

Legislative Council Q11

Annex

Extract of paragraphs 14 and 15 of the Professional Code and Conduct issued by the Medical Council of Hong Kong

14. Relationship between doctors and organizations

14.1 Medical services are offered to the public not only by individual doctors but by a wide variety of organizations such as hospitals, screening centres, nursing homes, medical scheme administrators, insurance companies, health administration companies, managed care companies and counselling centres. Such organizations may be providing the medical service itself directly or through middlemen; or may be acting as an agent or a middleman itself. Some of them advertise their services to the public and the principles and rules set out in paragraph 4.2 above [i.e. Principles and rules of good communication and information], concerning the advertising of medical practitioner services, apply also to such advertising.

14.1.1 Doctors who have any kind of financial or professional relationship with such an organization, or who use its facilities, bear responsibility to ensure the organization's advertising conforms to the principles and rules set out in paragraph 4.2 above. This also applies to doctors who accept for examination or treatment patients referred by any such organization. All such doctors must therefore make it their responsibility to acquaint themselves with the nature and content of the organization's advertising, and must exercise due diligence in an effort to ensure that it conforms with this guidance. Should any question be raised about a doctor's conduct in this respect, it will not be sufficient for any explanation to be based on the doctor's lack of awareness of the nature or content of the organization's advertising, or lack of ability to exert any influence over it.

14.1.2 Doctors should also avoid personal involvement in promoting the services of this kind of organization, for example, by public speaking, broadcasting, writing articles or signing circulars, and should not permit the organization's promotional material to claim superiority for their professional qualifications and experience. Nor should they allow their personal address, telephone number, facsimile number or e-mail address to be used as an inquiry point on behalf of an organization. Professional fees should not be mentioned.

14.1.3 A doctor who recommends that a patient should attend at, or be admitted to, any hospital, nursing home, health centre or similar institution, whether for treatment by that doctor or by another person, must do so only in such a way as will best serve, and will be seen to best 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 judgement. Where doctors have a financial interest in an organization to which they propose to refer a patient for admission or treatment, whether by reason of a capital investment or a remunerative position, they should always disclose that they have such an interest before making the referral.

14.2 Contract medicine and managed care

A doctor who is an owner, a director or an employee of, or in a contractual relationship with, an organization which, either directly or indirectly, provides medical services or administers medical schemes, may only continue such association provided that the organization conforms to the following principles :-

14.2.1 The principles on advertising mentioned in paragraph 14.1.1 must be observed.

14.2.2 Doctors should exercise careful scrutiny and judgement of medical contracts and schemes to ensure that they are ethical and in the best interests of patients. Doctors should dissociate themselves from organizations that provide substandard medical services, infringe patients' rights or otherwise contravene the Professional Code and Conduct.

14.2.3 When administrators, agents, brokers, middlemen etc. are involved in a medical contract, information pertaining to the financial arrangements must be readily available to all parties on request.

14.2.4 Medical schemes and contracts often involve administrative costs. Doctors should do their best to ensure that these administrative costs are reasonable. Nevertheless, each doctor is to retain 100% of the professional fees which he charges the patient. Where payment is by credit card, remission/deduction of the amount due to the credit card company is acceptable.

- 14.2.5 Commercial pre-paid capitation schemes (whereby a doctor or a group of doctors undertake certain insurance-type financial risks) which may be incompatible with a high standard of medical practice should not be entered into.
- 14.2.6 Doctors in accepting contracts to provide service should avoid taking on unreasonable financial risk as in the case of low capitated payment. It will be unacceptable for doctors who provide substandard service to use any capitated medical scheme which they joined as their excuse.

15. Improper financial transactions

- 15.1 A doctor may not receive any payment by way of commission, rebate or otherwise from another doctor or organization for referring a patient for consultation or treatment. A doctor may not offer or pay any commission, rebate or otherwise to another doctor, person or organization who refers a patient to him for consultation or treatment.
- 15.2 A doctor shall not share his fees with any other person other than the bona fide partners of that practice.
- 15.3 A doctor shall not receive any rebate from diagnostic laboratories or similar organizations to whom he refers patients.
- 15.4 If a doctor has financial or commercial interests in organizations providing health care or in pharmaceutical or other biomedical companies, these must not affect the way he prescribes for, treats or refers patients.
- 15.5 A doctor, before taking part in discussion with patients or their relatives about buying goods or services, must declare any relevant financial interest or commercial interest which he or his family may have in the purchase.
- 15.6 The seeking or acceptance by a doctor from a hospital, nursing home, health centre or similar institution of any inducement for the referral of patients to the institution, such as free or subsidised consulting premises or secretarial assistance, is considered improper. Similarly the offering of such inducements to colleagues by doctors who manage or direct such institutions may be regarded as improper.

15.7 Sponsorship from commercial organization for participation in scientific meetings, or for educational and charitable services is acceptable provided the amount sponsored is reasonable and not excessive.