FITNESS TO PRACTISE PANEL
21 TO 25 FEBRUARY 2011 AND 10 to 14 OCTOBER 2011
Third Floor, 350 Euston Road, London NW1 3JN

Name of Respondent Doctor:	Dr Peter Stuart BRACKENRIDGE
Registered Qualifications:	MB BS 1990 University of Western Australia
Area of Registered Address:	London
Reference Number:	4104836
Type of Case:	New case of impairment by reason of your misconduct
Panel Members:	Professor J Crane, Chairman (Medical) Ms K Butt (Lay) Dr D Cunningham (Medical)
Legal Assessor:	Mr I Harris
Secretary to the Panel:	Mrs N Varsani (21-25 February 2011) Ms V Bean (10 – 14 October 2011)

Representation:

GMC: Ms Kate Bex, Counsel instructed by GMC Legal represented the GMC

Doctor: Dr Brackenridge was present and was represented by Mr Bertie Leigh, Solicitor from Hempsons Solicitors

Allegation

That being registered under the Medical Act 1983 (as amended)

1. At all relevant times you were

    a. working as a Clinical Associate at 96 Harley Street, and **Admitted and found proved**

    b. Medical Director of Ibogaine Therapy UK; **Admitted and found proved**

2. As Medical Director of Ibogaine Therapy UK you were responsible for a website advertising treatment with Ibogaine. That website did not give a balanced view of the risks and benefits of treatment with Ibogaine because

    a. it did not state that Ibogaine is unlicensed in the United Kingdom, and, **Found proved**

b. it did not adequately set out the risks associated with treatment; **Found proved**

3. On 1 August 2009 Patient A attended for treatment with you

a. at your home address, and **Admitted and found proved**

b. your home address was not an appropriate place for the treatment you administered because you did not ensure that there were adequate facilities to

i. treat an allergic reaction, **Found proved**

ii. give intravenous fluids, **Found proved**

iii. provide pulmonary resuscitation, or, **Found proved**

iv. defibrillation; **Found proved**

4. On 1 August 2009 Patient A signed a consent form for Ibogaine treatment. Prior to 1 August you did not

a. provide Patient A with a copy of the consent form so that he could take it away with him to consider at his leisure, **Admitted and found proved**

b. consider and document the potential risks and benefits to Patient A of the proposed treatment, **Found proved**

c. explain the risks adequately to Patient A, **Found proved**

d. document adequately any discussion between you and Patient A regarding risk, **Found proved**

e. discuss licensed alternatives with Patient A, **Admitted and found proved**

f. exclude licensed alternatives, **Found proved**

g. document discussions with Patient A about licensed alternatives, **Admitted and found proved**

h. liaise with Patient A's General Practitioner, **Admitted and found proved**

i. carry out appropriate blood tests or ensure that those blood tests were carried out by others; **Found proved**

5. On 1 August 2009 you prescribed Ibogaine to Patient A which is unlicensed in the United Kingdom; **Admitted and found proved**

6. On 1 August 2009 and prior to prescribing Ibogaine you did not

a. ensure that Patient A understood the risks involved in the treatment, or, **Found proved**

b. adequately document the nature of any discussion you had with Patient A regarding those risks; **Found proved**

7. As a result of your actions in paragraphs 3 – 6 above you did not obtain the informed consent of Patient A to the Ibogaine treatment; **Found proved**

8. On 9 September 2009 Patient A met with you for a consultation. You acted inappropriately by

a. refusing to allow Patient A's mother to attend the session, **Not found proved**

b. laughing at Patient A and belittling him; **Not found proved**

9. On 12 October 2009 Patient A met with you for a consultation. You acted inappropriately by

a. refusing to meet with Patient A's parents who were waiting outside your premises, and, **Found proved**

b. dismissing concerns that Patient A would lose his job; **Not found proved**

10. ~~On 15 October 2009 you spoke to Patient A and put inappropriate pressure on him not to make or continue a complaint against you to the General Medical Council~~; **Deleted following a rule 17(2)(g) application**

And that in relation to the facts alleged your fitness to practise is impaired because of your misconduct.

Determination on facts

"Dr Brackenridge: The Panel has given consideration to all the evidence adduced in this case, both oral and documentary, and to the submissions made by Ms Bex, Counsel, on behalf of the General Medical Council (GMC) and those made on your behalf by Mr Leigh.

