

# Financial and commercial arrangements and conflicts of interest

## 1 In *Good medical practice*\* we say:

- 77 You must be honest in financial and commercial dealings with patients, employers, insurers and other organisations or individuals.
- 78 You must not allow any interests you have to affect the way you prescribe for, treat, refer or commission services for patients.

- 79 If you are faced with a conflict of interest, you must be open about the conflict, declaring your interest formally, and you should be prepared to exclude yourself from decision making.
- 80 You must not ask for or accept – from patients, colleagues or others – any inducement, gift or hospitality that may affect or be seen to affect the way you prescribe for, treat or refer patients or commission services for patients. You must not offer these inducements.

2 In this guidance, we explain how doctors can put these principles into practice. Serious or persistent failure to follow this guidance will put your registration at risk.

4 If you charge fees you must:

- a tell patients about your fees, if possible before seeking their consent to treatment
- b tell patients if any part of the fee goes to another healthcare professional.

## Financial and commercial arrangements

### Fees and charges

3 You must be honest and open in any financial arrangements with patients.

5 You must not exploit patients' vulnerability or lack of medical knowledge when charging fees for treatments and services.

\* General Medical Council (2013) *Good medical practice* London, GMC.

## Gifts, bequests and donations

- 6** You must not encourage patients to give, lend or bequeath money or gifts that will directly or indirectly benefit you.
- 7** You may accept unsolicited gifts from patients or their relatives provided:
- a** this does not affect, or appear to affect, the way you prescribe for, advise, treat, refer, or commission services for patients
  - b** you have not used your influence to pressurise or persuade patients or their relatives to offer you gifts.\*
- 8** However, if you receive a gift or bequest from a patient or their relative, you should consider the potential damage this could cause to your patients' trust in you and the public's trust in the profession. You should refuse gifts or bequests where they could be perceived as an abuse of trust.
- 9** You must not put pressure on patients or their families to make donations to other people or organisations.

## Conflicts of interest

- 10** Trust between you and your patients is essential to maintaining effective professional relationships, and your conduct must justify your patients' trust in you and the public's trust in the profession. Trust may be damaged if your interests affect, or are seen to affect, your professional judgement. Conflicts of interest may arise in a range of situations. They are not confined to financial interests, and may also include other personal interests.
- 11** Conflicts of interest are not always avoidable, and whether a particular conflict creates a serious concern will depend on the circumstances and what steps have been taken

to mitigate the risks, for example, by following established procedures for declaring and managing a conflict.

- 12** You should:
- a** use your professional judgement to identify when conflicts of interest arise
  - b** avoid conflicts of interest wherever possible
  - c** declare any conflict to anyone affected, formally and as early as possible, in line with the policies of your employer or the organisation contracting your services
  - d** get advice about the implications of any potential conflict of interest
  - e** make sure that the conflict does not affect your decisions about patient care.
- 13** If you are in doubt about whether there is a conflict of interest, act as though there is.

## Decisions about patient care

- 14** If you, or someone close to you, or your employer, has a financial or commercial interest in an organisation providing healthcare such as:
- a pharmaceutical or medical devices company
  - a nursing or care home
  - a pharmacy or dispensary

you must not allow that interest to affect the way you prescribe for, advise, treat, refer or commission services for patients. You must be open and honest with your patients about any such interests that could be seen to affect the way you prescribe for, advise, treat, refer or commission services for them.

\* The acceptance of gifts by general practitioners in all four UK countries is subject to statutory regulation. General Medical Services contract regulations state that a register should be kept of gifts from patients or their relatives which have a value of £100 or more unless the gift is unconnected with the provision of services. The register of gifts should include the donor's name and nature of the gift. NHS trusts set their own policies on gifts.

- 15** You must not try to influence patients' choice of healthcare services to benefit you, someone close to you, or your employer. If your organisation dispenses medicines, you must not allow your financial or commercial interests to affect the way you prescribe.
- 16** You must not ask for or accept any inducement, gift or hospitality that may affect or be seen to affect the way you prescribe for, advise, treat refer or commission services for patients. You must not offer such inducements to colleagues.\*
- 17** If you plan to refer a patient for investigation, treatment or care at an organisation in which you have a financial or commercial interest, you must tell the patient about that interest and make a note of this in the patient's medical record.
- 18** Where there is an unavoidable conflict of interest about the care of a particular patient, you should record this in the patient's medical record.

