



Comhairle na nDochtúirí Leighis
Medical Council

Guide to Professional Conduct and Ethics
for Registered Medical Practitioners

8th Edition 2016





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Foreword

Professionalism is at the core of the patient - doctor relationship and is absolutely fundamental for patient safety and the delivery of high-quality health care. The purpose of this 8th edition of the Guide to Professional Conduct and Ethics for Registered Medical Practitioners is twofold. It provides principles-based guidance to doctors on a wide range of scenarios which are likely to arise over the course of their professional careers and also clarifies for patients the standards of care which they should expect from their doctor.

Having sought and received feedback from members of the public, the profession and our partner organisations within the health sector, and reviewing five years of complaints to the Medical Council, we have revised and updated our guidance to include the most pertinent issues affecting patients and doctors. As the last ethical guide was published in 2009, the updated guide reflects the evolving nature of medical practice. For example, it has been updated with some of the more contemporary issues of concern to patients and members of the profession; including guidance on social media, equality and diversity, doctors in management roles and training and trainees.

Another significant development in this guide is the extended guidance on professionalism. We have identified three 'pillars of professionalism'. These are values, principles and behaviours we expect of all doctors from the moment they enter medical school right through until retirement, so that the highest possible standard of care is provided to patients.

It is important to stress that this guide is not a legal code; rather it sets out the principles of professional practice and conduct that all doctors registered with the Medical Council are expected to follow and adhere to, for the benefit of the patients they care for, themselves and their colleagues. The language we have used has been revised to make our guidance as practical as possible and to remove any potential ambiguity so that doctors and patients are clear on what we expect. This document is designed to underpin more detailed practice guidance for doctors, who also have a duty to ensure compliance with all laws and regulations pertaining to their practice.

The Medical Council is grateful to those who participated in the consultation process. Without their valuable and insightful contributions, we would not have been in a position to reflect such a wide range of views in this guide. To this end, we would particularly like to thank members of the Ethics and Professionalism Committee, Ethics Drafting Working Group, Council and staff for engaging in such a consultative and considered process. We know from our own research that doctors remain the most trusted profession in Ireland and we look forward to supporting the continuation of this trust and satisfaction by further clarifying the standards that underpin good patient care in this guide.



Professor Freddie Wood
President



Dr Audrey Dillon
Vice President and Chair, Ethics and Professionalism Committee

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Chapter 1: Purpose of the guide

1 How to use this guide

- 1.1. This guide sets out the principles of professional practice that all doctors registered with the Council are expected to follow. You should use your judgement to apply the principles to your practice and the situations you face, including when you are making clinical decisions.
- 1.2. The guide is intended to help you make good judgments about the situations that arise in your practice. It is not a code or a set of rules that dictates how you should behave; nor does it try to list every circumstance you may face.
- 1.3. Your responsibility is to help the sick and injured and to give care and treatment that meets your patients' needs.

Medical care must not be used as a tool of the State. As a doctor, you must be free to make judgements about your patients' clinical needs and to give appropriate treatment without political pressure.

Equally, you must exercise your clinical skills and judgement in your patients' interests, without allowing religion, nationality, gender, race, ethnicity, age, politics, socio-economic grouping or disability to affect in a negative way the care or treatment you give.

You should not let your professional actions be influenced by any personal interest.

- 1.4. In the guide we use the term **'you must'** where there is an absolute duty on you to comply with the principle that follows. We use **'you should'** to describe best practice in most circumstances, accepting that it may not always be practical to follow the principle or that another approach may be appropriate in particular circumstances. You should use your judgement in such cases.
- 1.5. The guide includes links and references to legislation to help you understand both your legal and ethical obligations. References to the law are included where relevant, but this is not a definitive statement of the law, and may become out of date. As a doctor, you have a duty to keep up to date with legislation, legal developments and case law that could affect your practice.

