

Medicolegal

Court of Appeal rules that GMC charges against Gee are acceptable

CLARE DYER

The Court of Appeal last week ruled in favour of the General Medical Council in its bid to bring disciplinary proceedings against Dr Sidney Gee, a general practitioner with a special interest in obesity. By a majority of two to one the court overturned a previous high court ruling by Mr Justice Mann that the charge of serious professional misconduct, as formulated by the GMC, should be amended (16 November, p 1415). Last November his lordship had ruled that the charge, which related to the treatment of eight individual patients, offended against the legal rule that a charge should not be "duplicious"—in other words, that it should not roll a number of allegations up into one charge, but should split them into separate charges.

Dr Gee, who practises in Rochester, Kent, and in Harley Street, is charged with abusing his professional position as a medical practitioner by supplying the patients with quantities of drugs, including thyroid extract and dexamphetamine, over extensive periods without (a) adequately examining the patients, (b) consulting or notifying the patients' general practitioners, (c) making adequate inquiries about the effect of the treatment on the patients' health, and (d) offering advice on harmful effects of the drugs. Some of the patients' cases featured in the long running libel action waged by Dr Gee against the BBC and two other doctors over allegations in Esther Rantzen's *That's Life* programme, which resulted in settlements totalling £100 000 in his favour.

Giving the main judgment in the Court of Appeal, Lord Justice Dillon said the choice had been between a single charge of a course of conduct and eight separate charges, one in respect of each patient,

as specimens from which a course of conduct was to be inferred. He could not see that the difference between those alternatives would have any meaning to a tribunal such as the professional conduct committee of the GMC, which was composed of doctors and not lawyers, and whichever alternative was adopted would make no difference to the course and scope of the hearing.

The main reason a duplicious charge was not allowed in a criminal case was that the jury could, in general, give only a simple verdict of guilty or not guilty on each charge in the indictment. Consequently, if a charge in truth embraced several charges the judge, when passing sentence, had no means of knowing on which charges the jury had really convicted. All that, however, had no application to a disciplinary hearing before the professional conduct committee. The members of the committee who made the findings of fact were the same persons as would pass sentence if they had found serious professional misconduct proved.

Lord Justice Nicholls said that the charge could fairly be read as alleging a course of conduct adopted by the applicant in the conduct of his practice. The court would not be justified in requiring the present charge to be abandoned and in its place eight separate charges formulated.

Dissenting, Lord Justice Lloyd said that the reasons underlying the rule against duplicity were the same for criminal proceedings and for inquiries into professional misconduct. To charge what were essentially two separate offences in the same count was both confusing and unfair. His lordship said he was in no doubt that the misconduct alleged in relation to each of the patients should have been the subject of a separate charge.

The Court of Appeal refused Dr Gee leave to appeal to the House of Lords. He and his lawyers are now considering whether to petition the House of Lords itself for leave to appeal.

CLARE DYER, solicitor and legal journalist

A 35 year old woman with two previous normal pregnancies had a melanosis circumscripta (melanoma malignum in situ) lesion of 1.5 mm removed from her groin in the seventh week of pregnancy. An abortion was performed at the same time and she was advised to wait five years before her next pregnancy. What are the risks with a new pregnancy? The patient has been free of symptoms and healthy since the excision was performed in 1981.

"Malignant melanoma in situ" has the histological characteristics of malignant melanoma but is confined to the epidermis.¹ Some progress to become invasive melanomas but others persist for years without progression or even regress and disappear.² In most cases excision with a 1 cm margin is curative,² but if this lesion was 1.5 mm deep the prognosis may be less good.¹ After five years the chance of recurrence is probably low. There have been case reports of rapid progression of malignant melanomas during pregnancy with regression afterwards, and women are therefore advised to avoid pregnancy for three to five years after treatment of melanoma.³ Nevertheless, larger studies have failed to agree on the effect of pregnancy: one extensive study concluded that pregnancy did not induce the develop-

ment of melanoma in pre-existing moles, but another concluded that in stage II disease activation during pregnancy worsened the prognosis.⁴ Because of sex differences in the incidence of melanoma, and because oestrogen and progesterone may stimulate melanocytes, an adverse effect of sex steroids on melanoma has been suspected, but recent studies have shown no increase in risk in relation to the use of oral contraceptives,^{5,6} menopausal oestrogen treatment,⁶ or parity.⁵ For this patient the risk in a new pregnancy appears to be low, but because of the isolated reports of explosive progression in pregnancy I suggest keeping her under close review.—JAMES OWEN DRIFE, senior lecturer in obstetrics and gynaecology, Leicester.

1 Davis NC. Melanoma: issues of importance to the clinician. *Br J Hosp Med* 1985;33:166-70.

2 Davis NC, Little JH. Melanoma-in-situ: what's in a name? *Aust NZ J Surg* 1984;54:301-2.

3 Riberti C, Marola G, Bertani A. Malignant melanoma: the adverse effect of pregnancy. *Br J Plastic Surg* 1981;34:338-9.

4 Levene A. Melanoma and pregnancy. *Clin Oncol* 1982;8:191-3.

5 Green A, Bain C. Hormonal factors and melanoma in women. *Med J Aust* 1985;142:446-8.

6 Lederman JS, Lew RA, Koh HK, Sober AJ. Influence of estrogen administration on tumor characteristics and survival in women with cutaneous melanoma. *J Natl Cancer Inst* 1985;74:981-5.