FH Partnership Ltd

Clinical governance report

This Independent Report was commissioned at the request of the BMI Healthcare Limited Group Medical Director for the purposes of ascertaining whether any issues must be addressed to protect and promote the health and safety of patients at the BMI Fernbrae Hospital.

The Independent Report contains confidential information and may be viewed only by those individuals whom the BMI Healthcare Group Medical Director has determined have an interest or duty in receiving it in order to take any steps necessary to protect and promote the health and safety of patients at the Hospital under consideration.

Working within the desired time scale, this Report is presented in good faith and the FH Partnership Ltd believes that sufficient evidence was collected to allow valid inferences to be drawn.

It should be noted that this report contains patient identifiable data and should be viewed only on a 'need to know' basis.

Basic data: location(s), personnel etc.

CAT D was referred to Professor Muftah Salem {Sam} Eljamel (SE), Consultant Neurological Surgeon {GMC 3444935}, because of back and lower limb pains in 2010. He saw her at the BMI Fernbrae Hospital in Dundee. Here he examined her and ordered a spinal MRI scan which was done on 31st August 2010.

On the results of the history, examination and scan he concluded that she had left sided S1 nerve compression from a disc sequestration at the L5-S1 level.

A discectomy was undertaken on 15th September 2010. The operation did not improve CAT D symptoms, in fact they became worse. Having come to the end of her independent sector cover, she transferred to the NHS in Tayside at Ninewells Hospital.

CAT D symptoms have continued to deteriorate over the intervening 4 years since the operation. In early 2014, CAT D GP referred her for a second opinion to Mr D Mowle (DM) at Ninewells Hospital, Dundee, and included the original MRI scan of 31st August 2010.

This referral ultimately resulted in a recent complaint letter to BMI Fernbrae from CAT D[1]. At that consultation, DM indicated to CAT D that in his view he *'would not regard the imaging (on 31st August 2010) at that stage as demonstrating any suitable target for surgical treatment'*.

She now questions the need for the operation at that time and whether the operation contributed to her current ongoing symptomatology and chronic pain.

The objective of this review is to ascertain whether or not the images undertaken on 31st August 2010 demonstrated that a surgical procedure was indicated.

Chronology of event(s) under consideration: relevant dates

<u>The MRI scan on 31st August 2010</u>

The exact date of the consultation between CAT D and SE at Fernbrae Hospital is not apparent from the papers. However SE examined her and sent her for an MRI scan. The scan was done on 31st August 2010 and the report on this scan by Dr W Erng (WE), consultant radiologist, is reproduced in Appendix 1. He verified this scan report on 3rd September 2010. WE's description of the L5-S1 level is as follows:
'*L5/S1 – There is a central posterior disc bulge. No nerve root compromise is evident*'

<u>Interpretation of this scan taken on 31st August 2010 by SE</u>

Unless there was another scan undertaken of which we have no knowledge, in his letter to CAT D GP on 7th September 2010 (shown in Appendix 2), SE says:

[1] Details held on file by BMI

'*Her MRI demonstrated large sequestrated disc at L5 S1 level compressing the S1 nerve root on the left'.*

Operation note written on 15th September 2010 by SE

CAT D underwent an L5-S1 microdiscectomy on 15th September 2010 and the operation note is shown in Appendix 3. An extract from this note reads:
'*Large sequestered disc fragment removed and microdiscectomy performed'.*
Had the radiologist's report been accurate, there would have been no disc fragment to find.

Letter from DM to CAT D GP dated 2nd April 2014 (following request for second opinion)
For ease of reference this letter, sent after CAT D had been referred to DM in 2014 for a second opinion, is enclosed as Appendix 4. DM says:
'I have reviewed the MR imaging of 31st August 2010 which does not demonstrate a large sequestrated disc fragment or any nerve root compression at all, but does show a small central disc bulge'.
He later says:
'I am, however, concerned that this lady underwent surgery in the private sector in 2010 as I would not regard the imaging at that stage as demonstrating any suitable target for surgical treatment'. And he continues:
'I am also concerned that, unless there had been a clinical event and further imaging performed between 31/08/10 and 07/09/10, the description of the scan in Professor Eljamel's letter of 07/09/10 is significantly inaccurate'.

There is no record that any further imaging was performed between 31st August and 7th September at the BMI Fernbrae Hospital. It therefore appears from the information available that the letter sent by SE on 7th September 2010 (shown in Appendix 2), referred to the MRI findings of the scan done on 31st August 2010.

There is also no information available whether or not there was an acute deterioration in CAT D condition between the date of the scan and the operation. However, there is no mention of it by either her or SE, and if there had been, further scanning would have been indicated.

This review engaged the services of an independent spinal neurosurgeon to give his opinion on the scans of 31st August 2010. His responses are given in Appendix 5 together with a copy of the scan at the L5-S1 level.

Scoping of issues by reviewers

The decision to operate on a lumbar disc is usually made on a combination of clinical and radiological findings. In current practice, surgery is indicated only when there is an evident physical lesion demonstrated on a scan that could explain the clinical

findings.

The patient, CAT D had an MRI scan performed on 31st August 2010. Prof SE's interpretation of this scan in his letter of 7th September 2010 (Appendix 2) is at very significant variance with the radiologist (WE), the neurosurgeon to whom she was referred for a second opinion (DM), and FHP's independent specialty adviser (see Appendix 5). The opinions of the radiologist, the neurosurgeon who gave the second opinion, and the independent adviser, indicate that there was no demonstration of nerve compression amenable to surgical treatment at the L5-S1 level.

There is no further evidence that any additional scanning was carried out on CAT D after 31st August 2010 and before 7th September 2010 when the letter was sent.

There is also no evidence that there was any further scanning undertaken, or any sudden deterioration in symptoms between the date of the letter (7th September 2010) and the date of the surgery (15th September 2010).

It is difficult to understand the intra-operative findings based on the pre-operative MRI scan.

Key points in the events that occasion concerns about fitness to practice and/or clinical governance principles

From the evidence available at the time of undertaking this review, there is a *prima facie* case that Prof SE seriously misinterpreted the MRI scan performed on 31st August 2010 and subsequently undertook an unnecessary operation.

Conclusions in relation to clinical governance and fitness to practice issues

The content of this report brings into question whether or not Prof SE has the clinical competence to work as an unsupervised consultant in this area of practice.

Date: 4th November 2014: Signed on behalf of FH Partnership:

Peter Hutton