2 Professional misconduct and poor professional performance

- 2.1. Professional misconduct is:
 - 2.1.1. conduct which doctors of experience, competence and good repute consider disgraceful or dishonourable; and / or
 - 2.1.2. conduct connected with his or her profession in which the doctor concerned has seriously fallen short by omission or commission of the standards of conduct expected among doctors.

- 2.2. Poor professional performance, as defined in the Medical Practitioners Act 2007¹, means a failure by the practitioner to meet the standards of competence (whether in knowledge and skill or the use of knowledge and skill or both) that can reasonably be expected of medical practitioners practising medicine of the kind practised by the practitioner.

This has been interpreted by the Supreme Court to mean a “serious failure”².

- 2.3. As a doctor, you should be aware that complaints may be made against you to the Medical Council under the Medical Practitioners Act 2007³. There are a number of grounds on which complaints can be made, such as:

- professional misconduct,
- poor professional performance, including complaints about unacceptable behaviour or poor communication, a physical or mental disability, including addiction to alcohol or drugs, which may impair the doctor's ability to practise medicine or a particular aspect of medicine,
- a failure to comply with a condition imposed by the Council, or with an undertaking made to the Council, or to take an action which has previously been agreed with the Council,
- a contravention of the Medical Practitioners Act 2007 or of the regulations or rules made under it, or
- a conviction in the State for an offence where the accused has a right to a jury, or a conviction outside the State for an offence that, if committed in the State, would constitute such an offence.

¹ Medical Practitioners Act 2007 available on our website at <http://www.medicalcouncil.ie/About-Us/Legislation/Medical-Practitioners-Act-2007.pdf>

² See Corbally -v- Medical Council & Ors [2015] IESC 9

³ Medical Practitioners Act 2007 s57

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Chapter 2: Professionalism

3 The Three Pillars of Professionalism – Partnership, Practice and Performance

- 3.1 Good professional practice is based on a shared understanding between the profession and public of the principles and values that underpin good care. These principles and values, and how they should be applied in practice, are set out in this guide, using the three pillars of professionalism – Partnership, Practice and Performance – as a framework.

4 Partnership – Good care depends on doctors working together with patients and colleagues toward shared aims and with mutual respect. Partnership relies on:

- 4.1. **Trust.** This means trust between doctors and their patients, between doctors and their colleagues and between the profession and society. This is fundamental to good professional practice. Trust is founded on the integrity and honesty of doctors in all aspects of their medical practice. This includes treating patients fairly and making decisions about providing or withholding treatment without discrimination. It also relies on truthfulness both in communication with patients and colleagues, and in professional work such as record-keeping, running a practice, managing adverse events, and in research. You should do your best to maintain the public's trust in the profession.
- 4.2. **Patient-centred care.** Patient-centred care means doctors treating patients as individuals, take into account their personal preferences, goals and lifestyles, acting with compassion and respecting patients' dignity. They should support patients to make informed decisions about their own health and care. Doctors responsible for managing health services should do everything they can to make sure that systems are designed to serve patients' interests, particularly patients with multiple conditions, those who are particularly vulnerable or patients moving between different care services.
- 4.3. **Working together.** This involves listening to patients and colleagues and taking account of their views, knowledge, skills and experiences. Where disagreements arise, you should try to resolve them through further discussion, showing respect for colleagues' or patients' opinions.
- 4.4. **Good communication.** This is central to the doctor-patient relationship and essential to the effective functioning of healthcare teams. Good communication involves listening to patients and colleagues, as well as giving information, explanations or advice. When communicating with patients, you should be honest and give all relevant information. You should welcome questions from patients and respond to them in an open, honest and comprehensive way.
- 4.5. **Advocacy.** You should act as an advocate for your patients in two ways. You should speak on behalf of individual patients, to help make sure they receive appropriate healthcare. In addition, you should support all patients by promoting the fair distribution of limited resources and fair access to care.

