GMC regrets failure to act on police warning about gynaecologist

The General Medical Council has admitted that it failed to act after police told it that a gynaecologist practising in Yorkshire had been struck off the medical register while working in Ontario, Canada.

An independent inquiry into the case of Richard Neale has turned up correspondence between the GMC and North Yorkshire Police about Mr Neale in 1988. But it was only in 2000 that the GMC found Mr Neale guilty of serious professional misconduct—after he botched a number of operations and acted unethically. It then struck Mr Neale's name from the UK medical register (*BMJ* 2000;321:258).

It is understood that in 1988 the police drew the GMC's attention to Mr Neale's history in Canada, where he had had his licence to practise revoked. Mr Neale was then working at the Friarage Hospital, Yorkshire, having returned from Canada in 1985. No action was taken.

A GMC spokesman said: "There clearly was an opportunity to act in 1988, and we very much regret that the opportunity was not taken."

Owen Dyer *London*

AstraZeneca digs in over advertising criticisms

AstraZeneca is refusing to give ground in a war of words with the watchdog group Healthy Skepticism, an international non-profit organisation, over advertising claims made for its bestselling proton pump inhibitor, esomeprazole (Nexium).

Before the 2003 Rugby World Cup tournament in Australia, AstraZeneca sponsored an advertisement featuring a footballer diving to score a try, in the September edition of *Australian Family Physician* magazine. It said: "Nexium 40 mg offers greater healing power than

either omeprazole or lansoprazole: with no compromise in tolerability," with the punchline "it's got the power—Nexium."

Healthy Skepticism's director, Dr Peter Mansfield, has since pressed AstraZeneca to acknowledge that esomeprazole's use is not justified for mild to moderate cases of gastro-oesophageal reflux.

AstraZeneca's global promotional consultant, Paul Woods, said: "AstraZeneca believes that the Adwatch criticism of Nexium advertising is scientifically unsound and misleading."

Bob Burton *Canberra*

Paediatrician cleared of serious professional misconduct

A teenager who was bedridden with chronic fatigue syndrome (CFS) for two years, between 1997 and 1999, this week lost her High Court challenge to a decision by the General Medical Council to clear a paediatrician who tried to influence her treatment against her parents' wishes.

Lawyers for the 18 year old, named only as Miss A, argued that the decision to find Christopher Cheetham not guilty of serious professional misconduct was legally flawed because the GMC had not considered whether he had been acting in breach of confidence.

But the judge, Mr Justice Charles, said the GMC had been concerned with a charge of serious professional misconduct, not an action for breach of confidence.

Dr Cheetham, then consultant paediatrician at Wycombe General Hospital, High Wycombe, saw Miss A at the age of 12 in 1997, when she was bedridden with the illness. The paediatrician advocated an inpatient programme of psychotherapy and physiotherapy. Her parents disagreed, changed doctors, and had her treated at home.

Dr Cheetham continued to try to influence her treatment for a further two years. The GMC ruled that Dr Cheetham was entitled to act as he did.

Clare Dyer *legal correspondent, BMJ*

Living wills will have to specify treatments that patient is refusing

Clare Dyer *legal correspondent, BMJ*

Advance directives—also called living wills—will have to specify clearly the treatments a patient is refusing, under improvements announced last week to legislation which will put them on a statutory footing.

The constitutional affairs minister, Lord Filkin, outlined a range of changes to the Mental Incapacity Bill after recommendations by interest groups and by a parliamentary committee scrutinising the bill.

The government had already accepted the committee's suggestion that the bill be renamed the Mental Capacity Bill, to emphasise that people will be assumed capable of taking their own decisions where possible.

The bill will plug a loophole in the law of England and Wales by setting up a framework for decisions to be taken on behalf of adults incapable of deciding for themselves because of, for example, dementia, learning disability, or a head injury.

The provisions on advance directives will allow people to specify, while still capable, what treatments they want to refuse in the event they later lose capacity.

Such advance refusals are already binding on doctors under common law, but the bill will create greater certainty.

Lord Filkin said: "We don't want advance decisions to be vague or to be pieces of paper that are not revisited for many years. Nor do we want to put doctors in an unfair and uncertain position."

"I want to give people who

fear they may lose capacity the choice of refusing treatment—just as people with capacity do—but I want them to take this decision understanding their medical condition and what treatment might be available."

Among the new provisions:

- Advance directives will have to specify clearly the treatments to which they apply.

- Before an advance directive is followed, a doctor must be satisfied that it has not been revoked and that there is no indication of a change of mind or a change in circumstances affecting the decision.

- If there is doubt about validity and applicability, this must be resolved in favour of the preservation of life.

A code of practice will recommend that advance directives should be in writing and witnessed by someone independent, should be discussed with a health-care professional, and should be regularly reviewed and updated.

With advance directives, only refusals of treatment are binding. Under English law no one can insist on having a particular type of treatment. But Lord Filkin added: "Positive requests for treatment will need to be taken account of when making a decision on behalf of a person lacking capacity."

The Making Decisions Alliance, a coalition of 30 voluntary organisations including Action for Elder Abuse, Age Concern England, and the Alzheimer's Society, welcomed the improvements to the bill. □

Michael Schiavo is fighting to have the feeding tube removed from his wife, Terri, who has been in a coma in Florida for 13 years. Living wills should make such cases unnecessary