Royal College of Surgeons
ADVANCING SURGICAL CARE

Open letter on patient protection in the NHS and private healthcare

Like patients and other healthcare professionals, surgeons across the UK were appalled by the behaviour of breast surgeon Ian Paterson. He wilfully abused the trust placed in him by people at their most vulnerable. He misled patients and performed unnecessary and unorthodox operations, potentially for personal, financial gain.

At a time like this it is important to remember that the overwhelming majority of doctors work with diligence and commitment, often under great pressure, motivated to understand and meet the needs of their patients as best they can. Patients should, however, be reassured that processes to improve standards of care have improved dramatically in the NHS and in the private sector in the time since Ian Paterson stopped practising. All doctors must undergo annual appraisal and it is mandatory to have their licence to practise with the General Medical Council revalidated every five years to ensure they remain up to date with medical guidance and practices. Team working, rather than the surgeon alone making isolated decisions, is expected and greater transparency exists in hospital performance, quality of care and patient safety. The NHS is better able and more willing to identify and challenge errors and malpractice.

The Ian Paterson case demonstrates that malicious behaviour can still happen in healthcare. There is no room for complacency. We must find out why he was able to cause so much harm for so long and what can be done to minimise the risks of similar incidents in future. Why, for example, did he go unchallenged by other doctors for so long? We therefore welcome the suggestion from the Secretary of State for Health that there should be an early inquiry by the next Government to understand how Ian Paterson was able to practise for so long. This should build on the findings of Sir Ian Kennedy's report and the independent review of the governance arrangements at Spire Parkway and Little Aston hospitals and assess what action has been taken following those reviews. We are keen to support this review in any way possible as well as using our expertise to assist the Heart of England Foundation Trust in reviewing the case notes of patients treated by Ian Paterson.

As a College we have an important part to play to ensure patient safety. We set standards for surgical care and the training our surgeons go through. Our recent guidance on consent makes clear that the days of "doctor knows best" are over. Patients must be made fully aware of the risks of their treatment and be supported in making decisions about their care. Surgeons must not assume they have a monopoly on expertise. We will continue to assert all surgeons must follow the standards we have set and understand the importance of challenging colleagues who fail to follow best practice in surgery. Our invited review service enables us to work closely with hospitals where they have concerns about an individual or a surgical unit. Our Council will

The Royal College of Surgeons of England
35-43 Lincoln's Inn Fields
London WC2A 3PE

T: 020 7869 1234
E: contact@rcseng.ac.uk
W: www.rcseng.ac.uk

review the Ian Paterson case and judgment to see what more could have been done. We will also ask our Patient and Lay Group to challenge the surgical community about how we can do better.

In particular we need to ask how and why those working closely with Ian Paterson did not spot his behaviour or were unwilling to challenge it. We will continue to support a culture in the health service which encourages staff to speak up.

Further actions that can be taken by politicians to improve patient safety

While the care of patients is primarily the responsibility of healthcare staff, there are also actions that politicians and the senior leadership of the NHS can take. Successive governments have rightly given prominence to patient safety and this must continue. We must pursue a culture of openness and transparency to ensure it is acceptable to challenge bad practice. There are also further actions that can be taken to protect patient safety more generally in the NHS. During the election campaign and beyond we ask that political parties consider how the points detailed can be taken forward.

- **An equal focus on patient safety in both the private and public sectors:** The Ian Paterson case raises the question of how standards of practice, consent and patient safety are assured, particularly in the private sector where many of his patients were treated. In particular there is a question about the data available from private hospitals. A 2014 report on patient safety in the private sector by the Centre for Health and the Public Interest commented 'little is known about the quality and safety of care provided to these patients, due to a dearth of independently verifiable performance data. The lack of reliable data means that regulators are unable to assess the risk of harm posed to patients in these hospitals.' Some progress has now been made and the private sector recently published comparative performance measures for the first time. Many patient safety measures have been focused on the NHS but it is clear that we now need an equal focus on the private sector. Following the election we would welcome a review of how safety standards and transparency can improve in the private sector and not just the NHS. In particular we believe there needs to be similar reporting to the NHS around unexpected deaths, never events, and serious injuries. We would also like to see the private sector become more willing to take part in clinical audits – this could become a condition of all NHS and private organisations' registration with the Care Quality Commission.

- **Regulation of cosmetic surgery:** We have particular concerns that cosmetic surgery remains under-regulated. Despite our numerous calls, it is still the case that there is nothing to proactively stop any doctor, even a non-surgeon, from performing cosmetic surgery. Legislation in this area has failed to keep up with modern practice and is now very urgent. We continue our call to give powers to the General Medical Council so it can annotate the medical register with details of which surgeons are qualified to

undertake cosmetic surgery. This would be beneficial for cosmetic surgery providers and patients.

- **Regulation of the additional medical team roles:** Over recent years a number of new roles have come into being in the NHS, most notably physician associates and surgical care practitioners. Such staff play an increasingly vital role in the health service, acting as an important contact for patients and supporting their colleagues to deliver timely healthcare. Yet, astonishingly, physician associates are entirely unregulated, except through a voluntary register held by the Royal College of Physicians, despite their significant contact with patients. There is no suggestion that physician associates are currently practising unsafely but clearly this legal situation must be corrected to reassure patients. Regulation would also enable physician associates to undertake a wider variety of tasks such as being able to prescribe or order x-rays. We continue to support Health Education England's work on standardising these roles in the health service, and we are carrying out our own programme of work to support members of the extended surgical team.

The actions of Ian Paterson are beyond comprehension. Throughout the private and public health service, we must now try and understand what more we can do to prevent this from happening again and to take action to improve patient safety more generally.

Miss Clare Marx
President

Mr Stephen Cannon
Vice-President

Professor Derek Alderson
Vice-President

Mr Ian Eardley
Vice-President