

Mr A Murdock  
Registration no. 73499

FITNESS TO PRACTISE AND LEGAL  
AFFAIRS DIRECTORATE  
Statutory Committee  
Telephone: + 44 (0)20 7572 2593  
Facsimile: +44 (0)20 7572 2510  
e-mail: david.gomez@rpsgb.org  
TD/STATCOMM/196/05

11 August 2005

Dear Mr Murdock

#### NOTICE OF INQUIRY

On behalf of the Statutory Committee of the Royal Pharmaceutical Society of Great Britain, I give you notice that the Committee has received a complaint from the Council of the Royal Pharmaceutical Society of Great Britain, 1 Lambeth High Street, London SE1 7JN which alleges that:-

1. You were first registered with the Society on 5 September 1980.
2. Between 17 May 1997 and 31 December 2004 you were Superintendent Pharmacist of Lloyds Pharmacy Limited (Lloyds"), proprietors of the pharmacy at Market Square, Wellington, Telford, Shropshire ("the pharmacy").
3. At all material times Lloyds have employed Marie-Jose Mariscal Navarro ("Ms Mariscal Navarro") as a pharmacist at the pharmacy.
4. On or about 18 March 2004, in response to a prescription dated 15 March 2004 for a 7 year old child A calling for:
  - Fluoxetine 10mg daily – 140mls of 20mg/5mls liquid

Ms Mariscal Navarro dispensed:

- 2 x 70mls Fluoxetine oral solution 20mg/5mls both labelled with the direction "take two 5ml spoonfuls daily."
5. Child A's parents administered the Fluoxetine oral solution to him as directed on the pharmacy label between 18 March 2004 and 24 March 2004 as a result of which child A received during that period 40mg daily instead of the 10mg daily he had been prescribed.
  6. Child A suffers from Asperger's Syndrome. Until 15 March 2004 he had been treated with Risperidone. A decision had been taken on 15 March 2004 by his psychiatrist to discontinue Risperidone and to begin treating him with Fluoxetine.
  7. By 23 March 2004, child A's behaviour had deteriorated to such an extent that his parents consulted his psychiatrist. The error was discovered and child A's parents were advised to discontinue administering the Fluoxetine immediately.
  8. On 24 March 2004, the error was brought to Ms Mariscal Navarro's attention during the course of a visit to the pharmacy by child A's parents.
  9. Ms Mariscal Navarro failed to deal appropriately with the complaint in that:
    - when child A's parents drew the error to her attention on 24 March 2004 she failed to identify that there had been a labelling error by her;
    - when an unqualified assistant told child A's parents in Ms Mariscal Navarro's presence on 24 March 2004 that the error had been made by the prescriber, Ms Mariscal Navarro made no effort to check whether this was correct.
  10. At interview with Mrs Jill Williams, Society Inspector, on 18 June 2004 Ms Mariscal Navarro:
    - admitted responsibility for the error;
    - admitted that she had not read the prescription carefully.
  11. Ms Mariscal Navarro reported the incident to Lloyds' head office on 24 March 2004. No contact was made with Child A's parents until 19 April 2004 and no letter of apology was sent until 27 April 2004. The sequence of events between 24 March 2004 and 27 April 2004 was as follows:
    - On 6 April 2004 Jacqui Duffin, Pharmaceutical Adviser for Telford & Wrekin NHS PCT contacted Lloyds' head office by telephone and was advised that although the error had been reported to head office by the branch, no contact had yet been made with Child

A's parents nor had the circumstances leading to the error been investigated by head office at that stage.

- On 8 April 2004 Ms Duffin telephoned again and left a message enquiring whether head office had yet taken any action.
  - On 13 April 2004 Ms Duffin contacted Lloyds head office again and was advised that no action had yet been taken.
  - On 19 April 2004 Jacqui Duffin met with Child A's parents who complained that they had received no communication from Lloyds head office. Following that meeting, Jacqui Duffin made further contact with head office and was advised that the error had been referred to Treasa Kilroy, new Area Manager for Lloyds. Following that call Treasa Kilroy, Area Manager for Lloyds, telephoned Child A's parents to discuss the error and arranged to meet them on 22 April 2004.
  - On 22 April at that meeting Treasa Kilroy apologised for the unacceptable delay before any contact had been made by Lloyds head office and accepted that this was inexcusable.
  - On 27 April 2004 Child A's parents advised Jacqui Duffin that they had still not received a letter from Lloyds and they indicated that they intended to bring the matter to the attention of the news media. Ms Duffin then telephoned Lloyds head office and left a message for the then Deputy Superintendent Pharmacist, Mr Nick Mortimer, to this effect. She then contacted Treasa Kilroy who advised her that Mr Mortimer was in the process of preparing a letter to Child A's parents. Mr Nick Mortimer later that day telephoned her to confirm that he had spoken to Child A's parents and that a letter to them would be despatched that day.
12. On 27 April a letter was sent by Mr Mortimer apologising to Child A's parents for what he described as "the inordinate delay in our response to this incident."

In summary the Society's Council alleges that:

- your failure as Superintendent Pharmacist to ensure appropriate handling by Lloyds of the complaint arising from the error in relation to Child A's medication

Individually or cumulatively may demonstrate that you have been guilty of such misconduct as to render you unfit to have your name on the Register of Pharmaceutical Chemists.

And I further give you notice that on **Thursday 22 September 2005 at 9.30am** the Committee will hold an Inquiry at the Royal Pharmaceutical Society of Great Britain, 1 Lambeth High Street, London SE1, for the purpose of ascertaining the facts in relation to the matters aforesaid and, if thought fit, subject to the provisions of the Pharmacy Act 1954, and the Medicines Act 1968, directing the removal of your name from the register.

You may attend the Inquiry personally and may be represented by a solicitor or counsel. If you do not attend the Statutory Committee may proceed with the Inquiry in your absence.

Any application or other communication relating to the said matters or your answer thereto shall be addressed to me not less than ten days before the day appointed for the hearing of the case.

A copy of the Regulations which govern the procedure of the Committee is enclosed herewith, and your particular attention is directed to Regulation 14. I also enclose a copy of the Committee's Indicative Sanctions Guidance.

The name and address of the solicitor acting in this case is **Mr G R F Hudson of Penningtons Solicitors, Bucklersbury House, 83 Cannon Street, London EC4N 8PE.**

Mr Hudson will shortly provide you with a draft bundle of the Council of the Society's evidence and I would be grateful if you or your solicitor could liaise with him with the aim of providing where possible any written evidence from both you and the Society's Council to the Committee about one week before the day of the Inquiry.

A form for acknowledging receipt of this Notice of Inquiry is enclosed herewith for you to sign and return to me.

Yours sincerely

David Gomez  
**Secretary to the Statutory Committee**

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