

The Secretary
Mistry Pharmacy Ltd

FITNESS TO PRACTISE AND LEGAL
AFFAIRS DIRECTORATE

Statutory Committee

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DG/ STATCOMM/MistryPharmacyLtd/612/06

20 October 2006

RECORDED DELIVERY

Dear Sir/Madam,

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. Mr Ramanlal Ambaram Mistry was first registered with the Society on 30 June 1982.
2. Mr Mistry has since 28 February 2000 been a director of Mistry Pharmacy Ltd ("the company") of which company he is also a shareholder.
3. Mr Mistry's wife, Mrs Kiran Mistry, has since 28 February 2000 also been a director of Mistry Pharmacy Ltd ("the company") of which company she is a Secretary and shareholder. Mrs Mistry is not a pharmacist.
4. The company has since 1 April 2000 been the registered proprietor of the pharmacy known as Mistry's Pharmacy Ltd at 24 Lewin Street, Middlewich, Cheshire CW10 9AS ("the pharmacy").
5. On 5 July 2005 Mr Mistry was appointed as Superintendent Pharmacist of the company.

Patient A

6. On or about 9 September 2004, in response to a prescription for patient A dated 7 September 2004 calling for inter alia 28 x Amitriptyline Hydrochloride 25mg tablets with a direction "1 at lunch" Mr Mistry dispensed a manufacturer's box of Atenolol 25mg tablets labelled as "28 Amitriptyline 25mg one to be taken at lunch".
7. Amitriptyline is an antidepressant drug. Atenolol is a Beta-Adrenoceptor blocking drug.

8. The error was discovered by patient A approximately two weeks later, following which the wrongly dispensed Atenolol was returned to the pharmacy by patient A's wife.
9. At interview with the Society's inspectors Mr S Gascoigne and Mrs J Williams on 12 November 2004 Mr Mistry stated as follows:
 - he dispensed patient A's prescription; and
 - the wrongly dispensed Atenolol was put with dispensary stock after it had been returned to the pharmacy.

Patient B

10. On or about 16 November 2004, in response to a prescription for patient B dated 11 November 2004 calling for inter alia Tolterodine Tartrate MR capsules 4mg with a direction "one to be taken daily" Mr Mistry dispensed an unknown quantity of Doxazosin XL labelled as Tolterodine 4 mg MR.
11. Tolterodine is a drug used in urological pain. Doxazosin is an Alpha- Adrenoceptor blocking drug.
12. At interview with the Society inspectors Mr S Gascoigne and Mrs J Williams on 7 July 2005 Mr Mistry stated as follows:-
 - he would have been the pharmacist on duty on 16 November 2004.

Patient C

13. On or about 14 May 2004, in response to a prescription for patient C dated 12 May 2004, calling for Lisinopril tablets 5 mg with a direction to take 1 daily, Mr Mistry dispensed 28 x Ramipril 5 mg capsules labelled as 28 Lisinopril 5 mg tablets.
14. Lisinopril and Ramipril are different drugs both affecting the renin angiotensin system.
15. At interview with the Society inspectors Mr S Gascoigne and Mrs J Williams on 7 July 2005 Mr Mistry stated as follows:-
 - he assumed that he would have been the pharmacist on duty on 14 May 2004.

Patient returns

16. On an unknown date between August 2003 and January 2005, Mr Mistry instructed the company's employee, Mr Mathew Hayes, to sort through patient-returned medicines and to place some of these with the dispensary stock.
17. On the same date, Mr Mistry then asked Mr Hayes to assist Mrs Mistry, who was also sorting through a quantity of patient-returned medicines, and told Mr Hayes that Mrs Mistry would show him what to do.
18. Mrs Mistry then proceeded on that same date to tell Mr Hayes:
 - to check the expiry dates on such patient-returned medicines;
 - to re-use such of those medicines that were in-date;

- to place such of those medicines that were out of date in a DOOP bin; and
 - to look inside the packs of such of those medicines that were in-date and to cut off any parts of blister strips where medicines had been popped out.
19. Mrs Mistry then proceeded, also on that same date, to instruct Mr Hayes (a) on how to remove dispensing labels from patient-returned medicines in such a way as to avoid damaging the packs and, after he had done so, (b) to place such patient-returned medicines with dispensary stock.
20. On additional unknown dates and for unknown periods of time between August 2003 and January 2005, Mr Mistry caused and/or permitted patient-returned medicines to be stored under the stairs of the pharmacy until such time as they could be sorted into in-date and out of date medicines.
21. Mr Mistry subsequently caused and/or permitted such in-date patient-returned medicines as had been stored and sorted in the manner described in the preceding paragraph to be placed with the dispensary stock.
22. At interview with the Society inspectors Mr S Gascoigne and Mrs J Williams on 7 July 2005 Mr Mistry stated as follows:-
- he admitted that he had on occasions returned to stock, medicines which had been dispensed but which were no longer required by the patients to whom they had been dispensed.

