Fitness to Practise Report 2007

General Chiropractic Council

Protecting patients
Setting standards

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Chairman's foreword

Every year the GCC publishes a Fitness to Practise Report. It summarises the new cases heard by the Professional Conduct Committee and is intended to be a learning tool that enables all chiropractors to review their practice by learning from the mistakes of others.

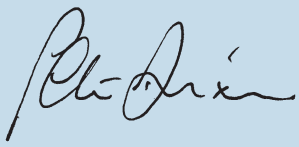
This report highlights the range of unacceptable professional conduct considered by the GCC's Professional Conduct Committee. The cases heard extend from dangerous, dishonest and abusive behaviour to instances of poor patient management and bad judgement.

The vast majority of chiropractors practice ethically, competently and have the wellbeing of their patients at the heart of all they do. I was taken with a particular phrase within a Professional Conduct Committee determination: *"Chiropractors who take an ethical, patient centred approach to practice and treat those under their care with competence, compassion and respect are unlikely to transgress either the Code or the Standard"*.

I am encouraged by the number of chiropractors who have remedied the deficiencies in their practice or conduct as a result of the interventions of the Professional Conduct Committee. The remedial process, which often occurs within the framework of a Conditions of Practice Order, requires respondent chiropractors to have the professionalism, insight and maturity to accept responsibility for what has gone wrong and to follow advice on how to demonstrate their skills, conduct and practice to an acceptable standard.

On the other hand, there have been a minority of chiropractors who, when confronted with evidence of their misconduct, have shown disregard for the intense distress they have caused to patients and have demonstrated no sense of responsibility. The Professional Conduct Committee is likely to be unimpressed with such an approach and will act robustly to fulfil its statutory responsibilities to protect the public and uphold the reputation of the profession.

I would urge all chiropractors to read and consider this report carefully. There is much that we can all learn from it.



Peter Dixon
Chairman, General Chiropractic Council

Learning points

Introduction

The range of learning points derived from Professional Conduct Committee hearings continues to increase each year. Recurring issues are those numbered 1 to 8 below, while 9 to 11 have arisen in cases heard in 2007.

1. Improper relationships with patients
2. Abuse of trust or exploitation of lack of knowledge
3. Communication with patients
4. Record keeping
5. Review of treatment
6. Use of X-rays
7. Local complaints procedure
8. The provision of information to patients and the public
9. Protecting patients and colleagues from risk of harm
10. Honesty, integrity and trustworthiness
11. Politeness and consideration towards patients

1 Improper relationships with patients

A case before the Professional Conduct Committee demonstrated that chiropractors must be self-aware and recognise professional boundaries with patients. Health professionals are in a position of power and trust and because of this patients and former patients may be vulnerable. The onus is always on the chiropractor to ensure that no improper personal relationship is developed with a patient.

The establishment and maintenance of appropriate professional boundaries between chiropractors and patients is essential if public confidence in the profession is to be upheld. Remember, your relationship with your patients is a professional one. It is based on trust. To fulfil this role you need to apply your professional judgement impartially.

Clear sexual boundaries

In January 2008, the Council for Healthcare Regulatory Excellence (CHRE) published guidance, commissioned by the Department of Health, on sexual boundaries between healthcare professionals and patients. The GCC sent a copy to all chiropractors. It can also be downloaded from www.gcc-uk.org.

The guidance explains why the relationship between patient and health professional is not an equal one and will help to increase health professionals' awareness of how boundary abuses occur, so helping to prevent them.

The guidelines may also protect healthcare professionals by helping them to identify and manage inappropriate sexualised behaviour by patients so that professional boundaries can be maintained.

2 Abuse of trust or exploitation of lack of knowledge

The trust that the public places in chiropractors can be abused in a variety of ways. It may be through inappropriate marketing activities and the provision of inaccurate information that exploits

the public even before they become patients. Or it may be by using strategies designed to lock patients into treatment plans that are excessive in frequency and/or duration.

Exploitative treatment plans

The Professional Conduct Committee has seen that treatment plans are exploitative when they are constructed around a diagnosis that leads patients to believe they are more seriously ill than they are, with the intention to promote undue dependence on chiropractic care. Some treatment plans, as shown by the evidence heard by the Professional Conduct Committee, were formulated without any adequate assessment or reassessment of patients' needs. Going hand in hand with this approach was the routine X-ray of patients without justification. The images were used as sales tools further to pressurise patients to accept treatment.

Any abuse of trust or exploitation of lack of knowledge undermines the foundation of respect for the profession. It is particularly damaging to the profession when a conduct hearing exposes a complete lack of clinical justification for recommended treatment.

Equally damaging to the profession is the evidence heard by the Professional Conduct Committee of the use of unscrupulous scare tactics that are specifically designed to pressurise patients to sign up for excessive courses of largely unnecessary treatment. The evident distress, and anger, of the patients involved cannot be overstated.

An honest treatment plan

When a patient consents to treatment/care, it is essential that sufficient time is taken to develop the plan of care in discussion with the patient to ensure that

- it helps the patient to improve her/his own health and actively participate in her/his own care
- it has aims that are consistent with the patient's identified health and health needs, and anticipated changes in those health needs
- it is kept under continuous review by the chiropractor and modified appropriately, in line with the patient's changing health and health needs

3 Communication with patients

Failure to communicate clearly and appropriately with patients continues to be integral to many of the complaints the GCC receives about chiropractors. Good communication is at the heart of any professional relationship because it is essential that patients have the necessary information to make informed decisions about their initial and ongoing care and treatment.

The onus is always on the chiropractor to explain fully and clearly to patients any findings and treatment plan. Practitioners must remember that patients may find some things difficult to understand or remember, especially if they are worried, unwell or in pain at the time. Unfamiliar terminology can be a particular problem.

When it comes to hands-on examination and treatment, chiropractors need to ensure that patients understand which parts of their body will be touched and why. Otherwise there is a real possibility that patients could believe that they had been touched inappropriately, or even complain that they had been assaulted.

We know that the chiropractic profession as a whole takes a thoughtful and holistic approach to healthcare. So why are there examples of chiropractors getting their communication and interpersonal skills so wrong? Here are some questions for chiropractors to think about

- Is your practice information leaflet or brochure factual and easy to understand?
- Before they make an appointment, do patients know how much they will have to pay?
- Do you allow sufficient time for effective two-way communication with each patient?
- After your initial examination and history taking, do you explain clearly to the patient your findings and treatment plan?
- Do you do all that you reasonably can to make sure your patients know, and understand, what the planned treatment will involve and what to expect?
- Do you encourage patients to ask questions?
- Do you explain what you're about to do and why, before you do it? And do you give the patient a chance to raise concerns or object?
- As a matter of routine, do you allow time to reassess and discuss the treatment/care options with your patients, depending on their changing needs?
- Are you confident that you can manage patients' concerns and complaints promptly and effectively, avoiding defensiveness and focusing on good communication?

If you have replied "no" to any of these questions, then do not be surprised if something happens that gives rise to a complaint.

Patient and public expectations may differ widely from those of chiropractors. Your intentions may be good but don't expect patients to know this if you don't communicate clearly – they can't read your mind. We have seen instances of poor communication causing misunderstandings, confusion and deep distress. Please take this opportunity to review your practice in line with the GCC's *Code of Practice and Standard of Proficiency*, which provides a clear framework to enable chiropractors to implement good practice.

4 Record keeping

If another chiropractor had to take over the care of your patients tomorrow would your patients' health records be clear enough for them to understand easily? And another question, do you allow sufficient time to update your records contemporaneously at, or immediately after, each patient visit?

If your answers to these questions are "no" then you know that you need to take action to remedy your record taking skills. Your colleague should not have to start from scratch with every patient by undertaking a full examination, history, formulating a diagnosis, treatment plan and prognosis. Nor should you wait until the end of the day to bring the health records up to date. The Professional Conduct Committee heard evidence where patients had been harmed, distressed, and/or put at risk, because chiropractors had not complied with standard good practice in record keeping.

Record keeping is not a trivial matter. It is integral to patients' welfare and a fundamental and vital professional responsibility. The impact of poor record keeping upon patients can be devastating, particularly when it goes hand in hand with poor patient management, such as a failure to examine or assess patients' needs adequately. Good records are also essential for you, and your colleagues who may need to take over the care of a patient.

For another year, poor record keeping was central to the consideration of nearly half of the cases heard by the Professional Conduct Committee. This has happened despite the clarity of the Standard of Proficiency, the salutary lessons of chiropractors who have appeared before the Professional Conduct Committee, and all the efforts that professional associations put into providing advice on this topic to their members. All chiropractors, therefore, are urged to review their record keeping and, if necessary, seek advice from their professional associations.

Remember

Record keeping is an integral part of chiropractic practice and the care process. Complete, comprehensible records protect the interest of the patient and the practitioner. It is part of what being a health professional is about.

