

APPENDIX 2  
(referred to in paragraph 2.1)

**The reference**

1. On 24 May 1988 the Director General of Fair Trading sent to the Commission the following reference:

The Director General of Fair Trading in exercise of his powers under sections 47(1) and (2), 49(1) and 50(1) of the Fair Trading Act 1973 (hereinafter called 'the Act'), hereby refers to the Monopolies and Mergers Commission the matter of the existence or possible existence of a monopoly situation in relation to the supply within the United Kingdom of the services of medical practitioners in their capacity as such.

The Commission shall investigate and report on the questions whether a monopoly situation exists in relation to such supply and, if so:

- (a) by virtue of which provisions of section 7 of the Act that monopoly situation is to be taken to exist;
- (b) in favour of what person or persons that monopoly situation exists;
- (c) whether any steps (by way of uncompetitive practices or otherwise) are being taken by that person or those persons for the purpose of exploiting or maintaining the monopoly situation and, if so, by what uncompetitive practices or in what other way;
- (d) whether any action or omission on the part of that person or those persons is attributable to the existence of the monopoly situation and, if so, what action or omission and in what way it is so attributable; and
- (e) whether any facts found by the Commission in pursuance of their investigations under the preceding provisions of this paragraph operate, or may be expected to operate, against the public interest.

In this reference 'medical practitioners' means persons on the two registers described in section 2(2) of the Medical Act 1983.

The Commission shall for the purpose of this reference limit consideration to agreements and practices relating to the advertising by medical practitioners of their services, whereby they conduct their affairs as mentioned in section 7(2) of the Act.

The Commission shall report on this reference within a period of nine months from the date hereof.

24 May 1988

*(signed)* GORDON BORRIE  
*Director General of Fair Trading*

2. On 24 May 1988 the Chairman of the Commission, acting under section 4 of the Fair Trading Act 1973 and Part II of Schedule 3 thereto, directed that the functions of the Commission in relation to the reference should be discharged through a group consisting of six members of the Commission, including himself as Chairman. The composition of the group is indicated in the list of members which prefaces this report.

3. Notices inviting evidence were placed in:

*Lancet*  
*British Medical Journal*

4. We received evidence from the Department of Health, a number of professional bodies and associations, from individual doctors and from several other sources.

5. We provisionally concluded that a complex monopoly situation existed and that the observance of the guidance of the General Medical Council, the British Medical Association and the Royal College of General Practitioners contributed to the establishment of the monopoly situation. We subsequently informed the bodies concerned of the provisional conclusion. All were given an outline of the points which required consideration when assessing the effect of the monopoly situation on the public interest. We invited them to make written representations, and the General Medical Council and the British Medical Association attended hearings.

6. We thank all those who helped us with our inquiry, and in particular, the General Medical Council, the British Medical Association and the Department of Health.

APPENDIX 3  
(referred to in paragraph 3.18)

**Main elements of rules of selected professions governing advertising and publicity**

<i>Signs, nameplates, stationery, etc</i>	<i>Permitted media</i>	<i>Touting/canvassing/supplanting</i>	<i>General content</i>	<i>Fees</i>	<i>Claims of superiority</i>	<i>Specialisms</i>	<i>Derogation from dignity of profession</i>
<b>The Law Society</b> Various specified restrictions	No unsolicited visits or telephone calls, with specified exceptions		Publicity to be legal, not inaccurate or misleading, in good taste and to conform with BCAP	Fee statements allowed with specified exceptions. No direct comparison with or direct criticism of fees of any other identifiable solicitor or solicitors	No comparison with or criticism of quality of service provided by any identifiable solicitor or solicitors. No reference to success rate	Publicity about particular fields of work allowed only if in fact able to handle such work. Factual claims of experience in particular fields allowed. Claims for specialisation or expertise in particular fields allowed only if member of relevant Law Society panel or possesses qualification recognised by Law Society for this purpose	When obtaining or attempting to obtain instructions, must do nothing which in any manner compromises or impairs or is likely to impair the good repute of the solicitor or of his profession
<b>The Law Society of Scotland</b>	'In any way he thinks fit'	Touting and canvassing prohibited	No inaccuracy or misleading statements	No fee comparison with others	No claim of superiority over others in quality of practice or services		No to be by such means or of such a character as may reasonably be regarded as bringing the profession into disrepute
<b>The Institute of Chartered Accountants in England and Wales</b> General requirement for professional dignity and good taste	Advertising in any medium permitted	No unsolicited telephone calls or visits	Regard for ASA standards	No fee comparison or quote. Free consultations over fees may be offered	No claim of superiority and no belittling	Specialisms may be advertised	Not to obtain or seek work in an unprofessional manner
<b>General Dental Council</b>	No unsolicited telephone calls	Touting and canvassing prohibited	Legal, decent and truthful, with regard for professional propriety. Claims must be capable of substantiation. No flamboyant grandiose or misleading descriptions of any services	Fee quote allowed	No claim of superiority	No indication of specialist expertise. Mention of particular types of treatment allowed	Not to be of such a character that could reasonably be regarded as likely to bring the profession into disrepute
<b>The Chiropodists Board</b> To be dignified and professionally restrained in character	Written and audio visual allowed		To be headed State Registered Chiropodist. No other material to be larger or more prominently displayed than the heading. Accurate and restrained. Should not be false, fraudulent, misleading, deceptive, self-laudatory, unfair or sensational		No explicit claims for superiority in personal skills, equipment or facilities		
<b>The British Chiropody Society</b>		Canvassing/soliciting/supplanting prohibited	BCAP or IBA Code	Can be quoted above a set minimum			

