

In reply please quote: RG/FPD/2004/0781

30 March 2005

Mrs. M. Murphy

GRO-C

Liverpool

GRO-C

GENERAL
MEDICAL
COUNCIL

*Protecting patients,
guiding doctors*

Dear Mrs. Murphy,

I refer to our previous correspondence regarding your complaint about Dr. Hay.

In accordance with Rule 8 of the General Medical Council (Fitness to Practise) Rules 2004, the Case Examiners have considered your complaint. They have concluded that we do not need to take any further action on Dr. Hay's registration, in respect of this.

When making their decision, the Case Examiners must consider whether there is a realistic prospect of establishing that a doctor's fitness to practise is impaired to a degree justifying action on registration. In doing so, they must have in mind the GMC's duty to act in the public interest, which includes the protection of patients and maintaining public confidence in the profession.

They first consider the seriousness of the allegations and then whether the GMC is capable of establishing that the facts demonstrate the practitioner's fitness to practise is impaired to a degree justifying action on registration.

The Case Examiners concluded in this case that, whilst the allegations were serious, there was no realistic prospect of establishing that Dr. Hay's fitness to practise is impaired to a degree justifying action on his registration.

In your complaint you alleged that Dr. Hay failed to diagnose liver disease in Mr. Murphy, failed to test for Hepatitis C, failed to refer to a hepatologist, failed to communicate the clinical condition of "liver failure" to Mr. Murphy, failed to refer for or recommend a liver transplant, refused to refer to specialist Dr. Gilmore, failed to diagnose and treat liver cancer early enough, and prevented full liver tests being undertaken.

Specifically, with respect to the allegation that Dr. Hay failed to diagnose liver disease in Mr. Murphy, you instigated a civil action for damages and we have copies of the opinions on file. They do not support your allegations and accordingly your solicitors dropped the action. Cirrhosis of the liver was diagnosed in 1992 following knee surgery. There is nothing to indicate that this surgery was contraindicated or had any adverse effect on Mr. Murphy's liver disease. Your expert hepatologist confirms that this is the case and that earlier diagnosis via biopsy would have been very unusual practice at the time.

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Regarding the allegation that Dr. Hay failed to test for Hepatitis C, the Hepatitis C test only became available in late 1991 and Dr. Hay began testing in early 1992. This is therefore not an issue to justify action on Dr. Hay's registration.

As to the allegation that Dr. Hay failed to refer to a hepatologist, Dr. Hay was an experienced consultant and it was reasonable for him to manage Mr. Murphy's care himself. The independent expert view was the liver disease was appropriately managed with very effective treatment of the patient's oesophageal varices. No action on Dr. Hay's registration is therefore indicated.

Pertaining to the allegation that Dr. Hay failed to communicate the clinical condition of "liver failure" to Mr. Murphy, Mr. Murphy's liver function was regularly monitored and discussions about the diagnosis documented. There is no evidence that any information was deliberately withheld and therefore no action on Dr. Hay's registration is indicated.

Regarding the allegation that Dr. Hay failed to refer for or recommend a liver transplant, at the time it is clear that liver transplantation was a last resort measure, particularly with the increased morbidity and mortality associated with patients who had haemophilia. When his liver function deteriorated, Mr. Murphy was referred. Unfortunately, this deterioration coincided with the diagnosis of a malignant liver tumour so removing transplantation as an option.

With respect to the allegation that Dr. Hay failed to refer Mr. Murphy to Dr. Gilmore, Mr. Murphy was referred. Unfortunately it was at a stage when the hepatoma was diagnosed. There is no evidence that Dr. Hay or any other doctor failed to act on evidence that would have led to an earlier diagnosis.

As regards the allegation that Dr. Hay failed to diagnose and treat liver cancer early enough, the blood test result indicating a possible hepatoma was first recorded in excess of 9000 in July. By August it was greater than 1000000. This is a large rise in a short space of time and occurred in combination with Mr. Murphy's worsening clinical condition. It was not routine accepted practice to "screen" patients with cirrhosis for liver cancer and Dr. Hay's management is what might reasonably have been expected.

The last allegation was that Dr. Hay prevented full liver tests being undertaken. A full liver work up may have involved risk-laden procedures such as liver biopsy, the complications from which are multiplied in patients with a bleeding disorder such as haemophilia. Professor Shields discussed the pros and cons with the haemophilia specialist – Dr. Hay, who can be said to have been acting in his patient's best interest.

I acknowledge that this may be disappointing news for you but hope that given our explanation you understand the reasons for our decision.

Yours sincerely,

GRO-C

GRO-D

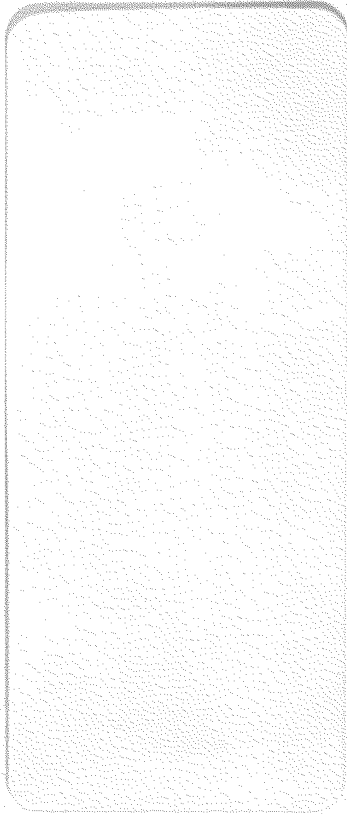
**Investigation Officer
Fitness to Practise Directorate**

Direct Dial: **GRO-C**

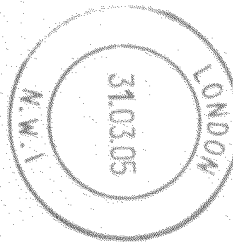
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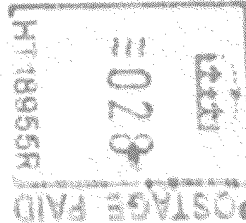


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