5 Practice –

This describes the behaviour and values that support good care. It relies on putting the interests and well-being of patients first. The main elements of good practice are:

- 5.1. Caring when treating patients: showing compassion, kindness and consideration to patients and those close to them, and making sure that patients' basic care needs, including nutrition and hydration, are met.
- 5.2. Confidentiality: This is essential to maintaining patients' trust and enabling patients to speak honestly and fully about their lives and symptoms.
- 5.3. Promoting patient safety: Complying with safety procedures, such as infection control measures and adverse incident reporting, that directly affect your practice. This requires you to raise concerns if you believe patients are either at risk of, or suffering harm as a result of, systems or incidents outside their direct control. It also means acting to protect children and vulnerable people who you believe are at risk or have suffered harm.
- 5.4. Integrity: Patients must be able to trust their doctors to be honest and truthful, and to carry out their work in the interest of patients, in line with professional values. Professional colleagues and those managing services must be able to rely on you to be truthful and to act in patients' best interests at all times.
- 5.5. Self-care: Doctors are entitled to good care and support from their colleagues and employers when they suffer ill-health. However, they should make sure that the condition of their own health does not cause patients harm. You should seek and follow independent medical advice promptly when you have signs of physical or mental ill-health. You should also take all reasonable steps to protect yourself and your colleagues when treating patients who may be violent or pose other risks to the health or safety of those caring for them.
- 5.6. Practice management: Your management responsibilities will vary depending on your practice. However, you should be satisfied that the systems that underpin your practice, for example record-keeping, and organisation of rotas and cover arrangements, support good care of patients. You should improve systems, or raise concerns with an appropriate person, if you believe that administration or other systems are impeding good patient care.
- 5.7. Use of resources: All doctors should use resources responsibly. You must consider the needs of all patients alongside your primary duty to your own patients. You should actively balance these duties to try to get the best possible outcomes where resources are limited.
- 5.8. Conflicts of interest may happen where doctors, or their close family members, have financial interests in health or care providers, or in the medical devices or pharmaceutical industries. You should identify and try to avoid conflicts of interest that may affect, or be seen to affect, your clinical judgement. If you cannot avoid a conflict of interest, you should tell the patient, and anyone else who may be affected by the decision, about your financial (or other) interest.

6 Performance –

This describes the behaviours and processes that provide the foundation for good care. It requires:

- 6.1. Competence: This is required in all aspects of professional practice. This is the base from which all doctors strive to deliver the best possible care to patients. Competent doctors:
 - base their practice on evidence, as far as it is available;
 - keep up-to-date with developments in their field of practice and with clinical guidelines on best practice. A commitment to lifelong learning is essential to providing up-to-date and effective care. You should make sure you are up-to-date with developments in your area of practice by participating regularly in Continuing Professional Development (CPD) and in other formal and informal education, training and development;
 - review and reflect on their activity levels and outcomes so they can identify and fix any problem areas within their practice, and engage with quality improvement initiatives to help improve health services and care for all patients;
 - recognise areas of practice which they should not undertake without further training or supervision; and
 - refer patients to a colleague if patients need investigation or treatment that involves knowledge or skills which fall outside of the doctor's clinical competence.
- 6.2. Reflective practice: Developing insight into professional practice is important to improve standards of care. Reflective practice includes formal reviews through audit and outcome data. It also includes informal reflection on how personal values may affect communication with patients, colleagues or others, and ultimately the care provided to patients.
- 6.3. Acting as role models: Doctors are role models for medical students, trainees and other colleagues. You should be aware of the impact your behaviour can have on others within the clinical environment.
- 6.4. Teaching and training medical students and doctors new to practice: This is vital to the future provision of good care. You should be willing to provide formal or informal teaching, training and support for students and doctors.

These are the values and principles we expect all doctors to share. Doctors will also be influenced by their personal, ethical and moral values and experiences. These are also important to good practice, and doctors should reflect on how they underpin their relationships and decisions, making sure they do not result in non-compliance with the standards set out in this guide.

