Wilson, Ruby Lake, Enid Spurgeon, Arthur Cunningham, Leslie Pittock, Helena Service and Sheila Gregory, Gladys Richards, Jean Stevens, Eva Page and Alice Wilkie.

At the beginning of the hearing Dr Barton admitted a number of elements of the charges – most notably that in 11 cases *'her actions in prescribing (some but not all) of the drugs were potentially harzardous*'; that in 11 cases *'the prescription created a situation whereby drugs could be administered which were excessive to the patient's needs*'; in 10 cases that *'the dose range was too wide'* and that notes in all cases were inadequate.

Q. Why hasn't the GMC conducted this hearing earlier?
A. We are unable to answer on behalf of the GMC.

Q. What do you expect the outcome of this hearing to be?
A. We can't speculate on the outcome, but the PCT will review and consider what actions it needs to take in response to the decisions taken by the GMC.

Q. Is Dr Barton likely to be struck off?
A. We can't speculate on the outcome, but the PCT will on conclusion of the hearing consider what action, if any, it needs to take in response to the GMC decision.

Q. Would you / do you consider Dr Barton's being struck off as a fair outcome?

A. The PCT cannot comment on this as the standards that the GMC and the PCT ascribe to differ

Q. If Dr Barton is struck off what will happen to her patients at the GP practice?

A. Should this be the case, affected patients will be notified and given the opportunity to see another GP at the practice or to register with a different practice if they chose to. During this time, they would continue to have access to a GP services in usual way.

Q. Will there be a public enquiry now? What are the next steps?

A. That is not a decision for the PCT. The PCT will ensure that it reviews what actions it needs to take in response to the GMC ruling when available and will continue to co-operate fully all stakeholders.

Q. What regulations / restrictions has the PCT applied to Dr Barton?

A. As a result of complaints between 1998 and 2001, from October 1, 2002 onwards (following the publication of the CHI report) Dr Barton voluntarily undertook not to prescribe diamorphine and agreed to prescribe benzodiazepines in accordance with BNF guidelines. Patients requiring ongoing therapy with such drugs were transferred to other partners within the GP practice, with patients' agreement, so that their care was not compromised. Dr Barton elected not to accept any house visits if there was a possible need for such drugs to be prescribed.

Medicines Review Management has reviewed this on a regular basis since 2002 providing the PCT with ongoing auditable assurance. No breaches or problems have been evident throughout this time and the review process continues.

Q. Why were such restrictions not imposed at the time of the first complaint?

A. A number of successive investigations by CHI and the Police were taking place at the time and Dr Barton had voluntarily agreed to refrain from prescribing, so formal action was not considered necessary.

Q. Has Dr Barton been practising since Summer 2009 when the GMC hearing began? If so, why has she been allowed to practise while this process was taking place?

A. Whilst Dr Barton has continued to practise, the PCT has continued to monitor her practise and to ensure that she has continued to comply with the condition she voluntarily agreed to in relation to her prescribing practice which she has. The PCT will continue to monitor compliance until any restriction on her practice is lifted. It is routine practice for a PCT to take into account any restrictions placed on a GP by the GMC. Likewise any decision that is reached will need to be considered by the PCT. The issues examined by the GMC hearing relate to her work as a clinical assistant at Gosport War Memorial Hospital from April 1, 1988 until June 2000 and do not relate to her subsequent work as a GP.

Q. What investigations has the PCT undertaken into Dr Barton?

A. In 2008 Hampshire PCT's Performance & Regulation Contractor Performance panel undertook an investigation into Dr Barton's practice and found that she was fit to practise with the voluntary restrictions she entered into regarding her prescribing practice. The General Medical Council (GMC) also conducted an investigation into Dr Barton's practice in 2008 and found her fit to practise with these restrictions formalised. The GMC wrote to Hampshire PCT in July 2008 and the PCT submitted information about Dr Barton's voluntary prescribing restrictions relating to benzodiazepines and opiate analgesics. These were formalised by the GMC on July 17, 2008.

Q. Why was Dr Barton working under such extreme pressure that she was unable to fulfil her role satisfactorily? Isn't that irresponsible management?

A. Dr Barton elected to take on the additional, paid role of clinical assistant at Gosport War Memorial Hospital. The GMC will no doubt be examining the management procedures and pressures that Dr Barton was under ten years ago as part of this process.

