Ethical Issues in Private Practice

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THE INTERNATIONAL CODE
OF MEDICAL ETHICS 2008

1. Duty of Physicians in General
   - A physician shall always maintain the highest standards of professional conduct
   - A physician shall not permit motives to influence the free and independent exercise of professional judgment on behalf of patients
   - A physician shall, in all types of medical practice, be dedicated to providing competent medical service in full technical and moral independence, with compassion and respect for human dignity
   - A physician shall deal honestly with patients and colleagues, and strive to expose those doctors deficient in character or competence, or who engage in fraud or deception
The following practices are deemed to be unethical conduct:

- Self-advertising by physicians, unless permitted by the laws of the country and the Code of Ethics of the National Medical Association.
- Paying or receiving any fee or any other consideration solely to procure the referral of a patient or for prescribing or referring a patient to any source.

A physician shall respect the rights of patients, of colleagues, and any of other health professionals, and shall safeguard patient confidences.

A physician shall act only in the patients interest when providing medical care which might have the effect of weakening the physical and mental condition of the patient.

A physician shall use great caution in divulging discoveries of new techniques or treatment through non-professional channels.

A physician shall certify only that which he has personally verified.
2. Duties of Physicians to the Sick

- A physician shall always bear in mind the obligation of preserving human life.
- A physician shall owe his patient complete loyalty and all the resources of his science. Whenever an examination or treatment is beyond the physician’s capacity he should summon another physician who has the necessary ability.
- A physician shall preserve absolutely confidentiality on all he knows about his patient even after the patient has died.
- A physician shall give emergency care as a humanitarian duty unless he is assured that others are willing and able to give such care.
3. Duties of Physicians to each other

- A physician shall behave towards his colleagues as he would have them behave towards him.
- A physician shall not entice patients from his colleagues.
- A physician shall observe the principles of the “Declaration of Geneva” approved by the World Medical Association.
DECLARATION OF GENEVA

- I will give to my teachers the respect and gratitude which is their due;
- I will practice my profession with conscience and dignity;
- The health of my patient will be my first consideration;
- I will respect the secrets which are confided in me, even after the patient has died;
- I will maintain by all means in my power, the honor and the noble traditions of the medical profession;
- My colleagues will be my sisters and brothers;
- I will not permit considerations of age, disease or disability, creed, ethnic origin, gender, nationality, political affiliation, race, sexual orientation, or social standing to interfere between my duty and my patient;
- I will maintain the utmost respect for human life from its beginning even under threat and I will not use any medical knowledge contrary to the laws of humanity;
- I will make these promises solemnly, freely and upon my honor.

- Professional Responsibilities to patients
- Communication in Professional Practice
- Drugs
- Financial Arrangements
- Relationship with Other Practitioners & Organizations
- Abuse of Professional Position
- Complimentary/alternative treatments
PROFESSIONAL RESPONSIBILITIES TO PATIENTS

1. Medical records & Confidentiality
2. Consent to medical treatment
3. Termination of doctor-patient relationship
4. Fitness to practice
Medical Records & Confidentiality

- A formal documentation maintained by a doctor on his patients’ history, physical findings, Investigations, treatment & clinical progress.
- May be handwritten, printed or in e-format; or even sound/video recordings
- Protects the legal interest of the patient and healthcare provider
Medical Records & Confidentiality

- Doctors’ responsibility to maintain true, adequate, clear and contemporaneous medical records
- Any subsequent material alterations to a medical record must be with justifiable reason and clearly documented
- Under Personal Data (Privacy) Ordinance (Cap. 486), patients have the right of access and correction of the information
Medical Records & Confidentiality

- Medical examination & subsequent reporting
  - Information should not be disclosed to third party without patients’ consent
  - Patient has the right of not giving consent to disclose certain parts of his medical information
  - Chaperone is recommended to be present during intimate examinations. Patients’ refusal to have chaperone present should be documented.
Medical Records & Confidentiality

- Handling of medical records upon transfer or cessation of practice
  - Return to the patient
  - Transferring the record to another doctor for continuous care
  - Patients should be informed of such arrangement by:
    - Notifying individually
    - Public announcement in newspaper
    - Displaying notice in the practice premises
Medical Records & Confidentiality

- Disclosure of medical information to third parties
  - Prior consent
  - May be justified without consent:
    - to prevent serious harm to patient or other persons;
    - When disclosure is required by law (e.g. notifiable diseases)
  - If in doubt, consult
Consent to Medical Treatment