Chiropractors must ensure that records are contemporaneous, legible and attributable, and kept together with any clinical correspondence relevant to the case. Patient records must contain

- the case history
- an accurate record of examination and assessment undertaken
- a record of outcomes of further investigations
- a working diagnosis
- attendance, treatments, advice and observations
- review and reassessment
- record of consent

5 Review of treatment

One extreme, and multifaceted, case heard by the Professional Conduct Committee attracted the attention of local and national media. This involved the routine prescription of long courses of treatment. Other cases heard by the Professional Conduct Committee revolved around poor patient management where patients' response to treatment, and the benefits of the approach taken were not reviewed adequately.

It is essential that patients know from the outset that their progress will be reviewed and reassessed on a regular basis and that treatment will not continue beyond the point of benefit to them.

Chiropractors are required to review and reassess their initial diagnosis/clinical impression, and the treatment that they are providing to patients, regularly. This enables chiropractors to

- determine whether to continue, modify or conclude treatment
- evaluate the perceived benefits of treatment to the patient
- determine whether to modify the original prognosis in the light of treatment outcomes

It is essential that chiropractors take the time routinely to review and assess each patient's response to treatment. This review and reassessment must also be recorded in patients' notes.

6 Use of X-rays

Typically, complaints and findings against chiropractors relating to X-rays have arisen because they have been taken when there has been insufficient justification to do so. This year the Professional Conduct Committee heard evidence in one case that also demonstrated a blatant disregard for patients' safety and wellbeing. Amongst other things, patients, including a child, were exposed to

ionising radiation for no other reason than to use X-rays to pressurise patients to sign up to long contracts of care. The individual concerned showed no insight, understanding or remorse for what he had done and was removed from the Register.

During another Professional Conduct Committee hearing, a respondent chiropractor admitted that he had routinely X-rayed nine out of 10 adult patients. Upon considering an audit of nine patient records, the Professional Conduct Committee was of the view that there was no justification for those patients to have been exposed to ionising radiation. This conduct was wrapped up with overall poor management of patient care. This included inadequate patient reassessment and "woeful" record keeping, which was exacerbated by frequently allowing just five minutes per patient visit, leaving insufficient time to update patient notes contemporaneously; the chiropractor had attempted to update all notes at the end of each day. The chiropractor was suspended from the Register for six months and also suspended with immediate effect. Since then, the chiropractor has passed the test of competence and has, within the framework of a Conditions of Practice Order, made significant progress by undertaking remedial action.

Ionising radiation, the law, and chiropractors' responsibilities

The use of X-rays in the United Kingdom is subject to statutory regulation, through the Ionising Radiation (Medical Exposure) Regulations 2000 (IR(ME)R). The requirements of these regulations are binding on all health professionals, including chiropractors, who use X-rays and other forms of ionising radiation. Specific reference to these obligations is made in the Standard of Proficiency.

The GCC has issued specific advice about IR(ME)R to the profession, so that chiropractors can be in no doubt about their responsibilities to comply with the law. The advice can also be read on www.gcc-uk.org.

7 Local complaints procedure

The Code of Practice is very specific about the need for every chiropractor to have a complaints procedure in place within their practice. Just as with record keeping, this is an aspect of practice that protects the interest of the patient and the practitioner. Prompt attention at local level to the concerns of patients may prevent a complaint from escalating and avoid a complaint being made to the GCC.

If a complaint is unresolved, chiropractors have an obligation to tell the patient about their right to complain to the GCC and to provide our address.

8 The provision of information to patients and the public

In addition to a case where inaccurate and misleading information was provided by a chiropractor to patients within a practice, exploiting their fears of future ill-health and lack of knowledge about chiropractic, there have been a number of cases heard by the Professional Conduct Committee where misleading and inappropriate information has been published more widely either in newspaper advertisements or on websites.

Patients need information about available local health services. The benefits of chiropractic management, and the evidence-base supporting it, your education, training and professionalism,

should all be sufficiently impressive when explaining factually and accurately the services you provide and how they may help.

Chiropractors may well have strong personal views on a variety of health and other issues. It is essential, though, that they do not allow their own beliefs and prejudices to interfere with the provision of accurate and well-founded information and advice to patients and the public.

Marketing, advertising and promotion

Chiropractors have a responsibility to be aware of any marketing, advertising and promotional material published, or circulated, by any practice with which they are associated.

Patients and the public need factual information about the health services available to them, and chiropractors should apply their judgement when providing it.

All chiropractors must ensure that all the information they provide, or authorise others to provide on their behalf

- is factual and verifiable
- is not misleading or inaccurate in any way
- does not abuse the trust of members of the public in any way, nor exploit their lack of experience or knowledge about either health or chiropractic matters
- does not put pressure on people to use chiropractic, for example by arousing ill-founded fear for their future health or suggesting that chiropractic can cure serious disease

The Code of Practice

Paragraph C1.6 of the Code of Practice requires chiropractors to comply with the law and the guidance issued by the Advertising Standards Authority when publicising and promoting their practices. A key principle is that claims about treatment for health conditions must, where necessary, be backed by evidence.

It is very important to remember that if you use the courtesy title 'Dr' within the information you provide, you must make it clear that you are a registered chiropractor and not a registered medical practitioner, as required by paragraph C1.8.

9 Protecting patients and colleagues from risk of harm

The Professional Conduct Committee considered a case where two patients had refused treatment because the chiropractor had been unfit to practise due to prior alcohol consumption. The evidence heard by the Committee revealed that the chiropractor was suffering from alcoholism, practising in a small community single handedly, and that his practice had been disrupted for some time placing patients, and himself, at risk.

It is essential that chiropractors act quickly by seeking, and following, proper advice if either their own, or another health care worker's conduct, health or performance may place patients or colleagues at risk.

Chiropractors, like all regulated health professionals, must protect patients when they believe that the conduct, competence or health of another regulated healthcare practitioner is a threat to patients. Before taking action, you should do your best to verify the facts. Then, if necessary, report

honestly your concerns to the practice principal or appropriate work colleague. If the health practitioner about whom you are concerned is a sole practitioner, or his colleagues refuse to take action, then a chiropractor must report his or her concerns to the relevant regulatory body.

It cannot be overstated that health professionals must act when they have concerns about a colleague's health. Allowing sick health professionals to struggle-on, unsupported and untreated, does them no favours and puts them, and their patients, at risk.

10 Honesty, integrity and trustworthiness

All health professionals are expected to be trustworthy and act with honesty and integrity. Failure to do so does nothing for public confidence or the good name and standing of the profession.

The Professional Conduct Committee considered a case where a chiropractor knowingly practised without the appropriate registration. He failed to take responsibility for his actions, demonstrated no insight into what he had done and lied about how the situation came about.

Deception can have an impact on patients. For instance, practising whilst not appropriately registered means that a chiropractor may not be properly insured.

11 Politeness and consideration towards patients

Chiropractors are required to be open with patients and show respect for their dignity, individuality and privacy.

The Professional Conduct Committee heard evidence that a patient had been considerably distressed and reduced to tears by the respondent chiropractor who had, amongst other things, shouted at her to leave his practice. The Committee emphasised that: *"regardless of any perceived or real provocation a chiropractor is obliged to behave with restraint at all times. All patients are entitled to courtesy".* The Committee found that the chiropractor's conduct was inappropriate, unprofessional, contrary to the patient's best interests and liable to bring the profession into disrepute.

Professional Conduct Committee cases 1 January-31 December 2007

Name	Source of complaint	Summary of particulars	Outcome
PROUD (01537) Peter John	• Patients • Patient's mother • Registrar	• Undertaking inadequate and superficial examinations, clinical assessments and further investigations • Inadequate record keeping • Jeopardising patients' health by the unjustifiable use of ionising radiation contrary to the provisions of Ionising Radiation (Medical Exposure) Regulations 2000 • Misleading patients by dishonestly exaggerating the seriousness of their conditions • Disclosing diagnoses to patients in an alarmist manner, without proper respect or consideration for the patients • Subjecting patients to various forms of pressure and asserting undue influence to persuade them to accept investigations and/or treatment • Risking treatment dependency by offering patients excessive and unjustifiable 12 month courses of treatment • Failing to respond appropriately to patients' problems and concerns during treatment, and failing to modify that treatment when necessary • Misleading advertising	Removed
VATSADZE (00664) Irakli	Registrar	Practising as a chiropractor when registered as non-practising	Suspension Order (one year)
COBB (01196) James Ian	Patient	• Taking X-rays without adequate justification contrary to the Ionising Radiation (Medical Exposure) Regulations 2000 • Excessive use of X-rays • Inadequate assessment and reassessment of a patient • Inadequate records	Suspension Order (six months) Interim (Immediate) Suspension Order The Suspension Order was revoked upon review and replaced with a Conditions of Practice Order for two years
WATSON (01542) Michael Courtenay	Registrar	• Practising while unfit due to alcohol consumption • Undermining public confidence in the chiropractic profession • Bringing the chiropractic profession into disrepute	Conditions of Practice Order (two years)

Continued from previous page.