## Main elements of rules of selected professions governing advertising and publicity (*continued*)

<i>Signs, nameplates, stationery, etc</i>	<i>Permitted media</i>	<i>Touting/canvassing/supplanting</i>	<i>General content</i>	<i>Fees</i>	<i>Claims of superiority</i>	<i>Specialisms</i>	<i>Derogation from dignity of profession</i>
<b>The Society of Chiropractors</b> Name plates etc, to be of a professional character, dignified and restrained	Not to take advantage of right to submit or comment upon copy in the press as a means of advertising. Also applies to press interviews. Size of announcements of practice regulated		BCAP, dignified and restrained in character		No deprecation of professional skill, knowledge, services or qualifications of other members for the purpose of obtaining patients or work		
<b>General Optical Council</b>			Claims must be capable of substantiation, legal, decent, honest and truthful		No claims of superiority and no reference to efficiency or facilities of others		Not to be of such a character that could reasonably be regarded as likely to bring the profession of ophthalmic optician or of dispensing optician into disrepute
<b>The Physiotherapists Board</b> Signs should be accurate and professionally restrained	Unrestricted		Should not be false, fraudulent, misleading, deceptive, self-laudatory, unfair or sensational		No explicit claims of superiority in personal skills, equipment or facilities		
<b>Chartered Society of Physiotherapy</b>	No unsolicited personal or telephone calls	Forbidden	Accurate and professionally restrained. Not to be false, fraudulent, misleading, deceptive, self-laudatory, unfair or sensational		No explicit claims of superiority		To adhere at all times to personal and professional standards which reflect credit on the profession
<b>The Institution of Structural Engineers</b> According to conditions set out in guidelines on site sign-boards and use of the Institution's logo	Advertisements in newspapers, journals, and directories, radios and TV allowed. Text limited to the name of the member and his firm, address and telephone number, with a brief description of the services offered. Format should be 'discreet'. Free to contribute to items in the press, radio and television to give information of help or interest to the public	Can send letters to persons or organisations who may have an interest in receiving the information	Must be factual and not misleading. 'Freedom to inform that is helpful to the public, while upholding the professional dignity of a member as an engineer'		No extravagant or self-laudatory language. Not to be unfair to other members or other professions. Must not imply that the services offered may be obtained only from that member or that they are better than those offered by others	May state qualifications of members of a firm or partnership and give description of the services available	Employed members must use their 'best endeavours' to ensure that their employers do not in any advertising or approach to clients compromise their professional standing

## Main elements of rules of selected professions governing advertising and publicity *(continued)*

<i>Signs, nameplates, stationery, etc</i>	<i>Permitted media</i>	<i>Touting/canvassing/supplanting</i>	<i>General content</i>	<i>Fees</i>	<i>Claims of superiority</i>	<i>Specialisms</i>	<i>Derogation from dignity of profession</i>
<b>The Chartered Institution of Building Services Engineers</b>	Any medium permitted		BCAP or IBA Code		Forbidden		Publicity not to undermine the status of the profession
<b>The Royal College of Veterinary Surgeons</b> To be of a professional character	Radio and TV permitted, subject to general content and dignity of profession considerations	No unsolicited personal calls or mail. No invitations to Open Days to non-clients	Nothing to be included in breach of the law or omitted if the law requires its inclusion. To be honest, truthful and capable of substantiation. Not to be so worded as to abuse trust of lay public or exploit their lack of experience or knowledge of the advertiser, his services or the services of other vets. No to be directly or indirectly aimed at children or young persons. Nothing likely in the light of generally prevailing standards of decency and propriety to cause serious or widespread offence	Not to be quoted. (Reasons related to difficulty of quoting in advance for the services). Availability of preliminary estimate can be advertised	Forbidden. Other vets not to be disparaged	Claims to specialisation forbidden. Additional qualifications can be shown. May not indicate that only one species or class of animal treated. May indicate services principally so provided on condition emergency first aid services for other animals shown	Not to contain any material or be in a form or be published or circulated in a way which would be likely to bring the profession into disrepute. Proper professional tone to be maintained

**General Medical Council: extracts from *Professional Conduct and Discipline: Fitness to Practise***

**Part II: Convictions and forms of professional misconduct which may lead to disciplinary proceedings**

**Self-promotion, canvassing and related professional offences**

58. Patients are entitled to protection from misleading promotional advertising or similarly improper competitive activities among doctors. They are also entitled to expect that doctors will help them to obtain comprehensive advice about their medical problems, including second opinions where appropriate, and guidance on alternative treatments. Failure to respect either of these entitlements can cause anxiety and distress and can erode the trust between doctor and patient on which good medical practice depends.