At the outset of this hearing, Mr Leigh, on your behalf, made the following admissions: Paragraphs 1, 3(a), 4(a), 4(e), 4(g), 4(h), and 5.

Paragraph 10 was deleted by the Panel following an application under rule 17(2)(g) of the General Medical Council (Fitness to Practise) Rules Order of Council 2004.

The Panel has considered each paragraph of the allegation separately. It has made the following findings on the facts:

Paragraph 1

"At all relevant times you were

a. Working as a Clinical Associate at 96 Harley Street, and

b. Medical Director of Ibogaine Therapy UK;"

has been admitted and found proved.

Paragraph 2

In its approach to paragraph 2, and indeed to all of the outstanding paragraphs of the allegation, the Panel had regard to the context within which you advertised the provision of psychotherapeutic treatment in conjunction with Ibogaine. The biography given on your website details your medical qualifications and training, and states that you are fully registered with both the GMC and the Irish Medical Council. The Panel therefore considered your obligations to your patients as those expected of a registered medical practitioner.

Paragraph 2(a)

"As Medical Director of Ibogaine Therapy UK you were responsible for a website advertising treatment with Ibogaine. That website did not give a balanced view of the risks and benefits of treatment with Ibogaine because,

a. it did not state that Ibogaine is unlicensed in the United Kingdom,"

has been found proved.

The website does not state that Ibogaine is unlicensed in the UK. The Panel considered that, in a website authored by a registered doctor where Ibogaine is referred to as a "medicine", the fact that it is unlicensed in the UK should have been clearly stated. Furthermore, the significance of its unlicensed status should have been fully explained. In making this decision, the Panel determined that the website failed to give a balanced view of the risks and benefits of Ibogaine therapy

Paragraph 2(b)

"As Medical Director of Ibogaine Therapy UK you were responsible for a website advertising treatment with Ibogaine. That website did not give a balanced view of the risks and benefits of treatment with Ibogaine because

b. it did not adequately set out the risks associated with treatment;"

has been found proved.

Whilst the Panel did not consider it essential for the website to set out in detail every single possible risk associated with Ibogaine, it found that the website fails to set out a single risk let alone provide a summary of risks. The Panel noted that the

website states that “blood tests and an ECG will be required prior to Ibogaine therapy” but no reason is given for these requirements.

The Panel considered there to be an obligation upon you, as a registered medical practitioner, to set out a balanced view of the risks and benefits associated with the use of Ibogaine. This is particularly important because the drug is unlicensed.

Paragraph 3(a)

“On 1 August 2009 Patient A attended for treatment with you,

a. At your home address,”

has been admitted and found proved.

Paragraph 3(b)

“On 1 August 2009 Patient A attended for treatment with you,

b. Your home address was not an appropriate place for the treatment you administered because you did not ensure that there were adequate facilities to,

i. treat an allergic reaction

ii. give intravenous fluids,

iii. provide pulmonary resuscitation, or,

iv. defibrillation;”

has been found proved.

The Panel accepted the evidence that you had at your home some medical equipment with which to deal with some potential adverse reactions to Ibogaine. Nonetheless, it considered that the presence of such equipment did not amount to the provision of adequate facilities, including the availability of other trained medical or nursing personnel, for dealing with a medical or psychiatric emergency which could have arisen during the 30 hour period in which you were alone with the patient.

Paragraph 4(a)

“On 1 August 2009 Patient A signed a consent form for Ibogaine treatment. Prior to 1 August you did not

a. provide Patient A with a copy of the consent form so that he could take it away with him to consider at his leisure,”

has been admitted and found proved.

Paragraph 4(b)

"On 1 August 2009 Patient A signed a consent form for Ibogaine treatment. Prior to 1 August you did not

> *b. consider and document the potential risks and benefits to Patient A of the proposed treatment,"*

has been found proved.

In its approach to this paragraph, the Panel formed a view as to whether or not you had considered and documented the potential risks and benefits specifically to Patient A, rather than just facilitating Patient A's request for a chosen course of treatment. The Panel found that you had not done so. In making this decision, the Panel noted the extensive documentation kept by you in respect of Patient A's psychotherapeutic treatment and contrasted it with the lack of information in respect of the proposed treatment with the drug Ibogaine.

Paragraph 4(c)

"On 1 August 2009 Patient A signed a consent form for Ibogaine treatment. Prior to 1 August you did not

> *c. explain the risks adequately to Patient A,"*

has been found proved.