Name	Source of complaint	Summary of particulars	Outcome
GIBBON (01012) John-Paul	Patient	• Failing to treat a patient politely and considerately • Behaving intemperately towards the patient, causing distress • Acting contrary to the patient's best interests • Undermining public confidence in the chiropractic profession • Bringing the profession into disrepute	Conditions of Practice Order (one year)
DEVRELL (00499) Claire Marie	Patient	Failure to • Maintain adequate records • Carry out an appropriate physical examination • Make a working diagnosis • Formulate an initial management or treatment plan • Determine whether it was safe to proceed with the treatment provided	Conditions of Practice Order (nine months)
SCOTCHER (00746) Martin Anthony Everard	Patient	• Improper sexual and personal relationship with a patient • Failure to establish and maintain professional boundaries with a patient	Conditions of Practice Order (six months)
CASHLEY (00510) Mark Andrew Peter	Registrar	• Failure to ensure that the content of a website that promoted the practitioner's practice and for which he was responsible, was factual, verifiable and compliant with the GCC's Code of Practice and the Advertising Standards Authority's Code of Advertising Practice • Exploitation of the public's lack of experience or knowledge about health or chiropractic matters	Admonished
COSTA (01688) Craig Douglas	Other health professional	• Failed to ensure that his advertising made clear that he was a doctor of chiropractic and not a registered medical practitioner • Misled members of the public in that the wording of his advertising suggested that he was a qualified medical practitioner	Admonished
KELLY (01058) Tanya Michelle	Patient	• Failure to comply with Ionising Radiation (Medical Exposure) Regulations 2000 • Recommending a treatment plan that was not in the patient's best interests • Failure to keep adequate records of the patient's condition	Admonished

Name	Source of complaint	Summary of particulars	Outcome
LAMACRAFT (01029) Heather June	Patient	Failure to • Maintain adequate records • Reassess patient • Obtain consent • Notify patient of the formal complaints procedure	Admonished
PITTAM (00892) Caragh Mary Bernadette	Patient	Failure to maintain adequate records	Admonished
THIEME (01640) Joey Jonathan	Other health professional	• Failed to ensure that his advertising made clear that he was a doctor of chiropractic and not a registered medical practitioner • Misled members of the public in that the wording of his advertising suggested that he was a qualified medical practitioner	Admonished
VINE (01066) Jonathan Patrick	Registrar	• Falsely claimed to be a member of the British Acupuncture Council and registered under the Medicines Act to give injections • Requested a supply of injectable Vitamin B12, with the intention of administering it, when not entitled to do so	Admonished

Case summaries

Introduction

This section of the report contains a summary of new cases heard by the Professional Conduct Committee during 2007. Details of the Professional Conduct Committee hearings, including the charges and decisions in full, are available upon request or can be read on our web site www.gcc-uk.org.

The structure of each case considered by the Professional Conduct Committee follows a legal framework. This is so that the evidence is presented fairly and equitably. The standard of proof is the civil standard (i.e. the balance of probabilities). The case summaries on the following pages reflect the structure of the proceedings.

Reasons for the Committee's decisions

When the evidence has been heard and the Committee has found some, or all, of the allegations proven, the Committee must make more decisions. Do the proven facts amount to unacceptable professional conduct? If so, what would be a proportionate sanction and what would be the Committee's reasons for imposing it?

The GCC's Indicative Sanctions Guidance sets out the issues to be considered by the Committee when deciding upon a sanction following a finding of unacceptable professional conduct.

A broad analysis of the reasons given by the Committee during 2007 for imposing the sanctions it did, highlight that the following issues are of key importance

- The Committee's duty to protect the public, maintain confidence in the chiropractic profession, and to uphold standards
- The quality and nature of the evidence adduced
- The advice contained in the Indicative Sanctions Guidance that the sanction must be proportionate i.e. the minimum required to protect the public
- Whether or not a patient had suffered direct, or indirect, harm as a result of the respondent chiropractor's conduct
- A clear demonstration of insight by respondent chiropractors into the failings that led to concerns and complaints, and an understanding of the impact their conduct has had upon other people and the profession as a whole
- Evidence that a chiropractor has taken steps, such as re-training or a change to practice arrangements, to remedy any failings to ensure that they will not happen again
- Evidence in mitigation, for example, previous good character and the confidence of colleagues and patients and/or further relevant information about the context of the circumstances that may have contributed to the chiropractor's failings
- Whether or not a respondent chiropractor is willing to respond positively to further training and assessment as directed by the Committee
- Evidence that a respondent's conduct is not incompatible with continued practice as a chiropractor
- The need to send a clear signal to the respondent, the public and the profession, when the respondent chiropractor demonstrates little or no insight into the harm, or potential harm, for which he or she is responsible. For example, an absence of remorse, a lack of understanding of what constitutes an abuse of patients' trust, and failure to recognise appropriate professional boundaries.

GCC v Peter John PROUD

Registration number: 01537

Removed from the Register

Source of complaint

Patients
Patient's mother
Registrar

Nature of allegations

- Undertaking inadequate and superficial examinations, clinical assessments and further investigations
- Inadequate record keeping
- Jeopardising patients' health by the unjustifiable use of ionising radiation contrary to the provisions of IRMER
- Misleading patients by dishonestly exaggerating the seriousness of their conditions
- Disclosing diagnoses to patients in an alarmist manner, without proper respect or consideration for the patients
- Subjecting patients to various forms of pressure and asserting undue influence to persuade them to accept investigations and/or treatment
- Risking treatment dependency by offering patients excessive and unjustifiable 12 month courses of treatment
- Failing to respond appropriately to patients' problems and concerns during treatment, and failing to modify that treatment when necessary
- Misleading advertising

Summary of allegations

At the heart of the allegations was Mr Proud's treatment of, and conduct towards, four patients, two of whom were a mother and child. The allegations revealed a pattern of behaviour that demonstrated a flagrant disregard for patients' health and wellbeing. Mr Proud's management of these patients did not include any adequate examination, assessment or the maintenance of adequate clinical records. His conduct towards them invariably involved scare tactics that misrepresented the gravity of their conditions to coerce them to accept unnecessary excessive treatment, integral to which was repeated, and unjustifiable, exposure to ionising radiation.

For example, Mr Proud told the parents of an eight-year-old child that her condition was "very serious indeed" and "really bad news" and "far worse than he thought". He said that he had "never seen a child with such a condition…". When, in fact, the information that Mr Proud had did not justify any diagnosis of a 'serious' condition.

To another patient he said that he had *"very bad news for her, very bad news"* and that she *"did have subluxations"*. The GCC's expert witness advised that the discovery of subluxations (areas of vertebral restriction in the spinal joints) is commonplace to the point of universality in patients. By saying to a patient *"I have bad news for you. Very bad news"* he considered that a *"reasonable patient might think that they are to be diagnosed with a life-threatening disease or illness. In a patient with a*

number of serious health concerns, it was foreseeable that the use of such terminology was potentially distressing and was likely to cause alarm or distress."

Summary of the hearing and its outcome

The Committee considered evidence from three of Mr Proud's former patients, an expert witness and relevant documentation.

Mr Proud chose not to attend the five-day hearing. At the outset of the hearing the Committee noted that Mr Proud had contended that he was not subject to the GCC's jurisdiction because he no longer considered himself to be a chiropractor but a 'spinal specialist'. Given that Mr Proud continued on the Register, the Committee had no hesitation in exercising its statutory duty to consider allegations against him.

During the hearing, evidence was heard that Mr Proud had described himself as an 'osteomyologist'. Further, that he had failed, when asked by a patient, to confirm that he was GCC registered and subject to statutory regulation.

The finding of facts

The allegations were found proved in their entirety and Mr Proud was found guilty of five counts of unacceptable professional conduct.

Extract from the Committee's final decision

"The Code of Practice and Standard of Proficiency outlines the minimum standards expected of registered chiropractors. Chiropractors who take an ethical, patient centred approach to practice and treat those under their care with competence, compassion and respect are unlikely to transgress either the Code or the Standard.

When the behaviour and actions of a chiropractor fall below in multiple areas of these standards, it suggests an elemental disregard of the principles and duties of care expected of registered health care practitioners.

During this hearing, the testimony of patients led the Committee to conclude that Mr Proud does not possess the requisite qualities of a primary health care professional. Indeed his conduct, in respect of those patients brought to the attention of the Committee, was manifestly reprehensible and indefensible.

Mr Proud has shown an unacceptable lack of concern, empathy and respect towards his patients. He has placed personal gain above the welfare of his patients.

Integrity and trust are central to the relationship between chiropractors and their patients and those who place personal gain above the welfare of their patients risk bringing the entire profession into disrepute. In abusing the trust of his patients and coercing them, through alarmist scare tactics, into excessively protracted and unjustified treatment plans, Mr Proud has undermined the professional standing enjoyed by registered chiropractors.

Mr Proud falls short of the standards required of him, and has sought to evade regulation and criticism by denying his professional title.