59. Good communication between doctor and patients, and between one doctor and another, is fundamental to the provision of good patient care, and the ethical dissemination of relevant factual information about doctors and their services is strongly to be encouraged. This facilitates an informed choice by patients seeking medical care, enables doctor's existing patients to be aware of and to make best use of the services available and assists general practitioners in advising their patients on a choice of specialist. It is also helpful for the professional standing of medical authors to be indicated in their books and articles, since this will assist the profession in fulfilling its duty to disseminate information about advances in medical science and therapeutics.

60. The provision of information about medical services provided by a doctor is nevertheless a sensitive matter, in relation to which the conduct of the doctor may be questioned either on ethical grounds or on the grounds that it is incompatible with the principles which govern relationships between members of a profession. The paragraphs below outline three particular areas where such problems may arise.

**The use of promotional material**

61. The medical profession in this country has long accepted the convention that doctors should refrain from self-promotion, not least because the doctor who is most successful at achieving publicity may not be the most appropriate for a patient to consult. Furthermore, people seeking medical attention, and their families, are often particularly vulnerable to persuasive influence. In such circumstances, the use of promotional advertising is not only a breach of professional etiquette but could be a source of danger to the public, in extreme cases raising illusory hopes of a cure.

62. Doctors have a duty to be satisfied, if they are aware that material about them is to be published, that it will conform, both in its content and in the manner of its presentation, with the standards set out in this pamphlet. A professional offence may arise from the publication in any form of material commending the professional attainments or personal qualities of a particular doctor, or improperly drawing attention to his practice, if that doctor has either personally arranged for such publication or has instigated, sanctioned or acquiesced in its publication by others. The decision whether publication of this kind of material amounts to serious professional misconduct will take account of the motive of the doctor concerned in arranging for or agreeing to publication, and also of the other circumstances of each case such as:

- (a) the nature, content and presentation of the material;
- (b) whether the material seeks to suggest that the doctor has particular abilities as compared with other doctors;

- (c) whether the material is published in a manner likely to attract patients to, or to promote the professional advantage or financial benefit of the doctor;
- (d) whether the material is likely to encourage patients to refer themselves directly to a particular doctor or organisation, without first consulting their general practitioners; or
- (e) in the case of doctors working for or accepting patients from private organisations which advertise clinical, diagnostic or medical advisory services, whether the doctor observes the guidance given in paragraphs 97–100 of this pamphlet.

**Canvassing and other improper arrangements to extend a doctor's practice**

63. Canvassing by a doctor for the purpose of obtaining patients, whether the doctor does this directly or through an agent or is associated with or employed by persons or organisations which canvass, is unethical and may lead to a charge of serious professional misconduct. The distribution of advertising material to members of the public, or advertising in the press or other media, with the intention of attracting prospective patients to a particular doctor or service, may be construed as canvassing on the part of the doctor or doctors to whose practice patients may be referred, or refer themselves, as a result of such canvassing.

64. Disciplinary proceedings may also result from other improper arrangements calculated to extend, or otherwise benefit, a doctor's practice, whether in relation to the provision of specialist services or in general practice. These include, for example, pressure by a specialist to persuade a patient to accept private treatment by reliance upon representations about the comparative availability of treatment under the National Health Service and privately. Improper arrangements made for the transfer of patients to a general practitioner's National Health Service list without the knowledge and consent of the patient, or in a manner contrary to the National Health Service regulations, and arrangements whereby a general practitioner issues National Health Service prescriptions to a patient whom he or another member of his practice is treating privately, have in the past led to disciplinary proceedings.

**Disparagement of professional colleagues**

65. It is improper for a doctor to disparage, whether directly or by implication, the professional skill, knowledge, qualifications or services of any other doctor, irrespective of whether this may result in his own professional advantage, and such disparagement may raise a question of serious professional misconduct.

66. It is however entirely proper for a doctor, having carefully considered the advice and treatment offered to a patient by a colleague, in good faith to express a different opinion and to advise and assist the patient to seek an alternative source of medical care. The doctor must however always be able to justify such action as being in the patient's best medical interests.

