Condemning the Innocent to Defend the Guilty: Age of Autism Attacks the GMC

By David N. Brown

Age of Autism and similar anti-vax pages have done a great deal to defend liar, narcissist, sociopath and soon-to-be-ex-Dr. Andrew Wakefield and attack the committee disciplining him. But even a cynical old possum might not have anticipated their latest low blow, released the very day that the General Medical Fouincil released its first findings against Wakefield: a 104-page "complaint", undoubtedly prepared well in advance, directed to the GMC, alleging in particular that several witnesses against him gave "false testimony". These allegations were condensed in an altogether imprudently helpful fashion by Jim Moody in an AoA post entitled "False Testimony Denies Lancet Doctors a Fair Hearing". This brazen inversion of reality could, at the very least, do much to boost the morale of committed Wakephiles and perhaps sow confusion and doubt in the general public. To do my best to preclude that possibility, here is a run-down of the major "charges":

Count I alleges that Dr. Horton knew of Dr. Wakefield's participation the UK MMR litigation, did not consider it a disclosable interest, and hid this knowledge from Lancet readers in 1998. Dr. Horton's claim six years after publication of the Lancet Case Series that it would never have been published had he known of Wakefield's participation in MMR litigation was false because *he was twice informed of Dr. Wakefield's relationship with MMR litigation a year before and five days after publication*. *Horton, not Dr. Wakefield, decided that the disclosure of a "perceived" conflict (where no actual conflict existed) was simply not necessary as part of the published Case Series.* He concealed the Lancet's knowledge of Dr. Wakefield's participation in MMR litigation when the possibility of "litigation bias" was raised by a reader immediately after publication. *Attachment 1 is a side-by-side comparison of the letters received by Horton four days after publication, and the redacted version published in May, 2008.* By feigning ignorance of the Wakefield litigation relationship, and outrage at somehow being misled, six years later when the allegations were raised by Deer, Horton was able to shift "blame" for decisions he had made and information he had concealed to a scapegoat (i.e. Drs. Wakefield, .Murch, and Walker Smith) once it had become evident that someone had to pay a price for the "unpleasantness" surrounding vaccine safety concerns. Moreover, Horton conspired with a "medical regulator" to motivate a GMC investigation while boasting that the GMC "had not a clue where to begin."

This represents a long-running contention by Wakefield, altogether meeting the cliché of "he said, she said". The "complaint", ironically, makes Wakefield's claim look weaker than it is. I for one find Hortons claims of ignorance strained at best. It would be easy to take what Horton has said (and might sincerely believe) with a grain of salt and allow that he probably had *some* knowledge of Wakefield's involvement in litigation. But Wakefield has gone overboard trying to shift blame onto the other member of this dysfunctional partnership, and his claims (even apart from "conspiracy" ramblings) are strikingly weak and self-serving. The claim that "Horton, not Dr. Wakefield, decided that the disclosure … was simply not necessary" can be discounted at face value: The GMC ruling states, **"At that time**

the Lancet and other organisations had published guidance on the requirement for authors for recognising and declaring financial and other conflicts of interests, as well as the importance of declaring "potential", "perceived" or "apparent" conflicts of interest. The Panel therefore rejects the proposition put forward by your Counsel that third party perceived conflicts of interest did not fall within the relevant definition at the time." (Bold original!) On consideration, this does not openly reject Wakefield's bizarre excuse, but does something even worse: *It assumes an atithetical scenario.* In other words,it does not even mention what is alleged here, which in my mind raises the question whether Wakefiled's defense even *tried* to make this argument in court. As for the apparently substantiated claim that Wakefield informed Horton of a conflict "five days after publication", this is obviously no help at all to his cause. (Indeed, it reads like a gag disclaimer from *The Simpsons: "The preceding program should not have been viewed by young children".*) It also casts doubt on the claim that really matters, that a disclosure was made before the fact: If so, why was a separate disclosure issued later? Of course, the fact that documentation appears to be unavailable makes things even more suspicious. Ultimately, Wakefield's tactic looks like nothing more or less than blaming the victim, and makes him look all the more like a sociopath.

Count II alleges that Dr. Horton's informal "gag" rule barring publication of material critical of vaccine safety breaches his professional duty as Editor of the Lancet to support scientific freedom and freedom of inquiry and avoid censoring material that might be "politically" unpopular or critical of industry. Dr. Horton's de facto "gag" rule censoring publication of science that calls vaccine safety into question obstructs justice by depriving the courts of the evidence they would need to find a vaccine caused injury and is an unprofessional and misguided attack on the ethics of scientists and lawyers who would work together to seek justice for injured children.

All that really needs to be said about this is that, true or false (and how exactly does one *prove* an "informal `gag' rule"??), it does not have the slightest bearing on the GMC proceedings against Wakefield. Horton testified about Wakefield's actions prior to the publication of a paper. Horton's subsequent decisions are irrelevant. It can be added that the editorial policies of a private publication are generally protected as free speech, and ordinarily outside the jurisdiction of any government body. Thus, it appears still more likely that what we are dealing with is not a complaint of formal standing or substance, but merely a publicity stunt for the benefit of the "faithful".