Mr Proud's practice demonstrates a serious departure from the accepted principles as set out in the Code of Practice and the Standard of Proficiency. His behaviour certainly had an ongoing effect on the

patients who gave evidence. All three patients who gave evidence were clearly distressed and angry when they recalled events, in particular, the alarmist way in which Mr Proud spoke to them.

His coercion of patients to accept unnecessary treatment, including exposure to ionising radiation, was dishonest and an abuse of his position.

By attempting to deny the jurisdiction of the GCC, and declining to attend the hearing, Mr Proud has demonstrated his persistent lack of insight into the seriousness of his actions."

Imposing a proportionate sanction

The Committee heard that Mr Proud was already the subject of an 18 month Suspension Order imposed in February 2006.

Following consideration of all of the options available, the Committee considered that Mr Proud's behaviour was *"fundamentally incompatible with continued registration as a chiropractor"*. The Committee determined that the only appropriate sanction sufficient to protect the public, uphold standards and maintain confidence in the profession, was to remove Mr Proud's name from the Register of Chiropractors.

Note

Mr Proud did not appeal against the Professional Conduct Committee's decision. It is thought that Mr Proud is no longer resident in the UK.

The GCC routinely distributes the outcomes of Professional Conduct Committee hearings to overseas regulators of chiropractic where a sanction has been imposed that affects a chiropractor's registration (i.e. all sanctions except admonishment).

GCC v Irakli VATSADZE

Registration number: 00664

Suspension Order (12 months)

Source of complaint

Registrar

Nature of allegations

Practising as a chiropractor when registered with the GCC as non-practising.

Summary of allegations

It was alleged that Dr Vatsadze treated Patient A seven times over the course of a month while registered as a non-practising chiropractor; this was done knowingly and was inappropriate and unprofessional.

Dr Vatsadze had requested transfer to the non-practising register in September 2005, stating that he was "taking a year out for a holiday". His registration certificate and correspondence from the GCC could have left him in no doubt that he was not entitled to practise. GCC staff further reminded Dr Vatsadze, over the telephone on 4 January 2006, about his non-practising status and what it means. Nonetheless Dr Vatsadze provided a course of treatment to Patient A between

5 January and 4 February 2006. Dr Vatsadze subsequently submitted an application dated 25 February 2006 to transfer to the practising register.

Summary of the hearing and the outcome

Dr Vatsadze chose not to attend the half-day hearing, or cooperate with the proceedings, and did not respond to any communication in relation to them; he was not legally represented.

The Professional Conduct Committee considered documentary and oral evidence, which included submissions made by the GCC and the evidence of GCC witnesses, a clinic receptionist and an insurance company's claims manager.

Having heard the evidence, the Committee was satisfied that Dr Vatsadze's conduct was inappropriate and unprofessional because he knew that he was on the non-practising register and that chiropractors can only treat patients when they are on the practising register. The Committee did not accept, as claimed in a letter received by the GCC from the chiropractor in March 2006, that he 'forgot' to apply to transfer to the practising register as he had been advised, prior to providing treatment. The Committee found Dr Vatsadze guilty of unacceptable professional conduct.

Extract from Committee's decision

The Committee was of the view that: *"It is clear that a chiropractor must always act with integrity and never abuse their professional standing. Treating a patient when Dr Vatsadze knew he was not on the practising register is in breach of this duty. Further, in receiving payment from a patient whom he was not entitled to treat, he obtained an unfair pecuniary advantage and exposed the patient potentially to the risk of financial loss from his insurers."*

Imposing a proportionate sanction

The Committee determined that the appropriate sanction was suspension from the Register for 12 months.

The Committee was satisfied that to justify public trust and confidence and to uphold the good name and standing of the profession, a 12 month period of suspension was appropriate and proportionate. It concluded that Dr Vatsadze's conduct was *"sufficiently serious, given its reflection on Dr Vatsadze's trustworthiness, so that a lesser sanction was not sufficient. The Committee holds that it is possible to formulate appropriate and practicable and assessable actions that can be recommended to be undertaken by Dr Vatsadze during the period of suspension, for example, participation in a course of ethics and professional conduct as a means of demonstrating some insight into the seriousness of the behaviour"*.

Note

The Committee reviewed the Suspension Order on 10 January 2008 and it noted that from the outset of proceedings Dr Vatsadze has not engaged with the GCC. Given Dr Vatsadze's lack of cooperation, and absence of evidence that he had addressed his failings, the Suspension Order was extended for a further two years.

GCC v James Ian COBB

Registration number: 01196

Suspension Order (six months)

Interim Suspension Order

Source of complaint
Patient

Nature of allegations
- Taking X-rays without adequate justification contrary to the Ionising Radiation (Medical Exposure) Regulations 2000 (IRMER)
- Excessive use of X-rays
- Inadequate assessment and reassessment of a patient
- Inadequate records

Summary of allegations
It was alleged, and admitted by Dr Cobb, that his treatment of Patient A had been inappropriate, unprofessional and contrary to her best interests. Patient A was a 33-year-old woman presenting with lower back pain.

During a five month period during which Dr Cobb provided treatment to Patient A, he did not keep an adequate record of the advice or treatment he provided, his observations, information from the patient about her response to treatment, or the osteopathic treatment she was receiving. Further, Dr Cobb did not adequately reassess the patient when she presented with increased lower back pain or record this development, or any change in his treatment plan. It was also alleged that Dr Cobb X-rayed Patient A with no justification, without sufficient enquiry or adequate examination.

Summary of the hearing and its outcome
Dr Cobb attended the four-day hearing and was legally represented. The Committee heard evidence from Dr Cobb, his expert witness and a report of an audit of his clinical records, and submissions made on his behalf. It also noted supporting testimonials, the advice of the legal assessor and evidence from an expert witness appearing for the GCC.

At the outset of the hearing Dr Cobb admitted a significant portion of the allegations, which were therefore found proved. The GCC offered no evidence in relation to two sub-sections of two elements of the allegations and the Committee found those not proved. All remaining elements of the allegations were found proved. The Committee considered that those allegations found proved were sufficient to constitute a finding of unacceptable professional conduct.

Dr Cobb admitted that he took two X-rays of Patient A's lumbar spine just five months after a colleague had similarly X-rayed the patient's lumbar spine. Dr Cobb accepted that the X-rays were not taken to determine serious pathology but argued that the patient's condition had not improved and that this was sufficient justification for him to proceed. When questioned, Dr Cobb and his expert witness admitted that it would be highly unlikely, in the absence of any serious pathology, for any structural changes to be visible on X-ray over this period. The Committee

concluded, therefore, that the taking of lumbar X-rays on this occasion was not clinically indicated, contrary to the requirements of IRMER.

The Committee was satisfied that Dr Cobb's failures *"to keep adequate written records in relation to his treatment and assessment of Patient A were inappropriate as they compromised or had the potential to compromise patient safety. There was little evidence from the records that any diagnosis or clinical impression had been developed rationally or related clearly to any evidence that might have been elicited from a clinical assessment."*

"The Committee noted Dr Cobb's evidence that his patients were allocated a five minute appointment unless a "BSE" (a bio-structural examination) was scheduled, when 15 minutes was allocated. The Committee [found] it difficult to believe that a proper and adequate record…could be kept in the five minutes allowed for each patient. The five minutes also included any treatment to be carried out. Dr Cobb admitted that at times he waited until the end of the day before recording details of the consultation from memory.

In the Committee's view such practices were unprofessional and potentially dangerous as Dr Cobb could not have accurately retained in his mind the information that he ought to have recorded." The Committee expressed the additional concern that "other healthcare professionals would find it difficult to make proper sense of those records".

Before considering what sanction it would be proportionate to impose, the Committee agreed to adjourn its consideration of this case for four weeks to enable Dr Cobb, with the aid of his advisers, to undertake the audit of his clinical records so that a wider picture of his current record keeping skills could be presented to the Committee. The audit documents, presented by Dr Cobb's representatives in mitigation, did not reassure the Committee. The audit of recent clinical records indicated that Dr Cobb routinely X-rayed a majority of new adult patients. The audit also showed Dr Cobb's standard of record keeping to be *"woefully inadequate".*

Extract from the Committee's final decision

"Whilst there are areas of your practice which require remedy, and these are identifiable, your failings are substantial, and pose a significant threat to public and patient safety. In particular, your admitted practice of X-raying nine out of 10 of your new patients is inconsistent with that of a reasonable chiropractor.

The Committee was also concerned that although female patients of child-bearing age sign to confirm they are not pregnant, you do not explore their assurance adequately, thus exposing these patients to further potential risk.

In addition, the Committee takes the view that your standard of record keeping is still woefully inadequate. In order to understand your records, it was necessary for the Committee to ask you to interpret and explain your entries. In the interests of patient safety, it is essential that records are understandable to other colleagues who might need to read them."

Imposing a proportionate sanction

The Committee took a serious view of Dr Cobb's professional shortcomings and was concerned that his insight into those failings remained limited. The Committee, however, did not regard Dr Cobb's behaviour to be incompatible with his continued practice as a chiropractor and noted

the favourable references provided by clients and professional colleagues. For these reasons, the Committee imposed a Suspension Order for six months.

