

Scottish Parliament Region: Mid Scotland and Fife

Case 200700345: A Medical Practice, Fife NHS Board

Summary of Investigation

Category

Health: GP Practice

Overview

The complainant (Mr C) raised concerns regarding his removal from his general practitioner (GP)'s list of patients. Mr C was unhappy with the circumstances surrounding this removal and he felt that the correct procedures were not followed by his Medical Practice (the Practice).

Specific complaint and conclusion

The complaint which has been investigated is that the Practice did not follow the correct procedures in removing Mr C from their list of patients (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Practice:

- (i) review their removal procedures in line with the guidance and regulations governing the removal of patients from practice lists. Revised procedures could incorporate suggested wording for warning and removal letters, ensuring that patients are quoted relevant timescales and advised of all options available to them; and
- (ii) apologise to Mr C for their failure to follow the correct procedure in removing him from their list.

The Practice have accepted the recommendations and will act on them accordingly.

Main Investigation Report

Introduction

1. On 14 May 2007, the Ombudsman received a complaint from a gentleman (referred to in this report as Mr C) regarding his removal from his general practitioner (GP)'s list of patients.

2. On 13 April 2007, Mr C attended his Medical Practice (the Practice) and became involved in a heated discussion regarding an error contained in his repeat prescription. This resulted in Mr C being removed from the Practice's list of patients and he raised concerns regarding the removal procedures which were followed.

3. The complaint from Mr C which I have investigated is that the Practice did not follow the correct procedures in removing Mr C from their list of patients.

Investigation

4. In writing this report I have had access to the correspondence between Mr C and the Practice and I have discussed the issues with both parties. I have also examined relevant guidelines and The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 (the Regulations).

5. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Practice were given an opportunity to comment on a draft of this report.

Complaint: The Practice did not follow the correct procedures in removing Mr C from their list of patients

6. During the attempts to resolve an error relating to a missing item in Mr C's repeat prescription, Mr C became frustrated and raised his voice. The Practice interpreted Mr C's actions as inappropriate and on 13 April 2007, one of the GPs (GP 1) wrote to him suggesting that he may want to enlist in another practice as a result of his 'unreasonable behaviour'. GP 1 added that he would be asking Fife NHS Board (the Board) for Mr C's removal if he chose not to enlist in another practice and he stated that Mr C had not given them a chance to resolve the problem and had instead resorted to 'shouting in a public place'.

7. Mr C responded in a letter dated 14 April 2007 and advised that he had no intention of enlisting in another practice. He denied being verbally abusive or

intimidating and stated that his voice only became raised when it was suggested that he go home to establish the identity of the missing medication. As Mr C was not prepared to take this course of action and have to return to the Practice again afterwards, he advised that he then requested that his GP (GP 2) be consulted. He stated that he was initially advised that GP 2 was not there, but that he appeared after he had asked for a complaint form and at that stage a prescription for the missing medication was obtained.

8. In his letter, Mr C also stated that the Practice Manager had joined in the discussion and 'demeaned [him] in front of patients' and that her subsequent reluctance to speak to him on the telephone had exacerbated the situation.

9. GP 1 responded in a letter dated 27 April 2007 and stated that there was an impasse in that there were two entirely different versions of events. He advised that the Receptionist and the Practice Manager had perceived Mr C to have been loud and abusive and that he was prepared to accept their version of events. Given this breakdown in communication and divergence of opinion, GP 1 confirmed that he would ask the Board to have Mr C's name removed on behalf of the Practice. He stated that a genuine effort had been made to sort the problem but that Mr C had been unwilling to listen to reason and that he could not allow staff to be subjected to such levels of behaviour.

10. Mr C contacted the Ombudsman by telephone on 3 May 2007 and in person on 14 May 2007. He stated that he had not received a warning prior to his removal and he, therefore, felt that the Practice had not followed proper procedures.

11. Mr C subsequently received a letter from Practitioner Services in Edinburgh, dated 25 May 2007, informing him that he would be removed from the Practice's list of patients with effect from 2 June 2007. The reasons provided for the removal were a 'breakdown in communication and verbal abuse'.