67. Furthermore, a doctor has a duty, where the circumstances so warrant, to inform an appropriate body about a professional colleague whose behaviour may have raised a question of serious professional misconduct, or whose fitness to practise may be seriously impaired by reason of a physical or mental condition. Similarly, a doctor may also comment on the professional performance of a colleague in respect of whom he acts as a referee.

## Conclusion

### **The nature of serious professional misconduct**

68. As stated in paragraph 32 of this pamphlet the question whether any particular course of conduct amounts to serious professional misconduct is a matter which falls to be determined by the Professional Conduct Committee after considering the evidence in each individual case. This applies equally to the categories of misconduct described in Part II and to the situations contemplated in Part III. Further, it must be emphasised that the categories of misconduct described in Part II cannot be regarded as exhaustive. Any abuse by a doctor of any of the privileges and the opportunities afforded to him, or any grave dereliction of professional duty or serious breach of medical ethics, may give rise to a charge of serious professional misconduct.

### **Part III: Advice on standards of professional conduct and on medical ethics**

#### **Principles governing the reference of patients to, and their acceptance by, doctors providing specialist services**

### **Reference of patients to specialists**

89. The medical profession in this country has always considered that it is in the best interests of patients for one doctor to be fully informed about and responsible for the comprehensive management of a patient's medical care, but increasing specialisation within medicine has led members of the public to an awareness of high standards of expertise and often to seek direct access to these. In this situation general practitioners have a double duty – to educate their patients to an understanding of the central position of their primary role, and also to consider carefully any request by a patient for a specialist opinion even if the general practitioner is not convinced that such consultation is essential. In order to continue to fulfil their central role, general practitioners must have information about the range of specialist expertise which other doctors are qualified and available to provide, especially in their locality.

### **Acceptance of patients by specialists**

90. Although an individual patient is free to seek to consult any doctor, the Council wishes to affirm its view that, in the interests of the generality of patients, a specialist should not usually accept a patient without reference from the patient's general practitioner. If a specialist does decide to accept a patient without such reference, the specialist has a duty immediately to inform the general practitioner of his findings and recommendations before embarking on treatment, except in emergency, unless the patient expressly withholds consent or has no general practitioner. In such cases the specialist must be responsible for the patient's subsequent care until another doctor has agreed to take over that responsibility.

91. In expressing this view the Council recognises and accepts that in some areas of practice specialist and hospital clinics customarily accept patients referred by sources other than their general practitioners. In these circumstances the specialist still has the duty to keep the general practitioner informed.

### **Self-promotion: circumstances in which difficulties most commonly arise**

92. Paragraphs 58-62 of this pamphlet draw a distinction between the proper provision of factual information about doctor's services to which no exception can be taken, and activities amounting to self-promotion, which may raise a question of serious professional misconduct. The following paragraphs discuss various circumstances in which difficulties may arise if that distinction is not carefully observed.

**Notices or  
announcements by or  
about doctors**

93. In order to make an informed choice of general practitioner, prospective patients need to have ready access to accurate, comprehensive and well-presented information about the doctors practising in their area. Lists of such practitioners, including factual information about the practitioners and their qualifications, the facilities available and practice arrangements in each case, should be distributed widely for the benefit of members of the public, making full use of public libraries, community health councils and other centres of local information. Any such material should however be published by an impartial body which stands to gain no financial advantage. As far as is practicable, material published in this way should provide the same items of information about each doctor and practice and, where the material is published by a body other than a Family Practitioner Committee or the Primary Care Division of a Health Board, every general practitioner in the relevant area, whether practising in the National Health Service or independently, should be eligible for inclusion in such a list.

94. Notices or announcements displayed, circulated or otherwise made public by or on behalf of a doctor in connection with his professional practice must be confined to factual information of a non-promotional nature. Apart from the general requirement that any advertising must contain only material which is 'legal, decent, honest and truthful', doctors must in addition scrupulously avoid including in literature or notices statements which could be regarded as in any way misleading or as disparaging the medical services which other doctors provide. It is acceptable for general practitioners to inform patients of their services and practice arrangements, provided that the material circulated makes no claim as to the quality of the service or the doctor's personal qualities or level of performance. Such material may be made available at doctors' surgeries, local libraries and other information centres, for issue individually to a doctor's existing patients or to persons inquiring about the doctor's practice or the services available, but should not be distributed to other persons or be released in bulk to inquirers. Any attempt by a doctor or his agent to use the circulation of such material to gain an advantage over local colleagues, or to canvass their patients, may well raise a question of serious professional misconduct.

95. Similarly, it is proper for hospitals, clinics and nursing homes to advise general practitioners of the services they offer and to provide factual information along the same lines as those set out above in relation to general practice. Specialists may also notify professional colleagues of their services when they set up in practice or alter their practice address, provided that they avoid self-promotion and confine themselves to material which conforms to the general standards described in paragraph 94 above.

