April 2015

Dear Doctor

Conflicts of interest: new legal requirements

I am writing to alert you to an Order from the Competition and Markets Authority (CMA) that came into force on 6 April 2015. The Order follows a lengthy investigation into the independent healthcare market, which found widespread use of incentive schemes to encourage doctors to treat or refer their patients for tests at particular facilities.

The CMA Order, which is in line with GMC guidance, states that:

*a referring clinician is prohibited from requesting, agreeing to receive or accepting any direct incentive from, or any obligation from, a private hospital operator to give preference to the facilities of that private hospital operator when treating patients or referring patients for treatment or tests.*

The CMA also found that some patients did not receive clear and timely information about fees. GMC guidance on Financial and commercial arrangements and conflicts of interest is unequivocal on this: doctors must be honest and open in any financial arrangements with patients, and doctors who charge fees must tell patients about their fees, if possible before seeking their consent to treatment. We are obviously concerned that some doctors may not be following this guidance.

If you think the Order could affect your practice, you may want to read it in full and consult the further briefing on our website. If you are concerned in any way, you may also want to discuss it with your defence organisation.

Over the next week we will be emailing licensed doctors throughout the UK on this issue. I will also be contacting the chief executives of organisations that operate independent hospitals or private patient units to ask them not to put doctors in a position where they risk breaching Good medical practice. We will expect hospitals
to inform us about incentive schemes that raise questions about compliance with our guidance.

Any scheme which gives a doctor a financial incentive that could affect their clinical judgement or referral recommendations is unacceptable. Wherever possible doctors should avoid conflicts of interest but where there is a conflict, it should be declared to anyone affected, formally and as early as possible. If in doubt about whether there is a conflict of interest, the advice is to act as though there is.

If you have any comments or queries about this issue, you can call our Contact Centre on 0161 923 6602 or send me an email via niall.dickson@gmc-uk.org. At the end of this email, I have included a comprehensive list of our guidance and supporting resources which I hope you will find helpful.

Best wishes,

Niall Dickson
Chief Executive and Registrar
Guidance

Core booklets

- Good medical practice (2013)
- Confidentiality (2009)
- Consent: patients and doctors making decisions together (2008)
- 0-18 years: guidance for all doctors (2007)
- Protecting children and young people: the responsibilities of all doctors (2012)
- Treatment and care towards the end of life (2010)
- Leadership and management for all doctors (2012)
- Raising and acting on concerns about patient safety (2012)
- Openness and honesty when things go wrong: the professional duty of candour (2014 draft joint guidance with NMC)

Explanatory guidance online publications

- Accountability in multi-disciplinary and multi-agency mental health teams (2005)
- Acting as a witness in legal proceedings (2013)
- Confidentiality: disclosing information for education and training purposes (2009)
- Confidentiality: disclosing information for insurance, employment and similar purposes (2009)
- Confidentiality: disclosing records for financial and administrative purposes (2009)
- Confidentiality: disclosing information about serious communicable diseases (2009)
- Confidentiality: reporting concerns about patients to the DVLA or the DVA (2009)
Confidentiality: reporting gunshot and knife wounds (2009)
Confidentiality: responding to criticism in the press (2009)
Consent to research (2010)
Delegation and referral (2013)
Doctors' use of social media (2013)
Ending your professional relationship with a patient (2013)
Financial and commercial arrangements and conflicts of interest (2013)
Good practice in prescribing and managing medicines and devices (2013)
Good practice in research (2010)
Guidance for doctors acting as responsible consultants or clinicians (2014)
Maintaining boundaries: Intimate examinations and chaperones (2013)
Maintaining boundaries: Maintaining a professional boundary between you and your patient (2013)
Maintaining boundaries: Sexual behaviour and your duty to report (2013)
Making and using visual and audio recordings of patients (2011)
Personal beliefs and medical practice (2013)
Reporting criminal and regulatory proceedings within and outside the UK (2013)
When a patient seeks advice or information about assistance to die (2013)
Writing references (2012)

Toolkits and resources
What to expect from your doctor: a guide for patients (2013)

Good medical practice in action brings the guidance to life with over 60 scenarios

Raising and acting on concerns about patient safety decision making tool

Interactive resources on better care for older people
Better care for people with learning disabilities – www.gmc-uk.org/learningdisabilities