The Panel noted that the oral evidence given by you and Patient A on this point was contradictory. On the balance of probabilities, the Panel preferred the evidence of Patient A. It found that the responsibility lay with you, as a registered medical practitioner offering treatment, to ensure that the risks of such treatment with an unlicensed medicine were adequately explained to, and understood by, Patient A, regardless of any knowledge Patient A may have had as a result of research he may have undertaken.

Paragraph 4(d)

"On 1 August 2009 Patient A signed a consent form for Ibogaine treatment. Prior to 1 August you did not

> *d. document adequately any discussion between you and Patient A regarding risk,"*

has been found proved.

The Panel found that your note stating "treatment explained. Will need at least 6 sessions prior to Ibogaine therapy and will need ongoing psychotherapy post Ibo", made at your first meeting with Patient A on 9 February 2009, was not an adequate record of any discussions regarding risk. Furthermore, you accepted that, whilst in your opinion your clinical notes were adequate, the use of the term

"treatment explained" in respect of Ibogaine did not fulfil your obligations under Good Medical Practice to keep clear records.

Paragraph 4(e)

"On 1 August 2009 Patient A signed a consent form for Ibogaine treatment. Prior to 1 August you did not

e. discuss licensed alternatives with Patient A,"

has been admitted and found proved.

Paragraph 4(f)

"On 1 August 2009 Patient A signed a consent form for Ibogaine treatment. Prior to 1 August you did not

f. exclude licensed alternatives,"

has been found proved.

The Panel took account of paragraph 18(a) of the GMC's guidance entitled Good Practice in Prescribing Medicines (September 2008) and referred to by Dr B in his report of 3 March 2010. This states:

> "You can prescribe unlicensed medicines but, if you decide to do so, you must:
>
> a. be satisfied that an alternative, licensed medicine would not meet the patient's needs"

Whilst the Panel has found that you did not exclude licensed alternatives prior to treating Patient A with Ibogaine, the Panel is satisfied that no alternative, licensed medicine would have met Patient A's needs, nor is there any licensed drug available which mirrors the effects and results of Ibogaine.

Paragraph 4(g) and (h)

"On 1 August 2009 Patient A signed a consent form for Ibogaine treatment. Prior to 1 August you did not

g. document discussions with Patient A about licensed alternatives,

h. Liaise with Patient A's General Practitioner,"

have been admitted and found proved.

Paragraph 4(i)

"On 1 August 2009 Patient A signed a consent form for Ibogaine treatment. Prior to 1 August you did not

i. carry out appropriate blood tests or ensure that those blood tests were carried out by others;"

has been found proved.

The Panel noted that your website stated that blood tests would be required prior to Ibogaine therapy and it heard that you had advised Patient A on two occasions to have these carried out. These tests were not carried out and no note was made to explain why this decision had been taken, against the statement of requirements on your website.

Paragraph 5

"On 1 August 2009 you prescribed Ibogaine to Patient A which is unlicensed in the United Kingdom;"

has been admitted and found proved

Paragraph 6(a)

"On 1 August 2009 and prior to prescribing Ibogaine you did not

a. ensure that Patient A understood the risks involved in the treatment,"

has been found proved

The Panel heard conflicting evidence as to Patient A's knowledge of the risks and where he came by such information. The Panel notes that the risks set out on the consent form are almost exclusively physical in nature. The Panel noted from the documentation provided that there may be psychological risks associated with treatment with Ibogaine. Patient A denied being made aware of some of these risks, both physical and psychological. The Panel found that you had failed to ensure that Patient A understood these risks.

Paragraph 6(b)

"On 1 August 2009 and prior to prescribing Ibogaine you did not

b. adequately document the nature of any discussion you had with Patient A regarding those risks;"

has been found proved

The Panel has already found that the consent form does not document all of the risks associated with treatment with Ibogaine. Apart from the consent form, there is no other documentation which records that any discussion took place between you and patient A before the commencement of the treatment. A signature on a consent form does not necessarily imply that a patient has been adequately informed about the risks associated with a particular form of treatment.

Furthermore, the evidence from Patient A, which the Panel accepted, was that there was no detailed discussion with you, prior to his signing the consent form.

Paragraph 7

As a result of your actions in paragraphs 3. – 6. above you did not obtain the informed consent of Patient A to the Ibogaine treatment;

has been found proved

Having found that you failed to make Patient A aware of all of the associated risks and benefits of treatment with Ibogaine, the Panel determined that you had not obtained his informed consent.