Count III alleges that then Dean (Arie) Zuckerman falsely denied his knowledge that Dr. Wakefield would, if asked at the press conference accompanying publication, recommend the single (monovalent) measles, mumps, and rubella vaccines as a precautionary measure until the safety of MMR could be further examined. Dr. Zuckerman's claim that he was unaware that vaccines would be discussed at a press conference accompanying publication was false because he had specifically instructed Dr. Wakefield to urge continued use of the monovalent measles vaccine as a safer alternative to MMR. Attachment 2 is Dr. Zuckerman's Jan. 22, 1998 letter instructing Dr. Wakefield to recommend the monovalent vaccines at the post-publication press conference ("It is vital, in your own interest and that of children, that you state clearly your support for <u>monovalent</u> vaccination.").

This appears to be another *non sequitir* as far as defending Wakefield from the GMC's verdict: The document of their findings does not contain any ruling related to the press conference. (Neither, for that matter, does it mention Zuckerman by name, though since Horton didn't turn up either, that may not mean much.) It does not appear that anything Zuckerman testified about the conference could have affected a verdict. Ultimately, we appear once again to have one account of events from Wakefield and one from a colleague who testified against him, only at this point it is difficult even to separate the other man's allegations from summaries by Wakefield and others.

Count IV alleges that Dr. Pegg falsely claimed that the research biopsies for the Lancet children had not been approved by the Ethics Committee. Dr. Pegg's claim that the research aspects of Lancet Case Series were unethical was false because his own Ethics Committee had approved the collection of tissue samples (as project 162-95) well before the first child was ever examined. Attachment 3 is the Ethics Committee Sept. 5, 1995 approval letter for research biopsies.

This shows nothing more or less than a failure to comprehend or acknowledge the substance of the GMC's charges. There was no question that Wakefield was authorized to perform certain tests. The multiple charges of acting without committee approval were based on the conclusion that a number of individual children were ineligible for testing (or at best not proven eligible) according to criteria set by the committee.

Count V alleges that Dr. Salisbury has seriously misled the public by making unsupported claims regarding MMR safety. Dr. Salisbury's claim that MMR has an "exemplary" record of safety is unfounded and misleading. Two of the three brands of MMR have been withdrawn for safety reasons He has misused his official position by attempting to discredit and silence Dr. Wakefield and others who have a moral and ethical duty, and a right of free speech, to criticize the safety of MMR. Count VI alleges that he has also concealed material information relating to the safety of MMR from the public.

This is the most obviously spurious part of the "complaint". The charge of " attempting to discredit and silence Dr. Wakefield" is a formula smear by Wakefield's advocates, and if the intent in this particular case is to charge Salisbury with organizing the imaginary "conspiracy", then they have defeated themselves by pointing too many fingers at others. The statement that "two of the three brands of MMR have been withdrawn for safety reasons" is irreconcilable with fact. MMR and related vaccines are made by Merck, GSK and Sanofi Pasteur, and Merck alone has made 3 of them. There has been at least one recent recall, of Merck's ProQuad vaccine (I suspect the reference is to this and the "Urabe" batch that was pulled almost twenty years ago), but a recall of one of the versions made by one company is a far cry from "two out of three brands"! As for "Count VI", what's the point in even talking about it? All conspiracy theories accuse others of withholding some vital evidence of information. But when do they ever find it?

Count VII alleges that (Professor Sir Michael Rutter) failed to disclose in at least four papers published between 2005 and 2009 that he had a crucial conflicting financial interest as a highly paid expert witness for the vaccine industry (and for the U.S. Government that defends industry in Vaccine Court) in at least three major litigation projects, U.S. litigation concerning mercury (thimerosal) as a cause of autism, the U.K. MMR litigation, and the U.S. Omnibus Autism Proceeding (concerning both MMR and thimerosal as causes of autism). Although Professor. Rutter's non-disclosure of a conflicting financial interest is precisely the same as that alleged against Dr. Wakefield (involvement in MMR litigation), the scope of Professor. Rutter's wrongful conduct is far worse, involving multiple litigation projects, at least four papers, and the more stringent modern disclosure obligation.

Rutter previously came to my attention as the target of an especially bizarre allegation at 14studies.org, which denounced him for "failing to disclose" *membership in an organization that did not exist.* (See "JB Lies Handily.") That is enough to justify the most direct line of challenge: Where is the evidence that Rutter did in fact fail to disclose all real conflicts of interest? We certainly have no reason to take the anti-vaxxers' word for it! The most relevant evidence I can find for myself is Rutter's statements to the US Vaccine Court in 2008: "some four years ago I agreed to serve as an expert witness with respect to Thimerosal vaccine litigation... Similarly, about a year before that, the same situation arose with

respect to litigation over MMR... last year I served as an expert in relation to the British General Medical Council's case against 3 pediatricians involved in Andrew Wakefield's research into autism and MMR. The issues involved there did not concern the scientific case at all but, rather, were involved strictly with the ethical conduct of the research undertaken." This establishes to my satisfaction that Rutter is perfectly forthcoming about his past work, and that claims to the contrary without evidence can and should be discounted at face value. It also contrasts with the headline implication that he played a decisive role in the GMC hearings: By his own account, he had no involvement whatsoever beyond the end of 2007, about halfway through the proceedings.