96. Doctors' nameplates and other signs should present sufficient information to notify the public of the existence of a practice and the location of its premises. They should be of a size, colour and form appropriate to the nature of the area and of the precise location of the practice premises, but should not be used to draw public attention to the services of one practice at the expense of others. In cases of doubt, the Local Medical Committee should be consulted. Where a Health Authority or Board proposes to erect signs directing the way to a health centre, the doctors concerned must satisfy themselves that the guidelines set out above have been adequately observed. In selecting a name for a health centre or medical centre, or indeed a collective title for a group or partnership, it is desirable to avoid a name which could be interpreted as implying that services to be provided have received some official recognition not extended to other doctors, or that the doctors using the centre or practising in the partnership enjoy some special status in a particular area.

**Relationships between  
doctors and organisations  
providing clinical,  
diagnostic or medical  
advisory services**

97. Any doctor connected with an independent organisation offering or advertising medical services, such as a private hospital, clinic, screening centre, nursing home, advisory bureau or agency, has a duty to satisfy himself that the organisation conforms with the principles stated in the following paragraphs, whether or not the owners or directors of the organisation are themselves

medical persons. This applies to any doctor who has a financial interest in such an organisation, or is concerned with its management, or is employed by it to perform clinical services. It also applies to a doctor who accepts for examination or treatment patients referred by any such organisation to him or to the organisation by which he is employed.

98. Doctors in relationships with such organisations must satisfy themselves, before entering into or maintaining a connection with an organisation, that its advertisements are factual, do not promote the personal qualities or services of individual doctors connected with it and do not make invidious comparisons with the services of the National Health Service, or of other organisations or doctors, and that the organisation discourages patients from approaching it without first consulting their own general practitioners. They must also be satisfied that patients referred to them are not likely to be attracted by misleading or promotional advertisements issued by the organisation or by any counselling centres or other agents or agencies, and that no commission or other payment has been made on behalf of the organisation for the referral of such patients.

99. Doctors should avoid personal involvement in promoting the services of such an organisation, for example by public speaking, broadcasting, writing articles or signing circulars, and should not permit the use of their professional qualifications in the organisation's promotional activities. Nor should they allow their personal address or telephone number to be used as an inquiry point on behalf of the organisation.

100. A doctor working for any such organisation which provides specialist services must also satisfy himself that the guidance set out in paragraphs 89-91 above, about the referral of patients to and acceptance of patients by specialists, is fully observed at all times.

**Public references to doctors  
by other companies or  
organisations**

101. The name of a doctor who is a director of a company may be shown on the company's notepaper, where that is a statutory requirement. But problems can arise if reports, notices or notepaper issued by a company or organisation with which a doctor is associated, or by which he is employed, draw attention to his attainments in a way likely to promote his professional advantage. Doctors should accordingly take steps to avoid the publication of such references, whether or not the business of their company is connected with medical practice.

**Articles, books and  
broadcasting by doctors**

102. Publicity in newspapers or books, or on the radio or television drawing attention to a practitioner's name, qualifications, appointments or publications, has frequently attracted uninformed criticism of the doctor concerned, but in most instances has appeared on examination to be harmless. A doctor who writes a book or article may properly mention his own name as author. Similarly, doctors possessing the necessary knowledge and skill may participate in the presentation and discussion of medical and related topics through the media, provided that no information about a doctor's professional standing is presented in such a way as to imply that he is the only, the best or the most experienced person practising in his particular field. It may be appropriate to mention in the relevant context a doctor's name, his current appointment and whichever qualification held by him is most appropriate to a question at issue, and references to publications by the doctor, whether forthcoming or past, should be factual.

103. Difficulties in this area arise chiefly when material included in broadcasts, articles or books by doctors, or the manner in which such activities are introduced, accompanied or advertised, draws attention to the doctor's unique attainments and abilities. A doctor who is identified in a television programme can easily lapse into a description of his own clinical practice which can be construed as self-promotion or as disparagement of professional colleagues. Such problems are more likely to be avoided in television or radio

programmes if the doctor remains anonymous on occasions when he is likely to refer to his personal management of individual clinical matters.

104. Problems also arise in relation to the few doctors in clinical practice who regularly write, in magazines or journals addressed to the public, articles or columns offering advice on common medical conditions or problems, or who are involved in a regular series of television or radio programmes dealing with such matters. In such circumstances it should be stated explicitly that they cannot offer individual advice or see patients as a result of the article or programme.