Paragraph 8(a)

"On 9 September 2009 Patient A met with you for a consultation. You acted inappropriately by

a. refusing to allow Patient A's mother to attend the session,"

has not been found proved

The Panel heard and accepted that Patient A's mother met with you and that you gave her the opportunity to voice her concerns regarding her son to you directly. It also heard and accepted that it would have been inappropriate, within a one-to-one psychotherapeutic relationship, to permit another individual to attend a therapy session.

Paragraph 8(b)

"On 9 September 2009 Patient A met with you for a consultation. You acted inappropriately by

b. laughing at Patient A and belittling him;"

has not been found proved

The evidence on this point was contradictory but, on balance, the Panel preferred your evidence to that of Patient A.

Paragraph 9(a)

"On 12 October 2009 Patient A met with you for a consultation. You acted inappropriately by

a. refusing to meet with Patient A's parents who were waiting outside your premises,"

has been found proved

The Panel accepted that a psychotherapeutic relationship is one exclusively between the therapist and the patient and that intervention by family members or other individuals would not normally be appropriate. Nonetheless, it found that, by 12 October 2009, there had been a clear deterioration in Patient A's mental health of which you were aware. The parents had serious concerns regarding their son's wellbeing to which you should have listened.

The Panel did not consider the exclusivity of the psychotherapeutic relationship to be adequate justification for your conduct at this time. In addition to the psychotherapy, you had also treated Patient A with Ibogaine. Patient A and his family were concerned that this treatment may have led to the deterioration in his mental health. It was your responsibility, as the doctor who prescribed Ibogaine therapy, to address these concerns.

Paragraph 9(b)

"On 12 October 2009 Patient A met with you for a consultation. You acted inappropriately by

b. Dismissing concerns that Patient A would lose his job;"

has not been found proved

The Panel accepted your evidence on this point. In his oral evidence, Patient A stated that it was his father who had spoken to you about the concern that he would lose his job. The Panel has not heard evidence from Patient A's father.

Having reached findings on the facts, the Panel will now invite Ms Bex and Mr Leigh to adduce further evidence and make any further submissions as to whether, on the basis of the facts found proved, your fitness to practise is impaired."

Determination on impairment

"Dr Brackenridge: The Panel has considered whether your fitness to practise is impaired by reason of your misconduct, in accordance with Section 35C(2)(a) of the Medical Act 1983, as amended. In considering the question of impairment, the Panel has taken account of all the evidence presented to it throughout this hearing, including the submissions made by Ms Bex, Counsel, on behalf of the General Medical Council (GMC), those made by Mr Leigh, on your behalf and your own further oral evidence.

Ms Bex submitted that the facts found proved demonstrate that your conduct falls well below the standard expected of a doctor. She stated that this was not a single incident, but a course of treatment which spanned ten months. The website had been in existence for several months before Patient A viewed it. She submitted that you were arrogant and indifferent to criticism and there were questions as to your attitude, tone, manner and lack of insight. She noted that you did not apologise to Patient A. She submitted that the Panel can be satisfied that your actions amounted to misconduct and that this continues to impair your fitness to practise today.

Mr Leigh submitted that this was a single error of clinical judgment, namely the failure to realise the dangers and implications of using an unlicensed drug, and that your fitness to practise is not impaired. He also submitted that there has been no previous complaint about your practice to the GMC or any other regulatory body. He informed the Panel that you have continued to train in psychotherapy and wish to make your future career in this field. He noted that you no longer prescribe Ibogaine and that you have no intention of using Ibogaine in the future. He also submitted that you are a high quality doctor from whose care patients can continue to benefit in the future. He submitted that the Panel would have to judge you, your personality, strengths and weaknesses, but that, on balance, your strengths outweighed your weaknesses.

In your further oral evidence to the Panel, you indicated that, whilst you accept the Panel's findings in respect of the facts found proven in the allegation, you still asserted that you were satisfied that you had obtained informed consent from Patient A. You stated that you did not lack insight and that you took slight offence from the fact that you considered that your personality was on trial. You also maintained that your website gave a balanced view in respect of Ibogaine treatment. You also indicated to the Panel that, since these events, you have changed your practice to ensure that you have a procedure in place to share information with a patient's general practitioner ("GP"), if that patient agrees.

