



MEDICAL PROTECTION SOCIETY

From: Dr R J Lazarus, LLB(Hons), MRCP (UK), FRCA
Medico-Legal Adviser

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23 JUL 2003

Our ref: RJL/JH/158274
(Please quote this reference when contacting the Society)

Secretary: Julie Hawes

GRO-C
(office hours only)

Your ref: TCB/FPD/2003/1095

18 July 2003

Private & Confidential

Mr Tim Cox-Brown
Fitness to Practice Directorate
General Medical Council
178 Great Portland Street
LONDON
W1W 5JE

Dear Mr Cox-Brown

Re: Dr Eleanor Goldman

I am now in a position to provide you with a substantive response to your letter of 10 June 2003. I would like to thank you for allowing us additional time to deal with this matter.

As you are no doubt aware Dr Goldman is a member of the Medical Protection Society and I have been instructed to respond on her behalf.

I would like in the first instance to draw your attention to Rule 6 of the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules Order of Council 1988. As you are no doubt aware, Rule 6 (7) is in the following terms:

Subject to paragraph (8), an allegation of misconduct in a case relating to conduct may not be referred to the Preliminary Proceedings Committee under this rule if, at the time of the complaint was first made to the Council, more than five years had elapsed, since the events giving rise to that allegation.

The events giving rise to this allegation took place in 1985 and 1987. The complaint was first made to the Council in 2003 (i.e. at the very minimum 16 years later).

It is of note that Mrs Wintle states that she was orally informed of the non-A / non-B status in 1991. Therefore, by her own admission, Mrs Wintle has had some twelve years to raise this complaint in any event.



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Rule 6(8) goes on to state:

Where an allegation of misconduct in a case relating to conduct is made more than five years after the events giving rise to that allegation, the medical screener may nevertheless direct that the case be referred to the Preliminary Proceedings Committee if, in his opinion, the public interest requires this in the exceptional circumstances of that case.

Dr Goldman retired from all medical practice in 1995. Furthermore, it is to be noted from the documents supplied by Mrs Wintle that she has in any event been diagnosed as suffering from hepatitis B. In the circumstances she was clearly receiving advice about the risks associated with viral hepatitis in the context of suffering from haemophilia.

It is therefore submitted that the screener ought to state, explicitly, at this stage in what way the investigation of a complaint relating to the alleged failure 16 years ago to inform a patient of a particular laboratory result, given that the patient was in any event, receiving the appropriate counselling, by a practitioner who has not practised for six years could be required in the public interest in the exceptional circumstances of this case. It is therefore submitted that this is simply not a matter that the screener can consider.

Nevertheless, should the screener be mindful to consider this matter, then Dr Goldman is quite clear that the assertions made about her by Mrs Wintle are in any event incorrect.

Dr Goldman has, as you know, reviewed the medical records and observed that she saw Mrs Wintle in May 1985. At that stage, she discussed the risks to Mrs Wintle and any children that she might subsequently have, of haemophilia and hepatitis. She then referred Mrs Wintle to Professor Thomas' liver clinic for further advice.

She was then seen in Professor Thomas' clinic on 6 June 1985 where hepatitis was discussed again.

Mrs Wintle complains that she was not provided with a copy of a letter sent to Dr Hall in 1985. As the screener is no doubt aware it was by no means standard practice to provide patients with copies of letters in 1985. Such a practice has only gained common popularity in medical practice in the last couple of years. Indeed, it was only in 1991 that patients gained a legal right to access their medical records.

Mrs Wintle also complained that she was put in a difficult position when she travelled to the Middle East in 1987 in that she believed she was obliged to disclose such a diagnosis to the relevant authorities.

The letter that Mrs Wintle has disclosed to Council dated 18 September 1987, and headed "To Whom it May Concern" was handed to Mrs Wintle for the specific purpose of enabling her to inform any individual who needed to know of her status. You will note that the second paragraph of this letter explicitly states that "she had a further attack of hepatitis, probably non-A / non-B in 1985".



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This clearly rebuts any suggestion that Mrs Wintle was not in a position to provide correct information to the relevant authorities. It also confirms that Mrs Wintle, herself, was well aware of the diagnosis.

To assist the screener, I **enclose** a letter from Dr McCulloch (Mrs Wintle's GP in the United Arab Emirates) dated 9 October 1987. This letter clearly states that Mrs Wintle (then Wilcox) passed, to Dr McCulloch, a copy of Dr Goldman's open letter of 18 September 1997, and that consequently Mrs Wintle must have been in possession of this document.

Finally, Mrs Wintle makes reference to a test for hepatitis G which was allegedly performed without her consent. With respect to the hepatitis G test, Dr Goldman is unable to recall if she was involved in requesting this test. I am advised by Dr Goldman that at that time she recalls being unaware that testing for hepatitis G was in fact technically possible. She has no recollection of ever specifically requesting this test and her understanding is that, unbeknownst to her, requests for hepatitis C testing also generated additional tests including hepatitis G. In any event, Dr Goldman remains doubtful of the significance of hepatitis G, which she believes to merely be a variant of hepatitis C.

In summary, it is submitted that the allegations made by Mrs Wintle would not, even if true, amount to serious professional misconduct. It is clear from the information provided by Dr Goldman that Mrs Wintle's recollection is quite obviously flawed in a significant respect and it therefore must be clear to the screener from the material available to him in relation to this case that it is not properly arguable that Dr Goldman's conduct constitutes serious professional misconduct, or indeed any form of wrong doing at all.

In any event, as already submitted, this complaint, being some sixteen years old, is well outside the GMC's jurisdiction in any event.

I would be grateful to receive the Council's confirmation, in due course, that this matter will not be proceeding with respect to Dr Goldman.

Yours sincerely

GRO-C

Dr Robert J Lazarus
Medico-Legal Adviser



MEDICAL PROTECTION SOCIETY

15 OCT 1987



Dr J P R McCulloch.
P O Box 8031,
Abu Dhabi,
United Arab Emirates.

Dr Eleanor Goldman,
Clinical Assistant,
Haemophilia Centre,
Royal Free Hospital,
Rond Street, Hampstead,
London NW3 2QG.

October 09, 1987.

Re.- Mrs Colette Wilcox - **GRO-C** 59
Ref.- EG/VHL/B1 28 00

Dear Dr Goldman,

Mrs Wilcox has come out to live with her husband in Abu Dhabi, and has given me a Copy of your Report of September 18th for my Records. I have read your Report and have duly noted its contents.

Mrs Wilcox has asked me to write and say on her behalf that she reacted very badly to the Duphaston (Dydrogesterone) 10 mg. and has discontinued taking it. She has therefore asked me to write and ask your views as to whether she should go ahead and undergo a D&C, or whatever your feelings on the matter might be.

Kindly write to me at the above address.

Yours faithfully,

GRO-C

Dr J P R McCulloch, MB,ChB, LMSSA(Lon),
Cert. GAM, Cert Offshore Med. (Aberdeen),
DTM&H (L'Pool).

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