**Financial relationships  
between doctors and  
independent organisations  
providing clinical,  
diagnostic or medical  
advisory services**

105. A doctor who recommends that a patient should attend at, or be admitted to, any private hospital, nursing home or similar institution, whether for treatment by the doctor himself or by another person, must do so only in such a way as will best serve, and will be seen best to serve, the medical interests of the patient. Doctors should therefore avoid accepting any financial or other inducement from such an institution which might compromise, or be regarded by others as likely to compromise, the independent exercise of their professional judgment. Where a doctor has a financial interest in an organisation to which he proposes to refer a patient for admission or treatment, whether by reason of a capital investment or a remunerative position, he should always disclose that he has such an interest before making the referral.

106. The seeking or acceptance by a doctor from such an institution of any inducement for the referral of patients to the institution, such as free or subsidised consulting premises or secretarial assistance, may be regarded as improper. Similarly the offering of such inducements to colleagues by doctors who manage or direct such institutions may be regarded as improper.

**British Medical Association: extracts from  
*Philosophy and Practice of Medical Ethics***

**2. The social contract: Autonomy and paternalism**

**Referral** As stated earlier, the practice of medicine is based on the concept of one doctor, the general practitioner, taking charge of the overall management of a patient's health care. Clearly this doctor cannot have the specialised skills to treat every condition presented by a patient any more than a specialist would have all the skills of a general practitioner. The general practitioner therefore has a responsibility to obtain information about appropriate specialist services and, if necessary, refer a patient. As co-ordinator, the general practitioner is able to build up a record of referrals and draw inferences which may not otherwise have been apparent. Letters of referral to a colleague and requests for specialist diagnostic investigations should therefore refer to any aspects of the patient's history which, though not immediately relevant to the subject of referral, might be important in any action by the specialist.

**Referral to another medical practitioner** The method of referral from a general practitioner to a consultant or specialist has evolved in the patient's interest. The GMC, in its booklet, 'Professional Conduct and Discipline: Fitness to Practise (April 1987)', states:

**ACCEPTANCE OF PATIENTS BY SPECIALISTS**

Although an individual patient is free to seek to consult any doctor, the Council wishes to affirm its view that, in the interests of the generality of patients, a specialist should not usually accept a patient without reference from the patient's general practitioner. If a specialist does decide to accept a patient without such reference, the specialist has the duty immediately to inform the general practitioner of his findings and recommendations before embarking on treatment, except in emergency, unless the patient expressly withholds consent or has no general practitioner. In such cases the specialist must be responsible for the patient's subsequent care until another doctor has agreed to take over that responsibility. In expressing this view the Council recognises and accepts that in some areas of practice specialist and hospital clinics customarily accept patients referred by sources other than their general practitioners. In these circumstances the specialist still has the duty to keep the general practitioner informed.

A doctor in consultant or specialist practice should not accept a patient without reference from a general practitioner except in the following circumstances:

- (a) In an emergency.
- (b) If he is asked for a confirmatory opinion or specialist opinion on a different aspect of the case by the specialist to whom the patient has been properly referred.
- (c) If reference back to the general practitioner would produce delay seriously detrimental to the patient. The specialist should inform the general practitioner as soon as possible of the action he has taken and the reasons for it.
- (d) If referred by doctors in the school or other community child services, but only after the general practitioner has been given the opportunity to refer the child himself.
- (e) If it is for a consultation in sexually transmitted disease.
- (f) If enquiry indicates that the consultation is for a refraction examination only.

- (g) If a patient is formally referred by a physician from outside the United Kingdom.
- (h) If the patient is seeking contraceptive advice and treatment and is unwilling to consult her own general practitioner about contraception, or she states that her own general practitioner does not provide contraceptive services. At the time the advice and treatment is sought it should be explained to the patient that it is in her own best interests that her general practitioner be informed that contraception has been prescribed and of any medical condition discovered which requires investigation or treatment. Every attempt should be made to obtain permission to contact the general practitioner before prescription or fitting of a contraceptive device. This is particularly important if the patient is at the same time under the active clinical care of her own general practitioner or that of another doctor.
- (i) If the patient is seeking therapeutic abortion and is unwilling to consult her own general practitioner or, having done so, is unable to secure his agreement to refer her to another doctor. It should be explained to the patient that it is in her own best interest that her general practitioner be informed of the treatment or advice given. Every attempt should be made to obtain the patient's permission for this.

A medical practitioner may have special skills; he may use acupuncture or hypnosis as part of his treatment. The use of these skills in relation to a patient for whom he is not the usual medical practitioner is practice analogous to that of a specialist. If he accepts a patient without reference from a general practitioner other than in the circumstances outlined, he must observe the GMC guidance set out above.

### **9. The Doctor and the Media**

Increasing public interest in health matters has brought doctors more and more into contact with the news media. It is therefore essential that doctors should be aware of the ethics of dealing with the media.

Those doctors able to comment authoritatively on medical subjects should be prepared to do so in order that the public may be informed. Those doctors able to help the public with information should regard talking to the media as an extension of their medical practice. They must, however, ensure that they observe the basic ethical guidance in relation to advertising.