The issue of impairment is one for the Panel to determine exercising its own judgment. The Panel has taken account of the public interest which includes the need to protect patients and the public, to maintain public confidence in the profession, and to declare and uphold proper standards of conduct and behaviour.

The Panel has taken account of the relevant case law during its deliberations. In particular, it had regard to paragraph 42 of *Raza v General Medical Council [2011] EWHC 790 (Admin)* where HHJ Pelling stated:

> "There is no doubt that this part of the inquiry focuses not on the past but the present fitness of the practitioner. However, it is open to a panel to infer present unfitness from past misconduct provided it is first concluded that such misconduct is serious."

The Panel first considered whether your actions, on the basis of the facts found, during the period you treated Patient A, amounted to misconduct which is serious. In so doing, it considered first whether your actions could be categorised as a single incident, albeit one which occurred over a period of time, or a course of conduct. The Panel considered, on the basis of the facts as found, there to be five distinct areas of criticism in your conduct:

- The lack of information on your website, which failed to give a balanced view regarding the risks and benefits of treatment with Ibogaine, its unlicensed status, and the significance of this;
- The treatment (with a medicine) of a psychotherapy patient over a period of 30 hours at your home address without appropriate medical facilities and personnel to assist you in the event of a medical or psychiatric emergency;

- Failure to obtain informed consent;
- Communication failures with both the patient and his family;
- Failure to keep appropriate notes in respect of the Ibogaine treatment.

The Panel noted that your treatment of Patient A took place over a period of months and involved drug treatment and a course of psychotherapy. It determined that your actions constituted a series of incidents showing a course of conduct over a number of months and could not be categorised as a single, isolated incident.

The Panel then considered each of the five areas set out above.

Website

The Panel found that your website failed to give a balanced view of the risks and benefits of treatment with Ibogaine and that it failed to document its status as an unlicensed drug in the UK. In making this finding, the Panel considered the information in the context of a website authored by a registered medical practitioner and the impact this would have on the expectations of a member of the public as to its completeness and reliability. In documenting your medical qualifications and your status as a registered doctor on your website you placed the treatment offered in a medical context. This obliged you to ensure that the information presented gave a fair and balanced view, as required of any doctor offering treatment to a patient.

Treatment at your home

Whilst the Panel accepted that you had, at your home, some medical equipment with which to deal with potential adverse reactions to Ibogaine, it was concerned by the lack of assistance available to you over a 30 hour period of drug treatment of a psychotherapy patient. Whilst the Panel accepted that it might not be inappropriate to engage in psychotherapy in these premises, it considered that the administration of a drug such as Ibogaine, the effects of which could be unpredictable and last many hours, in this environment was unacceptable. The Panel determined that the inadequate facilities and provision for emergencies at your home left you with an unacceptable lack of support that placed Patient A at unwarranted risk of harm.

Informed consent

The Panel found that, although Patient A may have been aware of some of the risks associated with treatment with Ibogaine through his own research, he was not made fully aware by you of all the potential physical and psychiatric risks of the proposed treatment with an unlicensed medicine. As a doctor prescribing and administering this drug, this was clearly your responsibility.

Paragraph 36 of Good Medical Practice (November 2006) states:

> "You must be satisfied that you have consent or other valid authority before you undertake any examination or investigation, provide treatment or involve patients in teaching or research. Usually this will involve providing

> information to patients in a way they can understand, before asking for their consent ..."

The Panel took a particularly serious view of your failure to obtain informed consent from Patient A which it considered to be a breach of one of the fundamental tenets of Good Medical Practice.

Communication failures

The Panel found that you had failed to provide Patient A with full information regarding the risks and benefits of the proposed treatment. It also found that you failed to communicate appropriately with Patient A's parents. The Panel did not accept your contention that your actions in refusing to see Patient A's parents were justified on the basis that a psychotherapeutic relationship must remain one-to-one at all times. You were not acting solely in the role of a psychotherapist but were also a registered doctor who had treated Patient A with an unlicensed medicine which may have had an adverse impact upon his mental health. Patient A's parents had serious concerns regarding his mental health which they wished to pass on to you. In these circumstances, it was your duty as a doctor to listen to the concerns of Patient A's parents; the information they provided may have been helpful in your treatment and care of Patient A. Effective communication is a fundamental requirement of any doctor and ensures that the patient understands and receives the appropriate care and treatment. It also ensures that the doctor is made aware of any difficulties with the care or treatment received. This information may be elicited from the family or carer, particularly when the patient may be suffering from mental health difficulties.

