

Standard of handwriting is part of a midwife's duty of care

The Government is rolling out technology to implement a unified system of electronic record-keeping and prescribing as part of its response to the *Francis Report* (2013). The system is a key component of the aim to create a digital NHS by 2018, with a goal of improving the safety of women and babies caused by the poor hand writing of health professionals (Department of Health (DH), 2013). Until the system is fully introduced, midwives will have to ensure that the standard of their handwriting meets the requirements of the law as part of their duty of care.

The duty of care of midwives

The relationship between midwives and the mothers and babies in their care gives rise to a duty situation where they are legally obliged to ensure that harm does not occur due to a careless act, or failure to act, on their part (*Kent v Griffiths* [2001]).

The extent of that duty is very broad and was described by Lord Diplock in *Sidaway v Bethlem Royal Hospital* [1985] as:

A single comprehensive duty covering all the ways in which you are called on to exercise skill and judgement in the improvement of the physical and mental condition of the [mothers and babies].

This duty of care is not limited to the direct care and treatment provided by midwives. It includes indirect elements such as information-sharing, record-keeping and the standard of handwriting.

The standard of care imposed by the law on midwives was established in *Bolam v Friern HMC* [1957] and confirmed by the House of Lords in *Sidaway v Bethlem*

Royal Hospital [1985]. Described as the *locus classicus*, or authoritative basis, for the standard of care it requires midwives to act in accordance with a practice accepted as proper by a responsible body of professionals skilled in that particular art (*Gold v Haringey HA* [1998]). Although the courts are generally content to allow the profession to establish the standard of care in particular circumstances, judges retain a supervisory role over that professional standard and have the authority to reject a standard that does not stand up to logical analysis (*Bolitho v City and Hackney Health Authority* [1998]).

Handwriting as an element of a duty of care

The standard of handwriting established by the Court of Appeal in *Prendergast v Sam and Dee Ltd and others* [1989] where a prescription was incorrectly dispensed by a community pharmacist who misread Amoxil as Daonil.

Daonil is an oral hypoglycaemic and it caused unconsciousness and irreparable brain damage. The pharmacist argued that the error arose as a result of poor handwriting on the prescription. The court accepted that when writing a prescription there is a duty to write it legibly.

The question for the Court of Appeal was how legible must it be.

The Court concluded that the writing of the word fell below the standard of legibility required in the exercise of a duty of care because it was written so as to invite or reasonably permit misreading under ordinary working conditions. The Court was satisfied that the prescriber's bad writing began a chain of events that led to harm. The consequence of writing a word which could reasonably be misread was to make it reasonably foreseeable that a different drug to the one intended might be dispensed to the patient.

The standard of handwriting imposed on midwives when writing an instruction for others to follow is that it must be:

To a standard of legibility which reduces the possibility of it being misread by a careless or busy person (Prendergast v Sam and Dee Ltd [1988] (Auld J))

The financial cost of poor handwriting

The National Audit Office (2001) has given some indication of the financial cost of poor handwriting to the NHS. They found that while some 5% of negligence claims originated from clinicians misreading instructions and records, about 40% of all negligence claims were settled because poor and illegible records would not stand up to scrutiny as evidence in court.

The cost of clinical negligence to the NHS in England last year amounted to £935 million (National Health Service Litigation Authority, 2014).

The human cost of poor handwriting

The cost of poor and illegible hand writing in human terms is even higher and recognised as a significant risk to patient safety in the European Union.

In one case, a woman who, due to fluctuating blood sugar levels, required her daily insulin dose calculated and recorded on a separate insulin chart. The misreading of these daily insulin doses led to the woman being given ten times the required dose on a number of occasions. The fatal accident inquiry concluded that poor handwriting had led to the errors and was a significant contributor to her death (*In re Pullar*, 2005).

Poor handwriting and sound-alike look-alike drugs (SALADs)

The World Health Organization (2007) has identified drug names that sound alike or look alike (SALADs) as a key safety concern they wish to improve because of their worldwide impact on patient safety. Confusion between these SALAD drug pairs is a leading cause of medication error when

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combined with poor handwriting.

They include (Irish Medication Safety Network, 2010: 3):

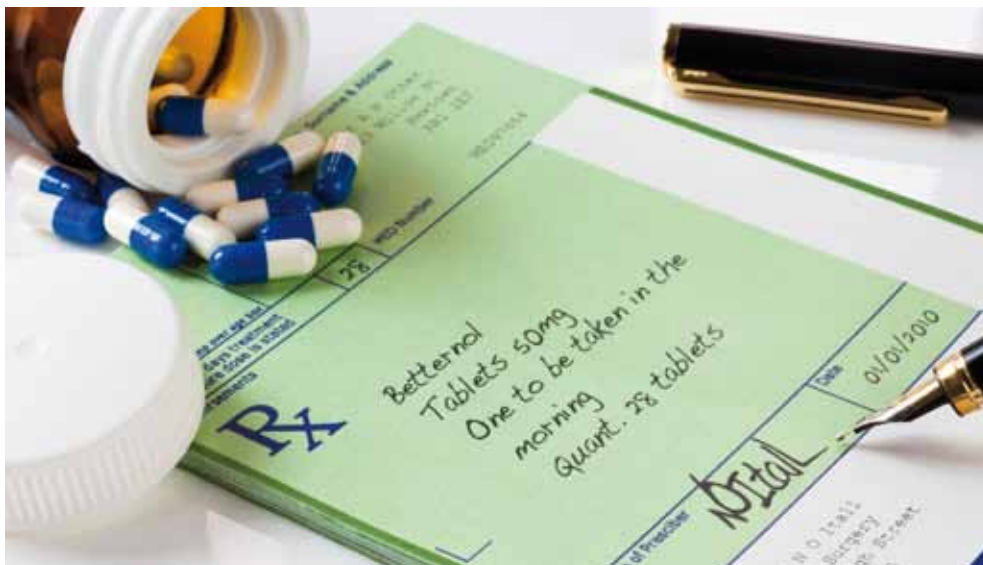
- Carbamazepine / carbimazole,
- Dipyridamole / disopyramide
- Nicorette® / Nitroderm®
- Senokot® / Seroxat®
- Losec® / Lasix®.

Among those most commonly confused when poorly written is Losec/Lasix. The poor transcription of drug information led to a woman on a renal unit being given Lasix instead of the intended Losec. This continued over several days; the woman had no potassium cover and she eventually suffered a fatal cardiac arrest caused by low serum potassium (Freidman, 2003).

Conclusion

Poor handwriting has been identified as a significant risk to safety in health care and is one of the key reasons why the Government is pushing ahead with its aim of achieving a fully digital NHS by 2018. Despite this initiative it is likely that midwives will continue to use handwritten records and prescriptions for some years and it is essential that they ensure the safety of mothers and babies by writing clearly.

The courts have emphasised that the duty of care owed by a midwife includes the standard of handwriting. To discharge that duty of care midwives must ensure that they write clearly enough for a careless or busy person to be able to read their writing. **BJM**



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When writing a prescription there is a duty to write it legibly

Bolam v Friern HMC [1957] 1 WLR 582

Bolitho v City and Hackney Health Authority [1998] AC 232

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In re Pullar (2005) Sheriff's Determination Under The Fatal Accidents And Sudden Deaths Inquiry (Scotland) Act 1976 Into The Death Of Mrs Moira Pullar Held At Airdrie On: 14

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Sidaway v Bethlem Royal Hospital [1985] AC 871

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