

THE CONDUCT AND COMPETENCE COMMITTEE JOHN STUART

THE HEALTH PROFESSIONS COUNCIL

- v -

**JOHN STUART
Physiotherapist Registrant**

(Conduct Case)

Hearing – 16th June 2004 at 10.45 am

THE PANEL

Robert Clegg	-	Chair and Council Member
Susan Thomas	-	Physiotherapist
Christine Mills	-	Lay Partner
Karen Rea	-	<u>Legal Assessor</u>

Parties' Representatives

HPC – Mr John Harding, Solicitor, Kingsley Napley, Solicitors

The Registrant did not appear and was not represented.

HPC Administrator – Ms Sabrina Adams, Case Manager

The Hearing took place at HPC Headquarters, Park House, 184 Kennington Park Road, London SE11 4BU.

INTRODUCTION

The case concerned the unauthorised administration of steroid injections by the Health Professional whilst a Senior I Physiotherapist at the South West Dorset Primary Care Trust in or about 11th October 2002.

The Health Professional was registered on 23rd June 1997. Evidence was given by Ms M Greaves, Superintendent Physiotherapist that he had been an excellent Practitioner, keen to teach, ready to take advice, a good team member and innovative; someone who would be ideal for her need for a “trouble shooter” at the Senior I post; hence his rapid appointment to that post after initial locum work on 11th January 2001.

He was undertaking a post-graduate course in Orthopaedic Medicine, which would have resulted in him being able to give steroid injections without the supervision of a General Practitioner, if he had passed it.

When the Trust learnt that he had been carrying out injections without supervision, using Cortisone from the NHS Trust supplies, for payment, in his lunch hour, the Practitioner stated to Ms Greaves that he had been given to understand by telephone that he had passed the examination (having taken it and waiting for his results).

It emerged that the patients injected were satisfied with the way the injections had been done and they had given their consent and paid him. He had undertaken the injections before to one of these patients under the supervision of her GP, without any problem.

The Practitioner was suspended on 15.10.2002, on full pay. After further enquiry, including a Police investigation which did not result in prosecution, he resigned on 21st March 2003.

Ms Greaves' personal view was that the Practitioner would have been a loss to the profession as he would have been a “fantastic physiotherapist with so much skill”. She felt that he had not sought to blame anybody else and probably saw that what he had done was for the right reasons in his eyes. It was decided that his case should be reported to the HPC, “with a heavy heart”. She had been informed that he had passed

the practical but not the theory of the post-graduate course. At the time he was aged 35.

The Panel were advised by the Legal Assessor of their duties under Article 29 of the Health Professions Order, 2001, including that the Council has to prove the facts that the facts amount to misconduct and that it has impaired the Practitioner's fitness to practise so that the public is not protected. The burden of proof is on the Council to prove the case on the balance of probabilities, with the degree of probability being proportionate to the nature and gravity of the offence.

As the Practitioner was absent, the Panel were advised that they should give relevant weight as to how the allegation came to light (paragraph 7 of Ms Greaves' Witness Statement) and juxtapose it with the contents of the Practitioner's letter of resignation, dated 21st March 2003 and the evidence Ms Greaves gave about his knowledge and insight into what he had done, indicating that he had admitted administering the injection in an unauthorised way.

The Panel then went into camera. They found the facts proved and that the allegation was well-founded and amounted to misconduct, for the reasons given below. The Panel was then advised by the Legal Advisor on the various sanctions under Articles 29(4) and (5) (a) to (d), the latter in reverse order.

The Panel were advised that striking off should only be used for serious or deliberate or reckless acts involving abuse of trust or dishonest or persistent clinical failure, where the public is not protected or where there is a lack of insight, continuing problems or denial.

The Panel then went into camera again.

REASONS FOR FINDING

The Practitioner had admitted what he had done with the steroid injection on 14th October 2002 and the he injected patients for monetary gain with steroids when he was not authorised or qualified to do so, contrary to the hospital rules and Rule 1 of the Standards of Conduct, Performance and Ethics.

SANCTION AND REASONS

The sanction the Panel passed was to suspend the Practitioner from practice for a period of 12 months and the Register should be annotated accordingly. The Panel were impressed by Ms Greaves' positive and supportive comments about the Practitioner, but felt that the Practitioner should have been present to corroborate and enhance the views of Ms Greaves in mitigation.

Karen Rea
Legal Assessor

16th June 2004

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