A doctor has the responsibility to ensure that when a subject under discussion is controversial within the medical profession, the producer or editor is made aware of that fact.

It is unacceptable for a doctor publicly to discuss his own ability in a particular field in such a way as to imply that his methods are superior to those of other doctors.

If a doctor receives an individual medical enquiry following a report in the media he may acknowledge the enquiry, but should refer the patient to his usual medical practitioner.

#### **Identification of the Doctor**

It is acceptable for the doctor's identity to be revealed in the following circumstances:

- when it does not add to his professional stature;
- when it is in the public interest, such as an announcement by a community physician about an outbreak of a communicable disease;
- when he is speaking on behalf of an identifiable section of the profession;
- when using media primarily aimed at doctors.

A doctor may use his own name in connection with subjects other than medicine.

When discussing a medical subject in the lay press, or on radio or television, he may be named only if he confines himself to general terms, avoiding discussion of identifiable individual cases.

Doctors making statements on behalf of known organisations may be named when this is in the public interest. However, a doctor must not exploit the media to promote any organisation in which he has a financial interest.

A doctor contributing his professional or clinical views in the media should make clear any economic interest he may have in the subject.

### **11. Establishing a Practice**

**General Practice** A doctor may set up in NHS general practice by appointment to a partnership, or to a single-handed practice vacancy. Under NHS regulations the sale of goodwill is illegal, but private practitioners may purchase the goodwill of an existing practice. In either case, a doctor may establish a new practice in certain circumstances.

A general practitioner notifying patients of a change of address, or surgery hours, may send a sealed letter to patients of the practice. A suitable notice may be displayed on his premises. It is not normal practice to use the media except to place a brief notice in the local press stating the change of address, and only then if all the practitioners in the area agree. Information in any such announcement should be limited to the practitioner's name, medical qualifications, and brief details of address, hours and telephone numbers.

**Specialist Practice** A doctor establishing any form of specialist practice, changing his area of practice or altering his practice arrangements must not make a public announcement. He may notify those practitioners whom he might normally expect to be interested by sending a sealed letter listing his speciality, name, address and telephone number.

Further notices may be sent out only if these arrangements are changed.

**Premises: General Practice** Although the sharing of premises with members of allied professions (including those supplementary to medicine) has been discouraged in the past, advances, changes in practice and altered expectations of patients have contributed to a closer integration of services in the interests of patients.

Reference has been made elsewhere to the importance of the patient's autonomy and freedom of choice. This must be reflected in the choice practitioners make in the location and arrangement of their premises. Some may be located in large buildings. In these circumstances the sharing of facilities with organisations providing extensive commercial public use is discouraged, and practices should ensure that access to the practice team can be made via a separate entrance.

While it is important that patients should know the locations of general practitioners' premises, it is essential that door plates, notices and signposts should inform rather than advertise. The following criteria must be observed:

- a sign or plate should be unostentatious in size and form;
- details should be restricted to the doctor's name, qualifications, and surgery hours;
- it is acceptable to use languages commonly spoken in the area;
- signs should be limited to the minimum number required;
- notices should not seek to emphasise the existence of one practice at the expense of another.

In selecting the name for a health centre or medical centre, or the collective title for a partnership or association of doctors, the guidance of the GMC should be borne in mind that it is undesirable that any name chosen should carry an implication that the premises have received recognition denied to other practices locally. This is important for doctors establishing practice in premises owned by a health authority.

**Premises: Specialist Practice** The sharing of premises between doctors, whether of similar or different specialties, is acceptable. However, caution is required in any arrangements

that could be misinterpreted. The general practitioner should remember that patients' freedom of choice should not be compromised by any suggestion of direction, whether implicit or explicit. In particular, general practitioners should not normally share premises with those in specialist practice.

### **Advertising and Publicity**

It is a long-held ethical principle that the medical profession should refrain from self-promotion. This is not only incompatible with the criteria governing intra-professional relationships, but could be a source of danger to the public. Similarly, canvassing for the purpose of obtaining patients is unethical.

Patients are entitled to be given accurate information about the medical services available to them. There is a great difference between providing factual details which assist patient choice, and self-promotion. Any entry of a doctor's name in a telephone directory should appear in ordinary small type, never in a special type-face. Doctors' names may also appear in the yellow pages and in any other local registers, providing that these are open to all practitioners in the area concerned, and that no fee is required for the entry.

Information about NHS general practitioners is available from the Medical Lists published by Family Practitioner Committees. Details are listed in a nationally agreed and uniform format.

In addition, there is a welcome trend within general practice to produce 'in-house' practice leaflets. It is good practice for partnerships and practices to provide accurate, non-promotional and factual information about their services. Such literature should not draw attention to the achievements, educational or otherwise, of the doctors or the practice as a whole.