Documentation

Paragraph 3(f) of Good Medical Practice states:

> "In providing care you must keep clear, accurate and legible records, reporting the relevant clinical findings, the decisions made, the information given to patients, and any drugs prescribed or other investigation or treatment"

The Panel noted that the records kept in respect of your psychotherapeutic treatment of Patient A were extensive. However, there was a lack of documentation regarding any discussions you had with Patient A regarding the risks and benefits associated with Ibogaine. The Panel considered that you should have kept a full record of such discussions, particularly in view of Ibogaine's unlicensed status in the UK.

Paragraph 52 of Good Medical Practice states:

> "If you provide treatment or advice for a patient, but are not the patient's general practitioner, you should tell the general practitioner the results of the investigations, the treatment provided and any other information necessary for the continuing care of the patient, unless the patient objects."

The Panel noted that there is no documentation of any formal discussion with Patient A regarding disclosure to his GP. You told the Panel that, on requesting his consent to communicate with his GP, Patient A refused. Nonetheless, there is no record of such a discussion in Patient A's medical records.

The Panel also noted that there is no record of why you stated on two occasions that Patient A must undergo blood tests, as stipulated on your website, and then decided that these were not necessary. The Panel accepts that it may not have been necessary to carry out the blood tests on Patient A, but having twice told him that they should be undertaken you should have given Patient A a clear reason for your change of mind and a record should have been made to document this.

The Panel drew no criticism from the lack of documentation regarding discussions with Patient A about licensed alternatives to treatment with Ibogaine. It is satisfied that there were no licensed alternatives to treatment with Ibogaine.

Misconduct

Having regard to all the circumstances set out above, the Panel determined that your actions amounted to misconduct which was serious.

Impairment

The Panel went on to consider whether, as a result of your misconduct, your fitness to practise is currently impaired. In so doing, it took account of paragraph 76 of *CHRE v NMC and Grant [2011] EWHC 927 (Admin)* which paraphrases the words of Dame Janet Smith in her Fifth Shipman report as follows:

> "Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:
>
> a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or
> b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or
> c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or
> d. has in the past acted dishonestly and/or is liable to act dishonestly in the future."

The Panel has found that your actions and omissions in your treatment of Patient A placed him at unwarranted risk of harm.

It then considered whether you are liable, in the future, to place patients at unwarranted risk of harm. You informed the Panel that, on legal advice following Patient A's complaint and due to the fact that you cannot obtain medical insurance for such treatment, you no longer offer Ibogaine therapy in your clinic. The Panel's findings do not relate to your choice of Ibogaine itself as a treatment, but rather to

the manner in which you went about this treatment and your judgment as to what was appropriate and/or necessary.

The Panel has already determined that it was inappropriate for you to treat a psychotherapy patient with an unlicensed drug in your home, on your own, and without adequate facilities for an emergency, for a period of 30 hours. In the light of your oral evidence, indicating that whilst you “accept” the Panel’s findings you stand by your method of treatment of Patient A, the Panel considered that you may pursue a course of action in the future that may put patients at unwarranted risk of harm.

In your oral evidence at the impairment stage of the hearing, you told the Panel that you now request that patients sign a form confirming their consent or otherwise for you to contact their GP. However, in general, you maintained your position regarding much of your management of Patient A’s treatment. You also rejected any criticism of the lack of information provided on your website, maintaining that it presented a balanced view.

The Panel considered you to have exercised poor judgment in this case and is concerned that you still fail to show adequate insight and fully recognise this.

The Panel has also found that your misconduct has brought the profession into disrepute. Your website advertised services provided by a registered medical practitioner. The public’s trust in the profession is key to maintaining the relationship between patient and doctor. The Panel considered that your failure to disclose fundamental information on your website, such as the failure to give a balanced view of Ibogaine treatment and the fact that Ibogaine is an unlicensed medicine, could undermine the public’s trust in the profession.

The Panel found that your serious misconduct breached fundamental tenets of the medical profession. It is your duty as a doctor to ensure patient safety. You must also ensure that your conduct does not damage the public’s trust in the profession which is essential to the maintenance of the doctor / patient relationship. The Panel determined that you breached these tenets through your actions and omissions in your treatment of Patient A. Your breaches relate to core areas of Good Medical Practice including good communication, the failure to obtain informed consent, and adequate record keeping.