- Voluntary & informed
- Normally from patient, may obtain from family members in special situations
- Preferably in writing, though not legally required; except in some specific situations
- Patients always have the right to refuse consent
Termination of Doctor-Patient Relationship

- Doctor may terminate a doctor-patient relationship in the best interest of the patient, e.g. loss of trust; beyond doctor’s competence
- Refer to another doctor
COMMUNICATION IN PROFESSIONAL PRACTICE

- Professional communication & information dissemination
- Health education activities
Professional Communication & Information Dissemination

- Principles & rules
  - Information must be accurate, factual, objective, verifiable, and presented in a balanced manner
  - Must not be exaggerated or misleading, comparative or claim superiority over other doctors, claim uniqueness, aim to solicit or canvass for patients, be used for commercial promotion of medical & health related products & services, be sensational or unduly persuasive, arose unrealistic expectations, disparage other doctors
  - Conflict or interest must be declared
Professional Communication & Information Dissemination

- **Practice promotion**
  - Communication between doctors & healthcare professionals are not regarded as practice promotion
  - Practice promotion includes any means by which a doctor or his practice is publicized in Hong Kong or elsewhere, by himself or anybody acting on his behalf or with his forbearance
Professional Communication & Information Dissemination

- Dissemination of service information to the public
  1. Signboards
  2. Stationery
  3. Announcement in mass media (commencement and altered conditions of practice)
  4. Telephone directories published by telephone companies
  5. Practice websites
  6. Service Information Notices
  7. Doctors directories
  8. Newspapers, magazines, journals & periodicals
Professional Communication & Information Dissemination

- Dissemination of service information to patients
  - Does not involve intrusive visits, telephone calls, fax or e-mails by himself or by people acting on his behalf
  - Does not abuse patient’s trust
  - Does not put patient under undue pressure
  - Does not offer guarantees to cure particular conditions
  - Should not take advantage of his professional capacity in the promotion and sale of medical products or health claim substances
Health Education Activities

- Bona fide health education activities such as lectures and publications are allowed but should not be exploited for promotion of his practice.
- Information provided should be authoritative, appropriate, and in accordance with general experience.
- Reasonable steps must be taken to ensure that the materials are not used directly or indirectly for the commercial promotion of any medical & health-related products/services.
FINANCIAL ARRANGEMENTS

1. Fees
2. Financial relationship with healthcare organizations
3. Improper financial transactions
4. Pharmaceutical & allied industries
5. Professional indemnity insurance
Fees

Fees or charges must be made known to the patient on request.

Must not charge excessive fees (the difficulty, costs of service, time and skills required, average fee customarily charged, experience and ability of the doctor will be considered).

Exhibit a notice informing patients that they should ask for quotation of fees before treatment.
Financial relationship with Health Care Organizations

- Referral to any health care institution must be in the best interest of patient
- Doctors should not receive any financial or other inducement from them
- Self interest must be declared
- Contract medicine & managed care
Improper Financial Transactions

- No financial or rebate is allowed for referral
- Sharing of fees between doctors providing service to patient is allowed provided patient is being informed
- Interest in commercial organizations must not affect the way he prescribes for, treats or refers patients
- Self interest must be declared
Doctors should avoid accepting any inducement which may compromise the independent exercise of their professional judgment.

It is improper for a doctor to accept directly or indirectly any form of payments from a pharmaceutical firm in relation to research or recording clinical assessments of a medical product.
Professional indemnity insurance

- Provides protection to the patient as well as the doctor
- Not mandatory at the moment
RELATIONSHIP WITH OTHER PRACTITIONERS & ORGANIZATIONS

1. Referrals of patients
2. Relationship with health care and health products organizations
3. Disparagement of other medical practitioners
4. Practice in association with non-qualified persons
5. Covering or improper delegation of medical duties to non-qualified persons
Relationship with health care and health products organizations

- Doctors cannot hide behind an organization to advertise.
- Doctors having financial or professional relationship with an organization ensure the organization does not advertise in contravention of the principles and rules applicable to individual doctors.
- Doctors’ professional fees or contact information should not be published in an organization’s promotional materials.
ABUSE OF PROFESSIONAL POSITION

1. Improper personal relationship with patients
2. Untrue or misleading certificates & similar documents
   - Insurance claim forms
   - Receipts
   - Medical reports
   - Sick leave certificates
Sick Leave Certificates