Leaflets may be made available to prospective patients. They may contain the following information:

- the practice address, telephone number and out-of-hours contact;
- the names of all the doctors in the practice;
- appointment and consulting arrangements;
- arrangements for home visit requests;
- emergency arrangements;
- the availability of special clinics;
- the practice area;
- information about the presence of students or trainees, with a reminder about the freedom of choice concerning privacy.

**Commercial** [See also General Medical Council Booklet, 'Professional Conduct and Discipline: Fitness to Practise', Paragraphs 105-106 1987].

A doctor must not involve himself with commerce in such a way that it influences, or may appear to influence, his attitude towards the care of his patients.

Advertising in the lay press of nursing homes and other institutions where medical treatment is not undertaken is a well established and acceptable custom. However, as organisations providing specialist medical care should not, as a rule, accept self-referred patients, it is not necessary for private hospitals and other lay-owned organisations providing such services to advertise to the public.

A doctor involved with any organisation which advertises medical services to the public should satisfy himself that the advertising is accurate and truthful. It is undesirable for practitioners to be associated with organisations that undertake strident campaigns, or which encourage self-referral.

If a doctor has a financial interest involving his possible financial gain in any institution to which he refers a patient, he should disclose this fact to the patient.

If a doctor is asked to write any commentary on a commercial product to any manufacturer, especially one connected with medicine, he must ensure that his name is not used for commercial purposes.

APPENDIX 4.3  
(referred to in paragraph 4.20)

**British Medical Association: *Guidance on the preparation of practice leaflets***

1. The booklets should be available to patients registered with the practice and to prospective patients on direct personal application to the practice.
2. With regard to the size and style of the booklet, the booklet should not be too large. It would be appropriate for the booklet to be printed on coloured card but glossy or sophisticated publications are to be strongly discouraged.
3. Appropriate information for inclusion in the booklet would be as follows:
  - (a) the names of the doctors in the practice, the practice address(es) and telephone number. It would be appropriate for the telephone number to be in bold type and for it to be repeated as necessary throughout the booklet.
  - (b) year of registration
  - (c) an indication of the area covered by the practice
  - (d) a clear statement of the consulting arrangements of the practice, together with the procedure for making an appointment
  - (e) the procedure for accidents and emergencies and requests for home visits
  - (f) information about the times and arrangements for special clinics
  - (g) information with regard to ancillary services staff and other facilities available, if applicable, provided by the practice
  - (h) information regarding access for the disabled to the practice premises
  - (i) reminder to patients with regard to medical cards could also be included
  - (j) information that a trainee may from time to time form part of the practice may also be appropriate

**Practice booklets should not be reproduced without permission.**

**The Royal College of General Practitioners: extracts from  
*Practice Information Booklets***

**Chapter 8, Constraints**

**Introduction** The problem is to tread the narrow line between being factual and unhelpful which stultifies the dialogue with patients and prevents intelligent use of the practice, and being overhelpful which may lead to accusations of advertising by nearby colleagues. The medical profession are traditionally cautious with new innovations, and this field of the provision of information is no exception to the rule. Each practice must decide what level of information that they will provide within the rules laid down by the General Medical Council. The dissemination of this information, within the same rules will best be decided by local convention. The best guide to this will be the Local Medical Committee.

**Discussion** These basic components are not contentious and might be included in all practice booklets with advantage. The interpretation given by various authorities to the distribution of these booklets will depend more on local expectations and traditions than a national policy. The GMC have clearly allowed a very wide distribution of booklets, and have then left each area to decide on the permissible boundaries.

We recommend that doctors printing new practice booklets should obtain advice from their local medical committee if they are uncertain whether the content will cause offence with their colleagues. LMC advice should also be obtained about the distribution of the booklets. It seems likely that each LMC area will develop its own policy, and by mutual agreement avoid controversy.

The most obvious ground rule is to produce booklets which are acceptable to your local colleagues within the rules laid down by the GMC.

APPENDIX 8  
*(referred to in paragraph 8.1)*

**Fair Trading Act 1973: note on complex monopoly situation**

1. Under the provisions of section 7(1)(c) of the Act a 'monopoly situation' exists in relation to the supply of services of any description if at least one-quarter of all the services of a particular description which are supplied in the United Kingdom are supplied by members of one and the same group consisting of two or more such persons as are mentioned in subsection 7(2) of the Act.

2. Section 7(2) provides that the two or more persons referred to in subsection 7(1)(c) in relation to services of any description, are any two or more persons (not being a group of interconnected bodies corporate) who whether voluntarily or not, and whether by agreement or not, so conduct their respective affairs as in any way to prevent, restrict or distort competition in connection with the supply of goods of that description, whether or not they themselves are affected by the competition and whether the competition is between persons by whom or for whom, services are supplied. Such a situation is described by the Act (section 11) as a 'complex monopoly situation'.

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