12. Further to my enquiries, the Practice Manager provided a copy of the Practice's policy on removing patients from the Practice list (see Annex 3). She reiterated that a genuine effort had been made to resolve the issue but Mr C was unwilling to listen to reason or suggestion. She stated that it was not appropriate to issue a warning letter due to the nature of Mr C's behaviour at the Practice and subsequently on the telephone. Also enclosed with the

Practice Manager's correspondence was a copy of GP 1's letter of 1 May 2007 to Practitioner Services. His letter asked for Mr C's removal from the Practice list and, in the attaching pro forma, the section which asked if a warning had been issued stated 'letter on 13 April 2007 and 27 April 2007'.

13. I contacted the Practice Manager on 12 July 2007 to query which removal procedure had been followed and she advised that it had been a seven day removal. She also expanded on the genuine efforts to resolve the issue and advised that the Receptionist had tried unsuccessfully to calm Mr C down and that she herself had overheard the discussion and intervened to ask Mr C not to speak to the Receptionist in such a manner. She later telephoned Mr C, however, she was unsuccessful in resolving the deteriorating relations. After discussing Mr C's behaviour with reception staff, they advised her that he had been unpleasant to them in the past, however, no details of any such incidents were recorded and there do not appear to have been any previous warnings issued.

14. When I asked the Practice Manager if they had considered issuing a warning in this instance, she stated that the Practice operated a Zero Tolerance policy and the doctors had not been happy to issue a warning due to Mr C's behaviour.

15. In an attempt to address unacceptable behaviour by patients, NHS Scotland introduced a Zero Tolerance Campaign in 2003. The Resource Pack for this campaign referred to 'The Managing Health at Work Partnership Information Network Guidelines' which stated:

'Violence is not restricted to acts of aggression which result in physical harm. It also includes behaviours such as gestures or language that may cause staff to feel afraid, threatened or abused.'

16. The Regulations Schedule 5, Part 2, Section 21 stated that a contractor may remove a patient from its list with immediate effect if they have committed an act of violence against an individual connected to the Practice or have behaved in such a way that any such person has feared for that person's own safety. However, whilst the Zero Tolerance campaign noted a broader definition of the term 'violence', the Regulations stated that immediate removal as a result of violence is only permissible where a report has been made to the police or Procurator Fiscal.

17. At Schedule 5, Part 2, Section 20, the Regulations also stated, when an immediate removal is not applicable:

'a contractor may only request a removal ... if, within the period of twelve months prior to the date of its request to the Health Board, it has warned the patient that the patient is at risk of removal and explained to him the reasons for this.'

There were noted exceptions to this rule, which included when the contractor has reasonable grounds for believing that the issuing of such a warning would either be harmful to the physical or mental health of the patient or would pose a risk to the safety of people connected to the Practice. Another noted exception was when, in the opinion of the contractor, it would not otherwise be reasonably practicable for a warning to be given.

18. The final point of discussion in my conversation with the Practice Manager surrounded GP 1's letter of 13 April 2007 and specifically the absence of a referral to Practitioner Services. She advised that they would normally have included the relevant contact details for Practitioner Services, however, she had not been present at the time the letter was issued and this had been overlooked. She stated that the purpose of the letter was to give Mr C the opportunity to find a new GP of his own accord.

Conclusion

19. The Practice have said that Mr C verbally abused and intimidated their staff on 13 April 2007. Mr C, however, disagrees and in the absence of independent witnesses it is not possible to reach firm, defensible conclusions. In addition, the Practice have said that Mr C was unpleasant to their staff on previous occasions, but the incidents were never recorded by Practice staff or warnings given to Mr C and there is, therefore, no evidence to support this claim.

20. Assuming the incidents did take place as described by the Practice, whilst taking into account the fact that their staff felt intimidated and acknowledging the NHS Zero Tolerance Policy referred to in paragraph 14, the fact remains that there is no evidence to suggest that Mr C would pose a risk to the safety of people connected with the Practice. Whilst the staff may well have felt intimidated, a police presence was never requested and an immediate removal should, therefore, not have been applied.

21. In circumstances where an immediate removal is not applicable, the Regulations clearly state that a Practice may only request a removal of patients if a warning has been issued to the patient in the preceding 12 months. This was not observed in Mr C's case. Although the letter to Practitioner Services on 1 May 2007 referred to GP 1's letters of 13 April 2007 and 27 April 2007, those letters did not give Mr C the opportunity to revise his behaviour and remain on the Practice's list. They, therefore, cannot be construed as an appropriate warning. Whilst there are noted exceptions to the Regulations, none appear to apply in this instance and the Practice have not provided any evidence to indicate why it was not 'otherwise reasonably practicable for a warning to be given'.