The Panel remains concerned as to your judgment and attitude, as demonstrated by your oral evidence. You have not accepted that your actions may have put Patient A at risk, nor have you demonstrated an understanding of the role and obligations of a registered medical practitioner who is providing psychotherapy and who is also treating their patient with a medicine, particularly an unlicensed one such as Ibogaine.

The Panel has found that your actions amounted to misconduct that was serious and that has the potential to damage the public’s perception of the profession, thereby bringing it into disrepute. It has concerns as to the likelihood of repetition of your misconduct because of your apparent lack of acceptance of the fact that your treatment of Patient A fell substantially below the standards of a registered medical practitioner.

In all the circumstances, having inferred present unfitness from your past misconduct, the Panel determined that your fitness to practise is impaired by reason of your misconduct.

The Panel will now invite any further evidence and submissions from Ms Bex and Mr Leigh as to the appropriate sanction, if any, to be imposed upon your registration. Submissions on sanction should include reference to the Indicative Sanctions Guidance April 2009, as amended, using the criteria set out in the guidance to draw attention to the issues which appear relevant in this case."

Determination on sanction

"Dr Brackenridge: The Panel has already determined that your fitness to practise is impaired by reason of your misconduct.

The Panel has considered the submissions made by Ms Bex, on behalf of the General Medical Council (GMC), and Mr Leigh's submissions, on your behalf, as to the appropriate sanction, if any, to be imposed on your registration.

Ms Bex has submitted that a sanction of at least suspension is appropriate in your case. She stated that you have an insufficient appreciation of the problems which have brought you before the GMC and she noted that you have failed to apologise to Patient A. She also submitted that you neglected to advertise Ibogaine's unlicensed status on your website as this would have discouraged potential patients from whom you wished to gain financially. In so doing, she submitted that you placed your interests before that of your patient.

Mr Leigh informed the Panel that he found himself in a difficult position in making submissions at this stage as you disagree with the Panel's findings. He stated that you did not intend your website to give any view of the advantages and disadvantages of treatment with Ibogaine. He acknowledged the Panel's perception of your lack of insight into your shortcomings but submitted that all of the Panel's findings are in the context of treatment with Ibogaine. He stated that, as it is your intention never to prescribe Ibogaine again, you will be far removed from the dangers that arose in that context. He also submitted that there is no evidence that your actions were motivated by greed or avarice.

The Panel has taken account of the GMC's Indicative Sanctions Guidance (April 2009, as amended)("the Guidance"). It is mindful that the purpose of a sanction is not to be punitive but to protect patients and the public interest, although it may have a punitive effect. The public interest includes the protection of patients, the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and behaviour. The Panel has balanced the public interest against your own interests and it has taken into account the principle of proportionality.

The Panel rejected Ms Bex's submission in respect of financial gain on your part. It has ample evidence before it that this is not the case. It also rejected Mr Leigh's submission that the Panel's findings all relate to conduct within the context of treatment with Ibogaine. As stated in its determination on impairment, the Panel's

concerns relate to your overall care of Patient A including breaches of a number of tenets of Good Medical Practice which are applicable to all branches of medicine.

The Panel first considered whether it would be sufficient to conclude your case without taking any further action. The Panel has made a finding that your actions amounted to serious misconduct. Furthermore, it considers that you lack insight into your misconduct. In these circumstances, it determined that it would be inappropriate to take no action.

The Panel noted that Mr Leigh submitted that you would offer an undertaking never to prescribe Ibogaine again, were the Panel minded to consider such a course of action. The Panel did not consider undertakings to be sufficient in your case, nor did it consider that an undertaking not to prescribe Ibogaine would address the wider breaches of Good Medical Practice it has found in respect of your treatment of Patient A. The Panel clearly set out, in its determination on impairment, that its concerns do not relate specifically to your prescribing of Ibogaine, but to your general judgment and approach to your treatment of Patient A in your role as a registered medical practitioner.

The Panel next considered whether placing conditions on your registration would be sufficient. Any conditions imposed by the Panel must be appropriate, proportionate, workable and measurable.

The Panel took the view that a period of conditional registration would be insufficient to mark the Panel's finding as to the seriousness of your misconduct. It noted that insight is a key factor in the imposition of conditional registration. In view of your lack of insight and your failure to accept the Panel's findings regarding the deficiency of your treatment of Patient A, the Panel considered there to be no conditions that would address your misconduct and that would be workable.