Dr Cobb was advised that the Suspension Order would be reviewed shortly before it ended and that the Committee would be helped in its further consideration by evidence that Dr Cobb had reflected on those aspects of his professional practice that were of particular concern to the Committee. It was also suggested that the Committee would be further helped if Dr Cobb had taken and passed the Test of Competence.

The Committee further decided that it was necessary for the protection of the public to impose an Interim Suspension Order.

Outcome of Appeal

Dr Cobb subsequently appealed against the Committee's sanction and its order for immediate suspension. The appeal was heard by the Scottish Court of Session and was refused.

Outcome of review hearing

The Committee met on 12 September 2007 to review the Suspension Order in force against Dr Cobb. It noted that Dr Cobb had passed the Test of Competence and considered that he demonstrated a level of insight into his shortcomings that was not previously apparent. The PCC further noted Dr Cobb's assurances as to his future professional practice.

The PCC determined that it was not necessary to extend the Suspension Order to protect the public. The PCC, however, determined that public protection required Dr Cobb's future practice be monitored and imposed a Conditions of Practice Order from 11 October 2007 for two years. The purpose of the Order is to provide a framework to ensure that Dr Cobb achieves the required standards of practice in the use of X-rays, record keeping and reassessment of patients.

GCC v Michael Courtenay WATSON

Registration number: 01542

Conditions of Practice Order (two years)

Source of complaint

Registrar

Nature of allegations

- Practising while unfit due to alcohol consumption
- Undermining public confidence in the chiropractic profession
- Bringing the chiropractic profession into disrepute

Allegations in brief

The allegations concern two occasions during the afternoon of 12 October 2004 when Mr Watson attempted to examine and treat patients while unfit to do so due to his prior consumption of alcohol. Both patients were so concerned by Mr Watson's conduct, and obvious inebriation, that they refused treatment. As a result of Mr Watson's conduct and appearance, which had caused the patients considerable alarm and distress, the police were called to his clinic.

Summary of the hearing and its outcome

Mr Watson attended the half day hearing and was legally represented. Mr Watson admitted the facts of all the allegations and so the Professional Conduct Committee found those facts proved. Mr Watson was found guilty of unacceptable professional conduct.

The Committee took into consideration an existing Conditions of Practice Order that was first imposed upon Mr Watson at a hearing of the Committee on 21 October 2005, relating to three drink driving convictions in 2004. It also considered submissions made on behalf of the GCC, Mr Watson and testimonials.

The Committee considered the following mitigating factors

- Mr Watson had satisfactorily complied with the existing Conditions of Practice Order imposed in respect of his drink driving convictions
- There had been increasingly positive reports on his continued abstinence over two years, and his fitness to practise, from consultants in occupational medicine and psychiatry, respectively
- Supportive testimony from a supervising chiropractor and from a treating therapist

Imposing a proportionate sanction

The Committee decided that a Conditions of Practice Order would be sufficient and the minimum necessary to protect the public, maintain public confidence in the profession and to uphold standards.

The Committee determined to impose a new Conditions of Practice Order for a period of two years and that the prior Order be revoked. The Committee further determined that it would review Mr Watson's progress after six months, at which time it expected to have before it progress reports from Mr Watson's

- GP, including the results of any blood tests
- Consultant psychiatrist
- Mentor
- Treating therapist

Outcome of the Committee's review of the Conditions of Practice Order

At the review hearing six months later on 12 September 2007, Mr Watson demonstrated that he was complying with the Order and, as Mr Watson was at the early stages of recovery, the Committee decided that it was in the public interest to continue the Order with the same conditions. The Committee decided that a further Review Hearing would be arranged in a further six months.

Note

On 4 April 2008, the PCC met to review the Conditions of Practice Order it imposed on Mr Watson in February 2007. The PCC decided to revoke the Conditions of Practice Order with immediate effect.

The Committee noted that Mr Watson had built upon the considerable insight he had demonstrated at the time this Conditions of Practice Order was imposed. In light of the information before it, the Committee determined that it was no longer necessary to have conditions imposed upon Mr Watson's practice.

GCC v John-Paul GIBBON

Registration number: 01012

Conditions of Practice Order (12 months)

Source of complaint
Patient

Nature of allegations
- Failing to treat a patient politely and considerately
- Behaving intemperately towards the patient causing distress
- Acting contrary to the patient's best interests
- Undermining public confidence in the chiropractic profession
- Bringing the profession into disrepute

Summary of allegations
Patient A had been referred to Mr Gibbon by *BUPA Recover* for an assessment of her future treatment needs. During this appointment it was alleged that Mr Gibbon became exercised by the paperwork involved in this task considering it to be a waste of time, and spoke to the patient sternly and in an off-hand manner. The patient stated that she was going to leave, to which Mr Gibbon said "you better had", ultimately shouting at the patient to "get out of his house". Another patient in the waiting room had heard, and witnessed, some elements of this exchange. Allegations that Mr Gibbon had used offensive language, and had pushed the patient, were not proved.

Patient A immediately reported the matter to the police and, when she did so, was clearly distressed and alarmed by the alleged events.

Summary of the hearing and its outcome
Mr Gibbon attended the nine-day hearing and was legally represented. At the outset of the hearing the Professional Conduct Committee refused a submission made on behalf of Mr Gibbon that Patient A was not, in fact, a patient because the patient's visit could not be considered to be a consultation. The Committee did not agree and determined that *"any clinical contact must give rise to professional responsibilities and obligations on the part of the health professional concerned."*

When considering if the facts found proved amounted to unacceptable professional conduct, the Committee took into account all oral and documentary evidence, including documents provided by Mr Gibbon, the submissions made on his behalf and on behalf of the GCC.

Amongst other things, the Committee took account of Mr Gibbon's admission that he had shouted at Patient A and heard evidence from the police officer who took her statement – he confirmed that Patient A had been very distressed and upset. The Committee also considered that: *"being disparaging about the paperwork, and speaking to Patient A in a stern and offhand manner was inappropriate, unprofessional, contrary to the best interests of Patient A and likely to cause her distress"*.

The Committee noted the conviction of Patient A for offences of dishonesty and took this into account when assessing the credibility of her account of events.

The Committee determined that the facts found proved amounted to unacceptable professional conduct, stating that: *"Regardless of any perceived or real provocation, a chiropractor is obliged to behave with restraint at all times. All patients are entitled to courtesy. This is so, whether or not a decision is made to continue their care".*

Imposing a proportionate sanction

In announcing its decision, the Committee stated: *"The behaviour did cause Patient A to be distressed. There was no evidence before the Committee that Mr Gibbon had any insight into his failings nor was there any genuine expression of regret or remorse. Mr Gibbon does not have a previous good history as he has been previously admonished by the GCC for a conviction of harassment, which resulted from poor behaviour, albeit not to a patient.*

The Committee is satisfied that Mr Gibbon was not acting under duress and while there were undoubtedly stresses in his life at the time, the Committee is satisfied that this provides no excuse for him losing his temper with, and treatment of, Patient A."

The Committee determined to impose a Conditions of Practice Order for 12 months. The purpose of the Order was to provide a structured framework to enable Mr Gibbon to improve his communication skills with patients and ability to control his temper. It required Mr Gibbon successfully to complete approved courses on anger and stress management, and for reports to be submitted to the Committee to consider when reviewing the Order.

Note

Mr Gibbon did not engage with the GCC on this matter. He was removed from the Statutory Register on 27 March 2008 for failing to retain his registration.

GCC v Claire Marie DEVRELL

Registration number: 00499

Conditions of Practice Order (nine months)

Source of complaint

Patient

Nature of allegations

Failure to

- Maintain adequate records
- Carry out an appropriate physical examination
- Make a working diagnosis
- Formulate an initial management or treatment plan
- Determine whether it was safe to proceed with the treatment provided

Summary of allegations

Dr Devrell took over the treatment of Patient H, who had in the past undergone a lumbar disectomy and who was complaining of pain in his lower back. Patient H had previously consulted another chiropractor in the practice, Dr C, eight times between 21 December 2004 and 22 March 2005.

Patient H reported that, when he consulted Dr Devrell for the first time on 19 April 2005, the pain had lessened to a 'slight twinge' and that he had expected that it would be his final appointment. Shortly after receiving treatment from Dr Devrell at this consultation, Patient H said he suffered increased pain; he considered that his original condition had been exacerbated. Patient H received further treatment from Dr Devrell on five subsequent occasions which Patient H considered did not improve matters and extended the pain to additional areas of his back.

At Patient H's appointment on 19 April 2005, Dr Devrell had available Dr C's records for Patient H but those records contained limited information and, in particular, did not include a case history, a working diagnosis or clinical impression, and initial management or treatment plan or a prognosis.