## Commissioning services

- 19** The commissioning of services in the NHS can lead to conflicts of interest for the individual doctors involved. If you have responsibility for, or are involved in, commissioning services, you must:
- a** satisfy yourself that all decisions made are fair, transparent and comply with the law
  - b** keep up to date with and follow the guidance and codes of practice<sup>†</sup> that govern the commissioning of services where you work
  - c** formally declare any financial interest that you, or someone close to you, or your employer has in a provider company, in accordance with the governance arrangements in the jurisdiction where you work

- d** take steps to manage any conflict between your duties as a doctor and your commissioning responsibilities, for example by excluding yourself from the decision making process and any subsequent monitoring arrangements.

## Incentives and inducements

### Target payments and health service financial incentives

- 20** Preventative health measures, such as immunisation of children and screening for cervical cancer, have clear benefits for both individual patients and society, as do health monitoring schemes such as those encouraged through the Quality and Outcomes Framework. Target payments are used to encourage general practitioners to increase the number of patients involved. Although you may wish to recommend treatments and invite patients to participate in assessments, you must not put pressure on patients to participate because of the financial benefits for you.
- 21** Health service financial incentives and similar schemes to improve the cost-effective use of medicines have a legitimate role to play in helping to make good use of available resources. Such schemes can also benefit the wider community of patients. But you must consider the safety and needs of the individual patient for whom you prescribe. In particular, you should do the following.
- a** Consider the benefits and risks to the patient whenever you consider changing the patient's medicine for reasons of cost. One risk, for example, is that patients' adherence to medicines can be harmed by frequent switching.

\* The promotion of medicines is controlled by a combination of statutory measures (with both criminal and civil sanctions) enforced by the Medicines and Healthcare products Regulatory Agency and self-regulation: the Prescription Medicines Code of Practice Authority is responsible for administering The Association of the British Pharmaceutical Industry's *Code of Practice*. See also the Association of British Healthcare Industries' *Code of Business Practice* for its members in the medical technology sector.

<sup>†</sup> See *Towards establishment: Creating responsible and accountable CCGs* ([www.commissioningboard.nhs.uk/resources/resources-for-ccgs](http://www.commissioningboard.nhs.uk/resources/resources-for-ccgs)). See also [www.commissioningboard.nhs.uk](http://www.commissioningboard.nhs.uk).

- b Inform patients before changing a medicine and tell them how the medicine should be taken.
- c Consider what information, explanation and support a patient may need if a new suspected side effect of their medicine is found.

**22** You should follow clinical guidelines and raise concerns\* if you have good reason to think that patient safety is or may be seriously compromised by financial incentives and similar schemes.

## Relationships with the pharmaceutical industry

**23** Doctors' relationships with the pharmaceutical industry take many forms, some of which might be seen to influence the way doctors prescribe medicines. You should:

- a follow the guidance in the Medicines and Healthcare products Regulatory Agency's *Blue Guide*
- b consider the advice of the Prescription Medicines Code of Practice Authority (PMCPA).

**24** The PMCPA is responsible for administering the Association of the British Pharmaceutical Industry's (ABPI's) *Code of Practice for the Pharmaceutical Industry*, which covers inducements, hospitality and other issues.†

## Recommending services outside healthcare

**25** Some organisations providing services outside healthcare (such as insurance companies or solicitors) run schemes where payment is offered according to the number of customers referred. Generally, doctors will not have the professional expertise to make recommendations or refer to a particular organisation; their chief interest in such schemes is financial. You should not accept fees for referring patients to, or recommending the services of, particular organisations or individuals.

\* General Medical Council (2013) *Raising and acting on concerns about patient safety* London, GMC.

† See the ABPI's *Code of Practice for the Pharmaceutical Industry* and the PMCPA's *Guidance Notes for Health Professionals*.