

**BEFORE THE FITNESS TO PRACTISE COMMITTEE
OF THE GENERAL OPTICAL COUNCIL**

GENERAL OPTICAL COUNCIL

F(10)16

AND

ROGER STAITE (01-7953)

DETERMINATION OF THE INQUIRY: 17 MAY 2011

On 17 May 2011, the Fitness to Practise Committee of the General Optical Council met to consider allegations against Roger Staite.

ALLEGATION

The Council alleges that the fitness to practice of you, Roger Staite (a registered optometrist) is impaired in that:-

1. During a consultation with Patient A on 11 February 2009 you did not:-
 - a) Fully record Patient A's history or the investigations you carried out.
 - b) Perform a dilated examination of Patient A's left retina.
2. Following your examination of Patient A on 11 February 2009 you did not:-
 - a) Refer Patient A as an emergency on the same day to an ophthalmic unit for ophthalmic assessment; or in the alternative
 - b) Seek advice on the urgency of such a referral

despite Patient A's recorded presenting symptoms, her pre-disposition to retinal detachments as a result of being very myopic and your own findings.

3. During a consultation with Patient A on 16 February 2009 you did not:-
 - a) Refer Patient A as an emergency on the same day to an ophthalmic unit for ophthalmic assessment.

And by virtue of the matters set out above your fitness to practice is impaired by reason of your misconduct

DETERMINATION

Findings in relation to the facts

The Committee has found the facts proved. It has seen documentary evidence to support the allegations and has heard oral evidence from an expert witness, Dr Robert Harper, who is an optometrist. The evidence was not challenged and the registrant has admitted the facts.

Findings in relation to misconduct

The Committee found Roger Staite guilty of misconduct. The facts of this case are that on 11 February 2009 Patient A consulted the registrant complaining of, among other things, a half moon of darkness. The registrant failed to record fully patient A's history or the investigations he carried out. He failed to perform a dilated examination of her left retina. As a result of her presentation he should have referred her as an emergency on the same day to an ophthalmic unit for ophthalmic assessment or should have sought advice. In fact he concluded the consultation apparently without taking any further action. The records do not indicate that he gave any advice to the patient, or a recall date.

Patient A returned for a further consultation on 16 February 2009. On this occasion the registrant did refer patient A, but he referred her to her GP not to an ophthalmic specialist. He indicated that there was a degree of urgency in his referral.

Subsequently Patient A was referred to an eye service and in due course she had retinal detachment surgery.

The Committee has carefully considered whether the facts found proved amount to misconduct. It recognises that not every lapse from proper professional standards will amount to misconduct. The breach must be serious. Furthermore an isolated breach is less likely to amount to misconduct than a series of breaches. The Committee has noted that the registrant apparently has an unblemished career of 42 years, although it has not yet heard evidence about his history or the reasons why his failings took place in relation to patient A.

The Committee has taken into account that serious errors took place on two successive consultations. On the basis of the expert evidence the departure from acceptable standards was considerable. It notes that the registrant himself regards his actions as misconduct. The Committee has concluded that the failings in this case were sufficiently serious to cross the threshold from professional failings to professional misconduct.

Findings regarding impairment

The Committee found that the fitness of Roger Staite to practise as an optometrist is not impaired.

The Committee heard evidence from the registrant and found him to be frank and insightful. His answers were candid and honest. The Committee was impressed by the way he has questioned himself rigorously over these matters. He has clearly agonised over the lapses of judgement that he made. He co-operated fully with the GOC's investigation and willingly came to the hearing to give evidence, which assisted the

committee, even though he is now retired from practice and does not intend to practise in the future. Because of his planned retirement on 19 August 2009, which coincided with the letter of complaint on the 7 August 2009, he has not had the opportunity to undertake further training or other remedial steps. However, the Committee considers that if his career had been continuing he would have taken all necessary steps to avoid such an error in the future.

The Committee heard that the registrant has been practising for 42 years with no findings against him and no significant complaints. It has seen a number of impressive testimonials from patients, colleagues and others who are aware of these allegations. Several of these references speak of his diagnostic skill, which is the issue in this case.

Part of the background to the misconduct was that the results of a visual field test examination were not available to the registrant. He did not seek to absolve himself of responsibility for this in any way. Nevertheless there seems to have been an administrative failing in ensuring that Mr Staite was able to review the test results. This failing helps to explain, but does not excuse, the misconduct that took place in relation to this patient. It is important for members of the profession to remember that delegation of tests to unqualified staff does not absolve them of professional responsibility. Mr Staite is fully aware of this.

The Committee is satisfied that this episode was a quite uncharacteristic lapse on the part of a competent and conscientious practitioner who has given great service to the public over many years. Had he remained in practice the Committee would not have felt that there was a risk of repetition.

For these reasons the Committee has concluded that the misconduct in this case does not mean that the registrant's fitness to practise is currently impaired.

The Committee is aware that it has a power to issue a warning, but it does not consider it appropriate to do so. The registrant is fully aware of his professional responsibilities and the respects in which, in relation to this patient, he failed to meet them.

Chairman of the Committee: Lady Margaret Wall

Signed _____ Date 17 May 2011

Registrant: Roger Staite

Signed _____ Date 17 May 2011

FURTHER INFORMATION
<p>Transcript</p> <p>A full transcript of the hearing will be made available via the GOC website in due course.</p>
<p>Appeal</p> <p>Any appeal against an order of the Committee must be lodged with the relevant court within 28 days of the service of this notification. If no appeal is lodged, the order will take effect at the end of that period. The relevant court is shown at section 23G(4)(a)-(c) of the Opticians Act 1989 (as amended).</p>
<p>Council for Healthcare Regulatory Excellence</p> <p>This decision will be reported to the Council for Healthcare Regulatory Excellence (CHRE) under the provisions of section 29 of the NHS Reform and Healthcare Professions Act 2002. CHRE may refer this case to the High Court of Justice in England and Wales, the Court of Session in Scotland or the High Court of Justice in Northern Ireland as appropriate if they decide that a decision has been unduly lenient and/or should not have been made, and if they consider that referral is desirable for the protection of the public. CHRE is required to make its decision within 40 days of the hearing (or 40 days from the last day on which a registrant can appeal against the decision, if applicable) and will send written confirmation of a decision to refer to registrants on the first working day following a hearing. CHRE will notify you promptly of a decision to refer. A letter will be sent by recorded delivery to your registered address (unless CHRE has been notified by the GOC of a change of address).</p> <p>Further information about the CHRE can be obtained from its website at www.chre.org.uk or by telephone on 020 7389 8030.</p>
<p>Effect of orders for suspension or erasure</p> <p>To practise or carry on business as an optometrist or dispensing optician, to take or use a description which implies registration or entitlement to undertake any activity which the law restricts to a registered person, may amount to a criminal offence once an entry in the register has been suspended or erased.</p>
<p>Contact</p> <p>If you require any further information, please contact the Council's Hearings Manager at 41 Harley Street, London, W1G 8DJ or, by telephone, on 020 7580 3898.</p>