It was alleged that Dr Devrell, during her management of Patient H's care, failed to carry out an adequate physical examination of Patient H, take an adequate case history, an initial management or treatment plan, and make a working diagnosis or clinical impression or a prognosis.

Summary of the hearing and its outcome

Dr Devrell attended the two-day hearing and was legally represented. At the outset of the hearing Dr Devrell admitted all of the allegations and the Professional Conduct Committee duly found those facts proved.

The Committee then considered whether or not the facts amounted to unacceptable professional conduct and determined that they did. When announcing its decision the Committee stated: *"Dr Devrell took over the care of Patient H from Dr C on 19 April 2005. It is clear from Dr C's records for Patient H that they contained limited information…Dr Devrell, on being presented with such records, ought to have carried out her own assessment of the patient before commencing treatment. This she failed to do.*

Making and maintaining proper and adequate records are an essential part of providing and delivering safe and appropriate patient care. This is so that the patient, the chiropractor and any subsequent clinician can know the health status of the patient, treatment history, diagnosis and prognosis and the prospects for preventing recurrence.

Further, on the five subsequent treatment sessions for Patient H, Dr Devrell compounded her initial failures by continuing to fail to adequately take a case history and formulate a working diagnosis, a treatment plan or prognosis…

In addition, the Committee accepts the expert opinion of Dr Hennius to the effect that the failure to carry out the clinical assessment on the 19 April 2005 led Dr Devrell to rely on inadequate and unreliable information regarding Patient H which then precluded the proper determination of the appropriateness and safety of any treatment to be provided."

Imposing a proportionate sanction

The Committee carefully considered evidence provided in mitigation, including supporting testimonials and written evidence from Dr Brown, who had carried out an audit of a single example of Dr Devrell's record keeping in November 2006 and two further examples of January 2007.

The Committee noted that Dr Devrell had apologised to Patient H for any distress he suffered and concluded that she had demonstrated insight into her failings. Further, that Dr Devrell had: *"…taken these proceedings very seriously and… taken active steps to address these problems since they were brought to your attention, including changing the record card that you use".*

The Committee decided to impose a Conditions of Practice Order for nine months, which included a requirement to submit for audit 10 successive sets of new patient records at the end of three and six months respectively. The purpose of the Order was to provide a framework to ensure that Dr Devrell had appropriate support and encouragement to achieve required standards of record keeping and enable the Committee to monitor her progress.

Outcome of the hearing to Review the Conditions of Practice Order

On 11 September 2007, the Committee decided to revoke the Order imposed on 23 January 2007. The Committee was: *"impressed by the reports of the audits of [Dr Devrell's] records…you have made significant improvement in your record keeping, and…these records comply with the General Chiropractic Council's Code of Practice and Standard of Proficiency.*

The Committee also accepts your own evidence this morning to the effect that you understand the importance for patient safety of comprehensive records, and it accepts your stated determination to maintain and continue to improve these standards. The Committee was reassured to hear that you have developed your professional support structures".

GCC v Martin Anthony Everard SCOTCHER

Registration number: 00746

Conditions of Practice Order (six months)

Source of complaint

Patient

Nature of allegations

- Improper sexual and personal relationship with a patient
- Failure to establish and maintain professional boundaries with a patient

Summary of allegations

Dr Scotcher provided chiropractic treatment to Ms A, who was suffering from migraines and back pain, on a number of occasions from February 2003 to approximately 15 August 2005. Ms A alleged that while she was Dr Scotcher's patient he pursued a personal relationship with her, and that from August 2004 the relationship became sexual.

Between late 2003 and July 2004, Dr Scotcher revealed personal information to Ms A, including intimate information about his personal relationships. During this time he also referred to Ms A's perfume on a number of occasions. In about July 2004, Dr Scotcher attempted to pursue a personal relationship with Ms A, at which time Dr Scotcher had recently agreed that Ms A could rent a cottage he owned.

Ms A alleged that on a number of occasions on clinic premises, either during or after treatment, Dr Scotcher kissed her and also attempted to have sexual relations with her – these particular allegations were not found proved by the Professional Conduct Committee.

Dr Scotcher did not transfer Ms A's care to another chiropractor. Ms A reported that she specifically asked Dr Scotcher, on at least two occasions, whether or not it would be appropriate for her to consult a different chiropractor because she had become his tenant, and then because a sexual relationship had commenced in August 2004. Ms A alleged that Dr Scotcher said that it didn't matter and made her "feel stupid" for asking. Dr Scotcher contended that he did transfer Ms A's care to another chiropractor before their sexual relationship commenced. There was, however, no record of this in Ms A's clinical records and no other chiropractor provided Ms A with treatment during the period in question.

Between late September until April 2005, Ms A travelled overseas. During this period, emails and text messages were exchanged between Ms A and Dr Scotcher, which were produced in evidence. Ms A wrote to Dr Scotcher in February 2005 to end their relationship. Ms A returned to the UK in April 2005.

Dr Scotcher provided treatment to Ms A on four occasions between April 2005 and August 2005. At the final treatment session on 15 August 2005, one or other of the parties emphasised that their sexual relationship had ended. Shortly afterwards, Ms A approached the practice manager and asked to be transferred to the care of another chiropractor.

Summary of the hearing and its outcome

Dr Scotcher attended the five-day hearing and was legally represented. Dr Scotcher denied the significant portion of the allegations against him – including that he had abused his professional position. He contended that he did not provide treatment to Ms A during the period that their relationship was sexual. It was argued that Dr Scotcher and Ms A had participated in a consensual relationship. Elements of the evidence heard were contentious and could not be substantiated by third parties.

Significant aspects of Ms A's allegations were not found proved. The allegations that were found proved were considered by the Committee to be sufficient to amount to unacceptable professional conduct.

The Committee determined that Dr Scotcher's conduct had been "inappropriate" and its announcement included the following paragraphs: *"The Committee consider that every healthcare worker should, at all times, be aware of the need to establish and maintain clearly delineated boundaries in respect of their relationship with patients. It is the responsibility of the chiropractor rather than the patient to terminate the professional relationship when that relationship is developing into a personal one. Professional boundaries exist in order to protect patients. It is the professional's responsibility not to cross those boundaries. The relationship between practitioner and a patient is not an equal one. Great care has to be taken by a professional when dealing with a patient so as to ensure that his behaviour does not encourage an improper relationship to develop. The Committee is satisfied that Mr Scotcher's behaviour overall did encourage first an improper personal relationship, and then an improper sexual relationship to develop between the parties. These relationships were improper as Ms A remained a patient throughout…*

His behaviour in allowing his contact with Ms A to develop into a personal, and then sexual relationship whilst she remained a patient, and then continuing to treat her when the sexual relationship had ended, is conduct that falls far short of that expected of a reasonable chiropractor. Therefore Dr Scotcher is guilty of unacceptable professional conduct".

Imposing a proportionate sanction

The Committee heard evidence in mitigation. It accepted that Dr Scotcher had insight into his failings and that this was supported by the rehabilitative work he had done with a Consultant Clinical Psychologist. There was no evidence of repetition of his behaviour.

The Committee stated that it was *"impressed with the efforts that you have taken on your own account to address the issues of boundaries and appropriate behaviour with Dr Kennedy since February 2006. The Committee accepts that you have made progress on the issue of professional boundaries since the events in question and notes that you wish to continue with this work."*

The Committee decided to impose a Conditions of Practice Order for six months. The Order required Dr Scotcher to continue to work with his psychologist, to explore further the issues of boundaries and appropriate behaviour between patient and practitioner, and that a report from Dr Kennedy be provided to the Committee in advance of the Review Hearing.

Note

On 10 June 2008 the PCC met to review the Conditions of Practice Order imposed on Mr Scotcher in June 2007 and extended in January 2008. The PCC decided to revoke the Conditions of Practice Order.

Having heard evidence and having satisfied itself that Mr Scotcher has complied with the Conditions of Practice Order and that he now has better insight into the implications of his wrongdoing, the Committee accepted that it is no longer necessary to continue the Conditions of Practice Order.

GCC v Mark Andrew Peter CASHLEY

Registration number: 00510

Admonished

Source of complaint

Registrar

Nature of allegations

- **Failure to ensure that the content of a website that promoted the practitioner's practice and for which he was responsible, was factual, verifiable and compliant with the GCC's Code of Practice and the Advertising Standards Authority's Code of Advertising Practice**
- **Exploitation of the public's lack of experience or knowledge about health or chiropractic matters**

Allegations in brief

It was alleged that Dr Cashley

1 failed to scrutinise the content of his practice's website, either during its construction or afterwards; and
2 the website made reference to chiropractic being able to relieve a number of serious ailments such as deafness, blindness and inability to conceive. It made further claims, which could not be

verified, about improved hearing, eye function, sexual function, improved function of reproductive organs, easier childbirth and reduced labour; and

3 the website contained a number of statements that might abuse the trust of members of the public, or exploit their lack of experience or knowledge about either health or chiropractic matters, in that it used the words "the silent killer"

Summary of the hearing and its outcome

At the outset of the one-day hearing, Dr Cashley admitted all of the allegations. The Committee duly found the matters and facts proved.