The Panel then considered whether to impose a period of suspension on your registration.

It noted the relevant factors, set out at paragraph 75 of the Guidance, as to when a sanction of suspension might be appropriate. The Panel considered the first factor to be particularly relevant to its determination in your case. This states that suspension may be appropriate where there has been:

> "A serious breach of *Good Medical Practice* where the misconduct is not fundamentally incompatible with continued registration and where therefore complete removal from the register would not be in the public interest, but which is so serious that any sanction lower than a suspension would not be sufficient to serve the need to protect the public interest."

The Panel has found that your conduct and behaviour in respect of your treatment of Patient A fell short of that expected of a registered medical practitioner, specifically that you have breached a number of areas of Good Medical Practice. Furthermore, it considers that, as a result of your lack of acceptance of these findings, there may be a risk of repetition in the future.

The Panel also noted paragraph 69 of the Guidance which states:

> "Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered medical practitioner."

Having regard to the public interest, the Panel determined that the suspension of your registration is the appropriate and proportionate sanction. It considered that a sanction of erasure would be disproportionate in your case.

The Panel remains concerned with the attitude you have demonstrated at this hearing and your lack of insight. As a result of this, it has expressed concern over the risk of repetition. However, it determined that a period of suspension would provide you with an opportunity to reflect upon the Panel's findings and address the deficiencies of judgment identified by the Panel. The Panel considered that you may be assisted in this by discussing the Panel's determinations with a senior clinician acting as a mentor.

Accordingly, the Panel determined that a period of six months' suspension would make it clear to you and be a sufficient signal to the profession and the public as to what is regarded as behaviour unbefitting a registered medical practitioner. It determined that such a suspension will also provide you with an opportunity to consider and reflect upon your actions and omissions in respect of your general treatment of Patient A and your attitude to these.

Before the end of the period of suspension, a Fitness to Practise Panel will review your case and a letter will be sent to you about the arrangements for the review hearing.

The Panel reviewing your case would be assisted by receiving the following:

- Evidence that you have reflected upon the Panel's findings at this hearing and that you do not pose a risk of repeating your misconduct;
- Evidence that you have kept your medical knowledge up-to-date;
- Any other evidence you wish to present to assist the Panel.

The effect of the foregoing direction is that, unless you exercise your right of appeal, your registration will be suspended 28 days from the date on which written notice of this decision is deemed to have been served upon you.

The Panel will now invite submissions as to whether your registration should be suspended forthwith."

Determination on immediate sanction

"Dr Brackenridge: The interim order on your registration is hereby revoked.

Having determined that your registration should be suspended for a period of six months, the Panel has now considered, in accordance with Section 38(1) of the Medical Act 1983 as amended, whether it should suspend your registration immediately.

The Panel has noted Ms Bex's submission on behalf of the General Medical Council that it is appropriate to make an immediate order. However she did not provide reasons for this. On your behalf, Mr Leigh submitted that it is not necessary to impose an immediate order as you pose no risk to patients in your current role as a psychotherapist. He stated that you have no intention of prescribing Ibogaine again. The Panel has had regard to section 38(1) of the Medical Act 1983, as amended, which states:

> "On giving a direction for erasure or a direction for suspension under section 35D(2), (10) or (12) above, or under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act, in respect of any person the Fitness to Practise Panel, if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the best interests of that person, may order that his registration in the register shall be suspended forthwith in accordance with this section."

In its determination on impairment, the Panel stated that you may pose a risk to patients in the future. In deciding whether or not an immediate order is necessary, the Panel has considered the seriousness of that risk. It determined that the potential risk to patient safety by your remaining in unrestricted practice is not sufficiently serious so as to justify an immediate order of suspension. The Panel's concerns, as set out in its previous determinations, relate to your attitude and your mode of treatment of Patient A. The Panel notes that you are training as a psychotherapist under supervision, and it accepts that you will not seek to treat patients with Ibogaine again.

In these circumstances, the Panel determined that the potential risk to patients is not such that it is necessary for the protection of members of the public, nor would it be in your interests, to make an order suspending your registration immediately.

The Panel also determined that an immediate order is not necessary in the public interest. It is satisfied that the period of six months' suspension is sufficient to mark its disapproval of your misconduct.

That concludes this case."

Confirmed

14 October 2011 **Chairman**