



Perverse incentives

MPS



Putting members **first**

Advice correct as of October 2013

Personal profit and/or incentives, financial or otherwise, should not affect your professional judgment. This includes referring patients and prescribing specific products. This factsheet outlines how to maintain an ethical and professional relationship with patients.

Ethical considerations

Good medical practice depends upon maintaining trust between doctors and their patients. You must be careful to avoid conflicts of interest and seek to ensure openness and transparency. In many cases, this will involve disclosure of financial or other arrangements to institutions, ethics committees, patients, potential research subjects and others.

Improper referrals

When referring a patient to another doctor for special investigation or treatment, it is unethical to ask for kickbacks, gifts or favours in return.

You should foster good working relationships with your colleagues and avoid viewing them as competitors or rivals. You should not comment on another doctor's professional competence to patients.

Consultation fees

You may feel uncomfortable discussing fees and charges with your patients before treatment. Remember that patients seek treatment out of necessity; often treatment cannot be delayed or postponed. The Malaysian Medical Council (MMC) states that you must not charge unreasonably and must be conscious of medical economics and its effect on the public seeking treatment in times of escalating healthcare costs.

You should provide the patient with an estimate of professional and hospital charges prior to commencing treatment, warning that should there be a need for intensive care after surgery, costs will escalate. In an emergency, you should provide a patient with life-saving treatment, irrespective of their ability to pay.

In private hospital practice, if medical expenses begin to exceed initial estimates, you should make the patient or next-of-kin aware. If the bill cannot be paid, you should make all efforts to transfer the patient to a public or less expensive private hospital.

The pharmaceutical industry

You may often be approached by pharmaceutical firms to prescribe or promote a new medicine. The MMC states that it is important to remember that doctors are not consumers of pharmaceuticals; they are the agents of consumers (patients), and you should be aware of ethical considerations as well as the laws governing the prescribing of drugs.

The *Code of Professional Conduct* states: "It is improper for an individual practitioner to accept from a pharmaceutical firm monetary gifts, loans or expensive items of equipment for his personal use." This may compromise your independent professional judgment in prescribing matters.

Clinical trials

Before agreeing to any clinical trial for a pharmaceutical company, you should consider whether the proposed study is to address scientific questions, or whether it is a promotion to familiarise doctors with certain drugs, or encourage a particular brand usage. You should consider whether any risks posed to the patients involved are reasonable, taking into account the likely benefits. You must ensure that they provide full consent and that their privacy and confidentiality is maintained. Payment to patients should not be so large as to constitute an inducement to participation. You should ensure appropriate ethical committee approval for any clinical trial.

You should not gain personal or financial benefit from the conduct of a pharmaceutical company sponsored clinical trial, other than for reasonable personal expenses. All remuneration should be paid into a fund subject to appropriate institutional guidelines. Any conflict of interest must be declared when conducting clinical trials or research.

Advertising

A doctor's best publicity is his own patient. Advertising for the purpose of obtaining patients, promoting a professional advantage, or any other reason is viewed by

the MMC as contrary to the public interest and discreditable to the medical profession; it could result in disciplinary punishment.

Professional calling cards should only contain the name of the practitioner, professional qualifications and contact details. They should never be distributed to the public for the purpose of touting or advertising.

Sponsorship

Financial grants or donations of equipment to hospitals by pharmaceutical companies specifically for the purpose of research are generally acceptable. However, they should always be made to institutions rather than individuals. Offers of sponsorship to courses and conferences should be openly disseminated to the whole department. Selection of applicants to attend should be transparently done and made by the Head of Department or a committee based on agreed criteria such as: role as speaker or chair; relevance to the doctor's work; allocation in turn; or benefit to the hospital and patients.

You may be offered fully paid trips, travel grants or hospitality to attend conferences to promote a new pharmaceutical product. Although these may have educational value, the MMC's *Duties of a Doctor* states that you must carefully evaluate the motives and expectations of such firms and the ultimate payback expected, and should use your discretion when dealing with such matters. The sponsorship must be clearly linked to education and there should be no loss of professional independence through accepting the sponsorship. The criteria and acceptable limits of sponsorship value can be obtained from the *PhAMA Code of Conduct* (18th Ed).

Further information

- *PhAMA Code of Conduct* (18th Ed)
- Malaysian Medical Council (MMC), *Duties of a Doctor* (2001)
- MMC, *Code of Professional Conduct* (1986)
- MMC, *Relationships between Doctors and the Pharmaceutical Industry* (2006)

For medicolegal advice please call us on:

1 800 81 5837 (FREECALL)

or email us at: querydoc@mps.org.uk

www.medicalprotection.org

This factsheet provides only a general overview of the topic and should not be relied upon as definitive guidance. If you are an MPS member, and you are facing an ethical or legal dilemma, call and ask to speak to a medicolegal adviser, who will give you specific advice.

MPS is not an insurance company. All the benefits of membership of MPS are discretionary as set out in the Memorandum and Articles of Association. The Medical Protection Society Limited. A company limited by guarantee. Registered in England No. 36142 at 33 Cavendish Square, London, W1G 0PS.