The finding of unacceptable professional conduct

The Committee found that the proven facts amounted to unacceptable professional conduct. In reaching this decision, the Committee considered that Dr Cashley's conduct fell short of the standard required for a registered chiropractor by

- failing to ensure that the content of the website was appropriate and in accordance with the GCC's Code of Practice
- failing to properly scrutinise the content of the website during, and after, its construction

The Committee emphasised that *"as a professional, a chiropractor has the responsibility for all the information disseminated about his services; this includes ensuring that it is factual and verifiable. Non-verifiable claims are not permitted because members of the public might be misled. People with problems such as infertility, deafness and loss of sight may look for anything that could help to relieve their condition. The use of non-verifiable claims may misinform the public and may undermine confidence in the profession. The public need to have confidence that what they read accurately reflects what is clinically achievable.*

Further, publicity about chiropractic practices on websites is readily accessible to members of the public. Information on the internet reaches very wide audiences and may exploit their lack of experience or knowledge about health or chiropractic matters, in particular by the use of terminology such as "silent killer".

Failure to exercise professional responsibility and comply with the Code of Practice in these respects undermines public confidence in the profession".

Extract from the Committee's final decision

"The Committee was impressed by your evidence and accepts that the failings you have admitted in this case were errors of omission, rather than ones of commission. It accepts that you have an exemplary record as a chiropractor and the Unacceptable Professional Conduct it has found is not based on any question of your honesty, integrity or clinical competence.

It takes account of the fact that you admitted all the allegations at the earliest opportunity and that they amounted to Unacceptable Professional Conduct. It accepts that as soon as you were notified about the problem relating to the website you caused it to be withdrawn immediately.

Further, the Committee accepts that your prompt apology, which you repeated in this hearing, was a sincere expression of regret, and in the view of the Committee is a clear manifestation of your insight into these failings…

However, a registered health professional…cannot abrogate their responsibility for any publicity put out in their name".

Imposing a proportionate sanction

The Committee decided that an admonishment was an appropriate sanction to impose upon Dr Cashley and concluded the case.

GCC v Craig Douglas COSTA

Registration number: 01688

Admonished

Source of complaint

Other health professional

Nature of allegations

- **Failed to ensure that his advertising made clear that he was a doctor of chiropractic and not a registered medical practitioner**
- **Misled members of the public in that the wording of his advertising suggested that he was a qualified medical practitioner**

Allegations in brief

Mr Costa, as a principal and acting with Mr Joey Thieme, was responsible for placing an advertisement for his practice in a local newspaper that, in its description of them, stated: "We are qualified doctors who provide clinically proven treatment…"

Mr Costa potentially mislead members of the public because the wording of the advertisement failed to make clear that he is a registered chiropractor and suggested that both chiropractors were qualified as medical practitioners when they are not.

Summary of the hearing and its outcome

At the outset of the hearing, Mr Costa and Mr Thieme admitted all the facts. The Committee duly found the allegations proved and, following consideration of all available evidence, determined that Mr Costa was guilty of unacceptable professional conduct.

Extract for the Committee's final decision

"The Committee has accepted your explanations that the failings that you have both admitted in this case were errors of omission, rather than ones of commission. It accepts that neither of you intended to deceive, but were negligent in failing to take into account the relevant clauses of the Code of Practice. There are no previous findings recorded against either of you. This finding of Unacceptable Professional Conduct is not based on any question of your honesty, integrity or clinical competence…

…It is evident that you have both taken these proceedings very seriously and have taken active steps to address the problems with your advertisement since they were brought to your attention.

The Committee has accepted that your failings were caused by not properly reviewing the advertisement in the light of the Code of Practice. However, as you have both accepted, a registered health professional cannot abrogate their responsibility by not having regard for the Code of Practice".

Imposing a proportionate sanction

The Committee determined that it was sufficient to conclude the case with an Admonishment, and was satisfied that this was proportionate and the minimum necessary to protect the public and maintain confidence in the profession.

GCC v Tanya Michelle KELLY

Registration number: 01058

Admonished

Source of complaint

Patient

Nature of allegations

- Failure to comply with Ionising Radiation (Medical Exposure) Regulations 2000
- Recommending a treatment plan that was not in the patient's best interests
- Failure to keep adequate records of the patient's condition

Allegations in brief

It was alleged that Dr Kelly

1 Recommended a treatment plan involving three appointments a week for a period of 12 weeks followed by a reassessment
2 Arranged for Patient A to be X-rayed on three occasions, which was excessive, not clinically indicated or in the patient's best interests
3 Failed to keep adequate records of information provided by Patient A concerning his condition

Summary of the hearing and its outcome

Dr Kelly attended the two-day hearing and was legally represented.

The proven facts of the case relate to the recommending and carrying out of an excessive number of appointments for Patient A; the taking of X-rays which were not clinically indicated; and a failure to keep adequate records.

The finding of unacceptable professional conduct

The Committee considered a bundle of agreed evidence that included Patient A's affidavit, the patient's records, Dr Kelly's written observations and a report from Dr Brown, expert witness for the GCC.

The Committee considered that Dr Kelly's conduct compromised, or had the potential to compromise, Patient A's welfare and fell short of the standard expected of a registered chiropractor. The Committee decided, therefore, that Dr Kelly was guilty of Unacceptable Professional Conduct.

Extract from the Committee's final decision

"You accepted that the recommendation of 36 treatments, with a plan for re-assessment only at the end of the treatments, was excessive. However, the treatments that were carried out between November 2003 and February 2004 were interspersed with re-assessments that you actually carried

out and which were documented in the records. In the Committee's view this provided some protection for Patient A by virtue of those re-assessments during the course of treatment.

You appreciate that the second set of X-rays was not clinically justified. There was a potential for harm to Patient A from the unnecessary exposure to ionising radiation in February 2004. However, the Committee is satisfied that the X-rays you took were as a result of a single error of clinical judgement. Your error was to think that investigating the possible consequences of the incorrect orthotic devices, justified the X-rays. The Committee has concluded that you did make some assessment of the benefits to Patient A from the X-rays but did not adequately evaluate the risks. However, the Committee accepts that this was not an example of a chiropractor taking X-rays in order to justify excessive treatment…

The Committee concludes that you do have insight into, and have learnt from, your failings and have changed your practice. You now record in your treatment plan that re-assessments will take place after 12 treatments; you are now treating fewer patients each week; you ensure that all relevant comments from your patients are recorded and you have adopted other methods of investigation as an alternative to X-rays."

Imposing a proportionate sanction

The Committee concluded the case with an admonishment.

GCC v Heather June LAMACRAFT

Registration number: 01029

Admonished

Source of complaint

Patient

Nature of allegations

Failure to

- Maintain adequate patient records
- Reassess the patient's condition
- Obtain consent
- Notify the patient of the formal complaints procedure

Summary of allegations

Patient A, a diabetic and suffering from musculoskeletal pain in a number of areas, including the neck, consulted Miss Lamacraft on numerous occasions between 29 March 2002 and 30 June 2003. It was alleged that Miss Lamacraft failed to conduct an adequate examination upon Patient A at the initial consultation and, thereafter, failed to keep an adequate record of her examination of Patient A, clinical impression or working diagnosis, the prognosis, initial treatment or treatment plan and Patient A's consent to treatment. It was further alleged that Miss Lamacraft did not reassess the patient or keep any adequate record of a re-assessment of Patient A.

On or about 17 March 2003, Miss Lamacraft altered the treatment she provided to Patient A. Patient A alleged that Miss Lamacraft commenced the treatment without telling him what it would

involve, how it could help or any risks associated with it. The patient said the new treatment made him "yelp" and "yell out" with pain, which left him "dizzy" and "in shock". Patient A likened the severity of the pain to "having a kidney stone", which he had experienced and said the new treatment left him sore and less mobile for at least four weeks afterwards.

In July 2003 the patient complained to Miss Lamacraft about the adverse reaction he was suffering to the treatment she had provided. An appointment was made for 23 July 2003 during which treatment, different to that that had been the cause of Patient A's complaint, was provided. Miss Lamacraft did not reassess the patient, or keep an adequate record of a reassessment, clinical impression or working diagnosis.

Patient A sent Miss Lamacraft a letter of complaint dated 10 August 2004. Following receipt of this letter, Miss Lamacraft failed to tell Patient A of the existence of any formal practice complaints procedure, nor did she notify Patient A of his right to refer any unresolved complaint to the GCC and supply its address to him. Miss Lamacraft provided a substantive response to Patient A's complaint in a letter of 24 December 2004.

Summary of the hearing and its outcome

Miss Lamacraft attended the hearing and was legally represented. The allegations admitted and those found proved involved one instance of failure to carry out an adequate examination, two instances of failure to re-assess, eight instances of inadequate record keeping and one instance of failure to obtain the patient's consent to treatment.