Count VIII alleges that Professor. Rutter gave false expert testimony in this FTP hearing by stating his opinion that Dr. Wakefield had a duty to disclose his participation in MMR litigation in the Lancet Case Series. In the alternative, Professor. Rutter misled the Panel by hiding his own non-disclosure of the same type of conflicting interest for which he condemns Dr. Wakefield. If Professor. Rutter doesn't honestly believe (although this would contravene the express language in the modern disclosure guidelines) that acting as a litigation expert on precisely the same subject discussed in his published papers (and on which he relies for his opinion in litigation) is a disclosable conflict, then he is falsely accusing Dr. Wakefield of breaching a non existent duty. Or, if he honestly believes this is a disclosable interest, then his testimony is false and misleading because he has concealed the fact of his own pattern of non disclosure.

Rather than offering a single piece of evidence for the claims against Rutter, the complaint devolves further into the especially offensive fallacy of *immoral equivalency*: Because Rutter supposedly has conflicts of interest as bad or worse than Wakefield, Wakefield is as good as or better than him. This tactic is virtually Orwellian: All doctors are created equal , but some doctors are more equal than others. Time for a further reality check: Dr. Rutter is an autism expert, and testified as such. When " acting as a litigation expert on precisely the same subject", his authority infinitely exceeded Wakefield's. Furthermore, any "conflict of interest" by Rutter was strictly "short term". He was not a vaccine inventor, an employee of a vaccine manufacturer, or a professional consultant on vaccines *per se*. Being paid for testimony related to autism and vaccines did not carry the prospect of making more money later. Wakefield, by contrast, held a vaccine patent and was a paid participant in litigation over a rival product, and thus had the obvious potential to gain monetarily in the future. Ironically, the anti-vaxxers' stubbornness could also turn their meritless charge against Rutter into self-fulfilled prophecy. For, if there is any circumstance in which Rutter would have long-term gain from supporting vaccination, it would be if Wakefield and associates continue to mount proceedings against vaccine manufacturers in which expert testimony on autism is desirable. Finally, it is striking that the statement that Rutter "gave false expert testimony in this FTP hearing by stating his opinion that Dr. Wakefield had a duty to disclose his participation in MMR litigation in the Lancet Case Series" could be considered an admission that Wakefield made no such disclosure, contrary to what was claimed in the previous counts!

The most important question is, what if any formal standing does this complaint have? It seems the GMC does consider complaints from any member of the public, so there is no reason to doubt (as was my first inclination!) that this is indeed a formal complaint, which could theoretically be acted on officially. Of course, it will never lead to a reversal of the rulings against Wakefield, or any significant repercussions for those accused. But need not be the point. A formal "complaint", however frivolous, devoid of merit and ultimately doomed to failure, could significantly obstruct the sentencing part of the hearings. Perhaps more importantly, it could easily delay further proceedings based on the GMC's

rulings. For the likes of Wakefield and his supporters, even attributing their actions to devious motives may be overestimating their rationality. "Quack" movements are consistently petty, egotistical and vindictive. The only motive they need is a chance to praise themselves at the expense of their adversaries. Stephen Barrett's personal experiences offer a credible outline of what such groups will do with frivolous lawsuits and complaints:

"Since the filing of the suit was a `news event'... accusations of (the) type (which) would normally be sufficient to enable the poster to be sued into oblivion... could be reported as `news' without risk to the reporter... (T)hey did not allege a single fact that supports any of the charges... (A) suit against my wife (a family physician) was done purely for harassment purposes... (R)ather than face the judge and admit that the suit was bogus, he withdrew it... The false charges... have been mentioned on more than 50 Web sites and in more than 100 newsgroup messages. (Several years after being withdrawn), the `racketeering' suit document remains on (a) Web site despite several requests from me that it be removed."

This is what I predict will happen if Wakefield and co. are able to establish even a pretense of a complaint against the GMC. I propose preemptive action. The GMC should state the obvious in no uncertain terms, that the complete is worthless and that they could not possibly base an action upon it even if they wished to. Wherever such laws can be brought to bear, those who filed it should be charged with "malicious prosecution" and "strategic lawsuit against public participation". And it is strongly recommended that Horton, Zuckerman, Pegg and Rutter take immediate action against Age of Autism, Jim Moody and anyone else affiliated with this "complaint".

I judge it most important to send a message to AoA: Wakefield built his pseudo-science in an environment of silence, secrecy and censorship (see "Wakefield THE FRAUD), but those assets are long gone. If they continue to aid and abet him by presenting his baseless claims without question, especially when those claims come in the form of direct attacks of upstanding professionals who exposed his fraud, they will be held accountable. I and others like me will do our best to expose their falsehoods promptly, and present proof of their falsehoods as widely as possible. They have fair warning: If they continue to defend a remorseless fraud, especially by falsely debasing the reputations of good men, they will be reported for doing exactly that.
And they shouldn't poke a possum, either!

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