Failure to appoint Superintendent Pharmacist

23. On 6 October 2003, a letter was sent by the Society addressed to the company as owner of the pharmacy reminding the company of its obligations under section 71(1) of the Medicines Act 1968, to nominate a Superintendent Pharmacist if it were to trade lawfully as a retail pharmacy.
24. On 8 July 2004, a further letter was sent by the Society addressed to the company as owner of the pharmacy, again reminding the company of its obligations under section 71(1) of the Medicines Act 1968, to nominate a Superintendent Pharmacist if it were to trade lawfully as a retail pharmacy.
25. The company, although having traded as a retail pharmacy since 1 April 2000 did not appoint a Superintendent Pharmacist until 5 July 2005.
26. When Mr Mistry returned the Annual Retention fee form for the company for the year 2005, he failed to provide details of the Superintendent Pharmacist as requested.
27. At interview with the Society's inspectors Mr S Gascoigne and Mrs J Williams on 7 July 2005 Mr Mistry stated as follows:-
- he was aware of the requirement to inform the Society of the appointment of its superintendent; and
 - he accepted that it had been his responsibility to nominate a superintendent pharmacist.

In summary the Society's Council alleges that:

- the dispensing by Mr Mistry to patient A Atenolol tablets labelled as Amitriptyline in response to a prescription calling for Amitriptyline Hydrochloride;
- the dispensing by Mr Mistry to patient B Doxazosin labelled as Tolterodine in response to a prescription calling for Tolterodine;
- the dispensing by Mr Mistry to patient C Ramipril capsules labelled as Lisinopril tablets in response to a prescription calling for Lisinopril tablets;
- Mr Mistry's causing or permitting Atenolol tablets, which had previously been dispensed to patient A, to be returned to dispensary stock;
- Mr Mistry and/or Mrs Mistry having causing or permitting additional medicines which had previously been dispensed to patients, to be returned to dispensary stock as described in paragraphs 16 to 22 above; and
- Mr Mistry and/or Mrs Mistry having caused or permitted (through the failure of one or both of them to appoint a superintendent pharmacist between 1 April 2000 and 4 July 2005), the company to carry on a retail pharmacy business unlawfully during that period

individually or cumulatively may demonstrate (a) that Mr Mistry has been guilty of such misconduct as to render him unfit to have his name on the Register of Pharmaceutical Chemists and (b) that Mrs Mistry has been guilty of such misconduct as would have rendered her unfit to have her name on the Register of Pharmaceutical Chemists if she were a pharmacist and (c) in either or both such events may render the company liable to disqualification.

And I further give you notice that on the **Tuesday 12 December 2006 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 that you shall be disqualified for the purposes of Part IV of the Medicines Act 1968 and that all your premises be removed from the Register kept in pursuance of such Act, or directing that without any disqualification some or all of your premises shall be removed from the Register.

Your Company may be represented by a solicitor or counsel. If you do not attend or your Company is not otherwise represented as aforesaid 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.

Your attention is also drawn to the provisions of Section 81 of the Medicines Act 1968. The name and address of the solicitor acting in this case is Mr G R F Hudson of G R F Hudson, 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. I draw your attention to the enclosed practice direction. Please liaise with Mr Hudson to ensure this direction is complied with.

You should be aware that we are obliged to notify all final fitness to practise outcomes to the Council for Healthcare Regulatory Excellence (CHRE). Under s29 of the NHS Reform and Healthcare Professions Act 2002, CHRE may refer this case to the High Court of Justice in England and Wales or the Court of Session in Scotland, as appropriate, if they decide that a decision has been unduly lenient and/or should not have been made, and they consider that a referral is desirable for the protection of the public. CHRE is required to make its decision within 28 days of the hearing (or 28 days from the last day on which a practitioner can appeal against the decision, if applicable). CHRE will notify you promptly of a decision to refer. Further information about CHRE is available on their website at www.chre.org.uk or by telephone on 0207 389 8030.

A form for acknowledging receipt of this Notice of Inquiry is enclosed herewith for you to sign and return to me, together with an audit and monitoring form. If you have a disability, please also provide details of any special arrangements you may require at the hearing.

Finally, your attention is drawn to the Statutory Committee Register of Members' Interests at <http://www.rpsgb.org/members/statutorycommittee/index.html#memb>.

Yours faithfully,

David Gomez
Secretary to the Statutory Committee

Enc.

Cc: Mr Denis Keegan, Turner & Debenhams Solicitors
Mr Geoff Hudson, Penningtons Solicitors