The finding of unacceptable professional conduct

The Committee determined that the facts found proved amounted to Unacceptable Professional Conduct and its reasons included the following issues:

"Patient A has a complex range of symptoms which required far more than the brief initial examination you provided, which omitted several of the standard tests that were necessary in this case. Accordingly, you failed to comply with the requirements of the Standard of Proficiency in both these respects. Unless a chiropractor carries out an adequate initial examination, it is impossible to make a proper diagnosis or to devise an appropriate and safe management plan.

…As you admitted, your record keeping was deficient at the time. Such deficiencies in record keeping potentially compromise patient safety. In this case, the records failed to show your clinical impression or working diagnosis, or sufficient details of your examinations, re-assessments or management or treatment plan.

…By failing to re-assess progress in this case, you were not in a position to know whether your treatment of Patient A was effective and therefore risked compromising patient safety".

Imposing a proportionate sanction

The Committee was satisfied that the shortcomings in Miss Lamacraft's practice identified in this case would not be repeated and that therefore the sanction of admonishment was sufficient to protect patients. The Committee's reasons for its decision included the following areas:

"The Committee was impressed by the insight you have shown into your short-comings and the steps you have taken to remedy the deficiencies in your practice identified by this case. It has taken account

of your otherwise unblemished record of eight years' professional practice and your expressions of regret and apology.

…The Committee further notes that you have attended three courses, each of twelve hours duration at the McTimoney College of Chiropractic, on patient assessment and have been assessed as competent on each occasion. In addition, you have taken the initiative and recently spent time observing assessment and treatment in the clinics of a chiropractic colleague, an osteopath and a physiotherapist".

GCC v Caragh Mary Bernadette PITTAM

Registration number: 00892

Admonished

Source of complaint
Patient

Nature of allegations
Failure to maintain adequate records.

Allegations in brief
The allegations considered by the Committee arose from circumstances relating to Dr Pittam's management of Patient A's chronic back and leg pain between 25 September 2004 and November 2004.

Patient A contended that, during a treatment session on or around 21 October 2004, Dr Pittam had proposed to provide Patient A with a letter to her GP to recommend that a scan be conducted. Patient A alleged that the referral letter was not provided within the time specified and said that she enquired about this. On about 1 November 2004 Dr Pittam provided a referral letter. Upon returning home and reading the letter, the patient saw that it recommended a thyroid check for an existing condition that was being managed. The patient returned to the practice accompanied by her husband to discuss the referral and to address any misunderstandings.

Patient A alleged that, during this discussion, Dr Pittam failed to provide her with an adequate explanation about the content of the referral letter and failed to treat her politely and considerately. These allegations were not found proved, nor was the patient's contention that Dr Pittam had agreed to write to Patient A's GP to recommend a scan.

Summary of the hearing and its outcome
Dr Pittam attended the three-day hearing and was legally represented. A significant portion of the allegations against Dr Pittam were not found proved. Those elements of the allegations proved, related to Dr Pittam's failure to keep an adequate written record of her examination of Patient A during a consultation, a clinical assessment or working diagnosis or treatment plan. The expert witness appearing on behalf of Dr Pittam, accepted on this occasion that *"although some examination findings are noted, the quality of recording is not what one would expect of a reasonable chiropractor".*

The Committee decided that the allegations found proved amounted to Unacceptable Professional Conduct, stating in its determination that: *"The Committee considers that records are important to ensuring patient safety. A definitive record is essential for the chiropractor's own continuity of care and in the event of the hand over of care to another health professional. The Committee considers that it was unacceptable not to note negative findings".*

Imposing a proportionate sanction

The Committee decided that an admonishment was sufficient and the minimum necessary to protect the public and maintain confidence in the profession.

"The Committee has taken into account your admissions made at the outset of this hearing and the fact that you have, for the past two and a half years, faced serious, and in the event ill-founded, allegations concerning your conduct towards a patient.

The Committee has also taken account of the impressive testimonials and the evidence of clinical colleagues and patients, some of whom have attended to speak on your behalf today. Many of the testimonials have been written in the knowledge of the matters which you have admitted. Fellow clinicians have commented positively on the thorough and comprehensive written referrals and recommendations that you have made to them. You are clearly held in high regard in particular for your professionalism, reliability, effectiveness and caring attitude towards your patients,

You have told the Committee that since these events came to light you have worked with colleagues to improve your record keeping standards and you now fully record both positive and negative findings and you are working with your professional association to improve the quality of your documentation. The Committee has formed the view that you are a responsible chiropractor who, having recognised your deficiencies, can be relied upon to take all such corrective steps necessary to bring your practice to the required standard and that consequently, there will be no repetition.

The Committee is satisfied that by admitting these matters and initiating corrective steps, you have acknowledged your shortcomings, demonstrated insight and learnt from this experience".

GCC v Jonathan Patrick VINE

Registration number: 01066

Admonishment

Source of complaint

Registrar

Nature of allegations

- Falsely claimed to be a member of the British Acupuncture Council and registered under the Medicines Act to give injections
- Requesting a supply of injectable Vitamin B12, with the intention of administering it, when not entitled to do so

Allegations in brief

Dr Vine signed a letter of 3 February 2005 as a chiropractor and arranged for it to be presented to a pharmacist. That letter contained three major inaccuracies; namely that he was currently a member of the British Acupuncture Council, registered under the Medicines Act, and entitled to administer injections.

The allegations relate to Dr Vine's practice as a naturopath. As a registered chiropractor, however, Dr Vine has a professional duty at all times to comply with the *Code of Practice and Standard of Profiiciency* and so ensure that he does not present himself as something that he is not and to act within the law.

Summary of the hearing and its outcome

At the outset of a two-day hearing Dr Vine, who was legally represented, admitted all of the allegations, which the Committee duly found proved. The Committee was concerned that Dr Vine did not take adequate steps to establish or confirm his entitlement to administer medicinal products by parenteral injection as a responsible professional should have done. The Committee was not persuaded that this is a difficult area of law. Had Dr Vine taken reasonable steps to speak to his colleagues and made proper enquiry of the British Naturopathic and Osteopathic Association when he became a member, he would have established that he was not entitled to administer injections.

The Committee considered that the public is entitled to expect that chiropractors never mislead by making untrue claims, and determined that the admitted facts amounted to unacceptable professional conduct.

Imposing a proportionate sanction

The Committee decided that an admonishment was sufficient and the minimum necessary to protect the public and maintain confidence in the profession. In giving its reasons for the sanction the Committee stated:

"Dr Vine, requesting a Prescription only Medicine by misrepresenting your membership of a professional body, misrepresenting your entitlement under the Medicines Act, and purporting to have authority to inject are very serious matters. You must consider whether the public can have confidence in a chiropractor who misrepresents himself in such a way. You should be in no doubt that the Committee takes the view that this conduct falls significantly below the standard expected of a registered chiropractor.

However, the Committee accepts that your use of Vitamin B12 injections formed a very small part of your practice. Prior to your letter of 3 February 2005, you had only purchased this Prescription only Medicine on three previous occasions, in 1996, 2000 and 2001. Further, there is no suggestion that patients have been harmed and since you have become aware that you were not entitled to obtain Prescription only Medicines, you have not sought to do so".

GCC v Joey Jonathan THIEME

Registration number: 01640

Admonishment

Source of complaint
Other health professional

Nature of allegations
- **Failed to ensure that his advertising made clear that he was a doctor of chiropractic and not a registered medical practitioner**
- **Misled members of the public in that the wording of his advertising suggested that he was a qualified medical practitioner**

Summary of allegations
Mr Thieme, as a principal and acting with Mr Craig Costa, was responsible for placing an advertisement for his practice in a local newspaper that, in its description of them, stated: *"We are qualified doctors who provide clinically proven treatment…"*

Mr Thieme potentially mislead members of the public because the wording of the advertisement failed to make clear that he is a registered chiropractor and suggested that both chiropractors were qualified as medical practitioners when they are not.

Summary of the hearing and its outcome
At the outset of the hearing, Mr Thieme and Mr Costa admitted all the facts. The Committee duly found the allegations proved and, following consideration of all available evidence, determined that Mr Thieme was guilty of unacceptable professional conduct.

Imposing a proportionate sanction
The Committee determined that it was sufficient to conclude the case with an admonishment, and was satisfied that this was proportionate and the minimum necessary to protect the public and maintain confidence in the profession.

"The Committee has accepted your explanations that the failings that you have both admitted in this case were errors of omission, rather than ones of commission. It accepts that neither of you intended to deceive, but were negligent in failing to take into account the relevant clauses of the Code of Practice. There are no previous findings recorded against either of you. This finding of Unacceptable Professional Conduct is not based on any question of your honesty, integrity or clinical competence…

…It is evident that you have both taken these proceedings very seriously and have taken active steps to address the problems with your advertisement since they were brought to your attention.

The Committee has accepted that your failings were caused by not properly reviewing the advertisement in the light of the Code of Practice. However, as you have both accepted, a registered health professional cannot abrogate their responsibility by not having regard for the Code of Practice".

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