Q. What regulatory procedures has the PCT implemented to prevent this situation from arising again?

A. Since early 2000 the DoH has introduced many pieces of legislation to enable Trusts to regulate and monitor the performance of its suppliers. These include the Performers List Regulations which were introduced in 2004.

The Performers List Regulations apply to general medical practitioners who must be listed as a primary medical performer to treat NHS patients in a primary care setting. They provide the framework for the PCT to take action if a medical performer's personal or professional conduct, competence or performance gives cause for concern where alternative voluntary arrangements cannot be agreed with the doctor.

The Controlled Drugs (Supervision of Management and Use) Regulations came into effect in January 2007. In accordance with these Regulations, NHS Hampshire appointed an accountable officer to monitor the storage and destruction of controlled drugs.

Q. Is Dr Barton on the NHS Hampshire Medical Performers List?

A. Dr Barton is on the NHS Hampshire Medical Performers List in her capacity as a GP at the Forton Medical Centre (an independent contractor of general medical services for the PCT).

Q. Has the PCT undertaken any action against Dr Barton?

A. In 2008 the PCT considered a proposal to contingently remove Dr Barton's name from the Medical Performers List in accordance with the governing Regulations.

(Contingent Removal enables a doctor to continue providing general medical services but with conditions which must be observed – in this case relating to restrictions on prescribing. If these conditions are subsequently not adhered to, then the PCT can proceed to remove the doctor from the Medical Performers List. Removal from the list would mean that they would no longer be able to provide general medical services. A GP has to be included in a PCT's Medical Performers List to provide NHS general medical services).

However, as the GMC had formalised the prescribing restrictions voluntarily entered into by Dr Barton, there was no need for the PCT to take any formal action in respect of her. The PCT has since monitored Dr Barton's compliance with these restrictions and is able to say that she has fully adhered to them since their introduction.

Q. Who replaced Dr Barton after she resigned her position as Clinical Assistant at Gosport War Memorial Hospital?

A. In 2000 Dr Barton resigned from her role as clinical assistant at GWMH. Her position at GWMH was filled by a full time staff grade doctor and this was later increased to two full time staff grade doctors.

Q. Is the PCT aware of any complaints that have been made against Dr Barton subsequent to her resignation as a Clinical Assistant at Gosport War Memorial Hospital?

A. There have been no complaints to NHS Hampshire regarding Dr Barton's work as a GP. However, under the NHS Complaints Regulations, General Practitioners have the right to handle complaints directly.

Q. Were patients and families tragically let down by the previous lack of governance?

Five separate and thorough investigations have found no evidence of intent or criminal wrong-doing. The recent inquests concluded that in each of the 10 cases the medication was given for therapeutic purposes, nevertheless it is a matter of regret to the NHS that three verdicts indicate that in the mid/late 1990s the medication administered to these patients has been found to have contributed to some of the deaths.

Patient Deaths

Q. The recent coroner's inquests into the deaths of ten patients at Gosport War Memorial Hospital while Dr Barton was working as a clinical assistant found that in five cases the administration of medication contributed more than minimally to their deaths and in three of these cases the medication was not appropriate for the condition.

A. In five cases - Leslie Pittock, Helena Service, Ruby Lake, Enid Spurgin and Sheila Gregory the coroner's court found that the medication used to treat and relieve their symptoms did not contribute to their deaths.

In two verdicts, Elsie Lavender and Arthur Cunningham the medication was found to have contributed to their deaths, however, in those cases it was found to have been given for therapeutic purposes and appropriately given for their symptoms.

In three cases - Geoffrey Packman, Robert Wilson and Elsie Devine, the jury considered that the medication administered contributed to their deaths and was not appropriately given for their symptoms despite having been given for therapeutic purposes.

This medication is generally given because the therapeutic effects e.g. pain relief; outweigh the impact of foreshortening life. However it is impossible to say by how much lives were shortened, due to the complexities of the individuals' medical conditions.

Q. What was the cause of death for these patients?

A.

1. Leslie Pittock died aged 83 of Bronchopneumonia and severe depression.
2. Helena Service died aged 99 of Congestive cardiac failure.
3. Ruby Lake died aged 84 of Bronchopneumonia and fractured neck of femur repaired on 5/8/98.
4. Enid Spurgin died aged 92 from an infected wound and fractured left hip repaired 20/3/99.
5. Sheila Gregory died aged 91 from Pulmonary embolus and fractured neck of femur.
6. Elsie Lavender died aged 84 from a high cervical cord injury.
7. Arthur Cunningham died aged 79 from Bronchopneumonia, severe sacral sore and depression.