- Certificates can only be issued after proper consultation
- Date of consultation & date of issue must be truly stated, including a certificate recommending retrospective sick leave
Receipts

- Must not issue more than one original receipt of the same payment
- Copy receipts must be clearly stated to be copies
- If fractions of the payment for a single item is received, the full amount should also be stated in each receipt of partial payment
Complementary/alternative treatment modalities

- The modality is ethical, beneficial and safe
- Carried out in good faith & in the patient’s best interest and would yield equal or better results than conventional treatments
- Informed consent
- Doctor must have adequate training and is clinical competent in carrying out the treatment
- Should not omit the established conventional methods of treatment
SICK LEAVE 病假纸

1. 病人遗失了病假纸可否再发另一张？
2. 病人今天(e.g. 13/9)看病，第二日(14/9)要求14/9的病假，可否补发？或已给了13/9的一日病假，14/9再要求多一日，即13-14/9，可否？
3. 病人於18/9(8:30a.m.)来看病，跟著回公司上班，(病人拒绝要18/9的病假)，翌日，病人请家人来取(19/9)的病假证明书，可以吗？授权可以吗？Date of Issue是18/9还是19/9？
4. 医生可否给自己发病假纸？
Section 33 of the Employment Ordinance provides that an employee shall be paid sickness allowance in respect of sickness days certified by a medical practitioner. The council considers that the provision refers to the medical practitioner issuing the sick leave certificate and the employee as two different persons, and the medical practitioner should not certify his own sickness.
The council also considers that a sick leave certificate can only be issued after proper medical consultation of the patient by the doctor. As a doctor cannot be his own patient, a sick leave certificate must be issued by the doctor in respect of another person.

In the circumstances, the Council wishes to draw to the attention of all medical practitioners that the practice of self-issuance of sick leave certificates is **UNACCEPTABLE**
1. Saw patient 2 days ago. Today patient’s family member come to request repeat treatment and ask for a receipt. Is it OK to dispense the medicine and is it OK to issue a receipt?

2. 如果病人要回一年內看病的收據，是否可以收取適量的行政費？
What are the basic items to be included in the receipt?
- Doctor’s name
- Date
- Patient’s name
- Diagnosis
- Charge
- Signature

Anything else?
Is a company chop on the receipt necessary?

Which date is needed on the receipt: date of consultation, date of payment or date of issue [if they are different]?

Can we issue more than 1 receipt for a consultation for separate items (e.g. consultation fee, medicine or laboratory fee) on the same day?
RECEIPT 收據

- How to issue a receipt if the patient cannot pay on the day of consultation, and has to pay the fee later? Should we write the date of consultation or date of payment on the receipt.

- How to issue a receipt if the patient did not want a receipt on the day of consultation, but he changed his mind and requested for it several days later?
How to issue a receipt if the patient comes back later alleging that he has lost the receipt given to him on day of consultation?

How to make receipts for payment of a single consultation when the patient has to pay by installments on different days?
Being advised by an insurance agent, the patient returned 1 month later and asked for an amendment of the diagnosis on the receipt given to him earlier by adding “The illness was caused by accident”. What should we do about this?
In this context, what is the definition of accident? Are the following conditions considered as an accident?

- Bitten by a dog.
- Bitten by a mosquito at park
- Bitten by a mosquito at home
- Developed contact dermatitis following applications of topical herbal medicine on a sprained ankle after an accidental injury (But the patient was seen for dermatitis when he has already recovered from the sprain ankle)
- Developed urticaria after consuming seafood.
- Developed pneumonia after traveling on a plane when he has sat next to a passenger with severe cough
A doctor has publicly listed out the various charges in the waiting area of his clinic; that the consultation fee is $200 and $100 for basic medicine. However, a patient asked him for a receipt of $100 for consultation and the rest for medicine. Is it unethical if the doctor was compelled to the patient’s request?
給病人同時看兩種不同病症，可否分發兩張不同金額的單(收據)？
2007年9月5日醫務委員會的決議

The Council approved the recommendation of the EC on the proposed section 26.3 & 26.4; and clearly stated that different items in one single consultation may be issued separate receipts according to the different items.
Concerning referral to specialist

- A patient was seen for treatment of a skin consultation last week. However, on the following day, he went to see a dermatologist on his own initiative. Today he comes back to the doctor and request for a referral letter for specialist consultation and specifies that the date of the letter has to be the day of last consultation. Is it unethical if the doctor was compelled to the patient’s request?