22. With regards to the Practice's seven day removal procedure, it is noted that this procedure is stated as being applicable, following warning, in instances of repeated failure to attend appointments, however, in the context of the breakdown of a relationship, a warning is not mentioned. This is not in line with the Regulations, as stated in paragraph 16.

23. Whilst it is noted that Mr C was not provided with the contact details from Practitioner Services, to assist him in obtaining a new GP, the Practice Manager advised that this would usually have been provided and was merely overlooked in this instance. This is in line with the Practice's removal policy which stated that removal letters:

'will incorporate contact information for Practitioner Services Division ... as many patients are not aware of the procedure for registration with another practice and will not be aware that the Primary Care Organisation can assist them.'

24. In all the circumstances I conclude that, as an appropriate warning was not issued to Mr C, prior to his removal, the Practice did not follow the correct procedures in removing Mr C and I, therefore, uphold this complaint.

Recommendations

25. The Ombudsman recommends that the Practice:

- (i) review their removal procedures in line with the guidance and regulations governing the removal of patients from practice lists. Revised procedures could incorporate suggested wording for warning and removal letters, ensuring that patients are quoted relevant timescales and advised of all options available to them; and

- (ii) apologise to Mr C for their failure to follow the correct procedure in removing him from their list.

26. The Practice have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Practice notify her when the recommendations have been implemented.

Explanation of abbreviations used

Mr C	The complainant
GP	General Practitioner
The Practice	The Medical Practice where Mr C was a registered patient
GP 1	The GP who dealt with Mr C's removal from the list of patients
The Regulations	The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004
The Board	Fife NHS Board
GP 2	Mr C's GP

List of legislation and policies considered

GP Practice Policy on removing patients from practice list

NHS Scotland Zero Tolerance Campaign Resource Pack

The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004

The Practice's Policy on removing patients from practice list

IMMEDIATE REMOVAL FROM LIST (can only be done if Police were called to surgery)

1. Phone Practitioner Services — [telephone number] — and ask for patient to be removed from our list with immediate effect.
2. Give patient's details and reason for removal (i.e. reason for Police presence)
3. Doctor must sign letter
4. Fax to PSD [fax number]
5. Put copies of letter into patient's notes
6. If there are other family members on our list, they should be removed also
7. Give a copy to [the Practice Manager]
8. Give a copy to Health Visitor if there are children under 5 in family.
9. Attach letter to front of patient's notes and put in the off the list box

7-DAY REMOVALS (repeated DNA's following warning letter, break down of relationship with practice etc)

1. Explanation for removal to patient
2. Removal letter signed by Doctor
3. Fax asap to PSD
4. If there are other members of the family they should be removed also-.
5. Copies of letters into each patient's notes
6. Copies to [the Practice Manager]
7. Copy to Health-Visitor if there are children under 5 in the family
8. Attach letter to front of patient's notes and put in the off the list box

GEOGRAPHICAL REMOVALS (if patient has left the area)

1. If patient has left the area, check whether Doctor wishes them removed
2. Do letter to PSD with details of new address if you have this information
3. If not leave blank
4. Attach letter to front of patient's notes and put in the off the list box
5. Copies of letters into each patient's notes
6. Copies to [the Practice Manager] and Health Visitor (if necessary)

This practice recognises that it is good practice to explain to a patient the reasons for being removed from the practice list. This is the recommendation of both the SMA and the RCGP. Normally this will be based on a perceived breakdown in the doctor/patient relationship but it will often be useful to give a fuller explanation than simply stating this. The letter will be tailored to the individual situation and will incorporate contact information for Practitioner Services Division in Edinburgh who can help the patient to find another doctor as many patients are not aware of the procedure for registration with another practice and will not be aware that the Primary Care Organisation can assist them.

In exceptional circumstances, it may be felt that a written explanation of the reasons for removal from the list will further inflame a difficult situation, potentially endangering the safety of the practice team members. In these circumstances omission of a written explanation will be justified.