8. Geoffrey Packman died aged 75 from a gastrointestinal haemorrhage.
9. Elsie Devine died aged 88 from chronic renal failure.
10. Robert Wilson died aged 75 from congestive cardiac failure.

Q. Is Dr Barton another 'Shipman'?
A: No. The recent inquest found that in each of the ten deaths medication administered by Dr Barton was given for therapeutic purposes. The previous police investigations established that no criminal act had been committed.

Procedural

Q. What clinical safeguards have been put in place?
The CHI investigation in October 2001 concluded that the PCTs had put in place adequate policies and guidelines governing the prescription and administration of pain relieving medicines to older patients and that these policies and guidelines were and are being adhered to. Full details can be obtained from: www.popan.org.uk/policy/Policy_content/abuse_inquires/gosport_war_memorial_chi_July_2002.pdf

Four NHS organisations providing services in the south east Hampshire area have also undertaken their own more recent reviews of compliance with CHI recommendations. The Board of each organisation has received assurances that all policies are correct and current and that the quality of care being provided is of the highest standard and in line with modern Clinical Governance standards. Assurances have also been provided to South Central Strategic Health Authority (SHA) as the organisation responsible for monitoring quality within organisations in its area. The SHA will in turn provide assurance to the Department of Health.

All NHS organisations now work to modern clinical governance standards which require risk management systems and clinical audit departments. These are integral to the delivery of health services in a modern NHS and have been part of NHS evolution over the last decade.

Q: How do you account for the procedural failures that have been identified?

A: The CHI investigation details the procedural shortcomings at that time and we acknowledge that it is regrettable that our predecessor organisation did not have sufficient policies and procedures in place to optimise care in 1998. We are confident that these issues were addressed prior to and after the CHI review and in more general terms by changes in NHS governance and procedures.

Q. Does the Trust have a whistle blowing policy in place?

A. The way the NHS monitors patient safety and the quality of care has changed considerably since the early 1990s. Staff are now required to report all incidents and 'near misses' and these are immediately logged and reviewed at the local integrated governance group, if appropriate a detailed action plan is developed and monitored.

This is supported by an active and open policy encouraging staff to report anything they are unhappy about, without fear of blame. We have policies and procedures in place to encourage staff to report any matters of concern and we take immediate action to address these.

Corporate

Risk Reduction

We actively seek to quickly reduce and eliminate risk as an ongoing learning process. Untoward incidents or a pattern of care which suggested that clinical practice is not up to standard would be picked up there and then through these procedures and investigated internally. If necessary the Trust concerned may also commission an external investigation.

Governance

As current service providers Hampshire PCT and Portsmouth Hospitals NHS Trust have a range of up-to-date policies and procedures governing the administration of medicines.

Reviews of prescribing practices and all medicines related incidents are reported on the national risk learning database and analysed by the Trust and action plans developed, where appropriate. HCHC also has a pharmacist who reviews practices and prescribing and also trains and educates staff.

Patient Safety

Portsmouth Hospitals NHS Trust and HPCT are members of the South Central Patient Safety Federation and have a multi-disciplinary approach to integrated working. There are number of work streams in place to improve the safety of patient care, including one on the management and administration of medicines.

Clinical Audit

All NHS organisations have well developed clinical audit departments. The quality of services at GWMH is monitored via these audits and feedback from patients on their experiences at the Hospital. HCHC has an audit strategy which includes a stringent timetable for completion of audits and implementation of improvements, where required.

Current policies and procedures are regularly reviewed and monitored to ensure that they are adhered to.

Background

Q. What is CHI?

A. CHI – is the Commission for Health Improvement. This organisation was replaced by the Healthcare Commission (in April 2004). The Healthcare Commission is the independent watchdog for healthcare in England. It assesses and reports on the quality and safety of services for patients and the public. From April 2009 a new "super-regulator", the Care Quality Commission will combine the functions of the Healthcare Commission, the Commission for Social Care Inspection and the Mental Health Act Commission.

Q. What is Clinical Governance?

A. Clinical Governance is essentially a term used to describe the way the NHS manages the delivery of health services within a structure of accountability and responsibility. It is intended to ensure that clinical care is delivered on the basis of agreed standards and that outcomes are measured against these standards of care.