Figure 1: Three Pillars of Good Professional Practice



7 Dignity of the patient

7.1 You must always treat patients with respect.

8 Equality and diversity

8.1 Patients' cultural background and ethnicity have an important effect on their health outcomes. You should try to understand patients' culture and respond to their individual needs. You should not discriminate against patients or colleagues on any grounds⁴.

8.2 Patients have the right to be offered all treatment options that are likely to be of benefit to them.

9 Consent – general principles

9.1 When patients give consent, they are making a voluntary choice. You should help patients make decisions that are informed and right for them. You should not give patients the impression that their consent is simply a formality or a signature on a page (see Appendix C).

9.2 You must make sure that patients have given their consent before you provide any medical investigation, examination or treatment. Consent is required by law and is an essential part of respect for patients' autonomy. Patients have the right to decide what happens to their own body. They also have a right to refuse medical treatment or withdraw consent (see paragraph 15).

10 Capacity to consent

10.1 Every adult patient is presumed to have the capacity to make decisions about their own health care. As their doctor, you have a duty to help your patients to make decisions for themselves by giving them information in a clear and easy-to-understand way and by making sure that they have suitable help and support. Patients have the right to have an advocate of their choice during discussions about their condition and treatment.

10.2 Adults who are considered not to have the capacity to make a decision are entitled to the same respect for their dignity and personal integrity as anyone with full capacity. You should seek and listen to their views, and involve them in decisions about their healthcare to the extent that they are willing and able to be involved.

10.3 A lack of capacity may arise from a long-term or permanent condition or disability, or from short-term illness or infirmity. A person lacks capacity to make a decision if they are unable to understand, retain, use or weigh up the information needed to make the decision, or if they are unable to communicate their decision, even if helped. In assessing patients' capacity, you should consider:

- their level of understanding and ability to retain the information they have been given;
- their ability to apply the information to themselves and come to a decision; and

⁴ The Equal Status Act, 2000 protects people from discrimination on the grounds of gender, marital or family status, sexual orientation, religious belief, age, disability, race and membership of the Travelling Community.
<http://www.irishstatutebook.ie/2000/en/act/pub/0008/index.html>

- their ability to communicate their decision, with help or support, where needed.
- 10.4 An assessment that a patient lacks the capacity to make a particular decision does not imply that they are unable to make other decisions or will be unable to make this or other decisions in the future.
- 10.5 If an adult patient lacks capacity to make a healthcare decision, you must take reasonable steps to find out if anyone else has the legal authority to make decisions on the patient's behalf. If so, you should seek that person's consent to the proposed treatment.
- 10.6 If there is no-one with legal authority to make decisions on the patient's behalf, you will have to decide what is in the patient's best interests. In doing so, you should consider:
- which treatment option would give the best clinical benefit to the patient;
 - the patient's past and present wishes, if they are known;
 - whether the patient is likely to regain capacity to make the decision;
 - the views of other people close to the patient who may be familiar with the patient's preferences, beliefs and values; and
 - the views of other health professionals involved in the patient's care.

11 Information for patients

- 11.1 You must give patients enough information, in a way that they can understand, to enable them to exercise their right to make informed decisions about their care. Consent is not valid if the patient has not been given enough information to make a decision.
- 11.2 The amount of information patients need before making a decision will vary according to a number of factors including:
- the nature of the condition;
 - the type of investigation;
 - the complexity of the treatment;
 - the risks associated with the treatment or procedure (and the risks of non-treatment); and
 - the patient's own wishes.
- 11.3 Patients will always need basic information about their condition, its investigation and treatment, and any serious or frequently-occurring risks. Patients will usually need more detailed information about procedures that carry a high risk of failure or adverse side effects. They will also need more detailed information about an investigation for a condition that, if found to be present, could have serious consequences for the patient's employment, social or personal life. See also Appendix C.
- 11.4 When you give information, you should consider the patient's individual needs and priorities. For example, patients' beliefs, culture, occupation or other factors may have a bearing on the information they need to reach a decision. You should try to meet patients' communication needs – for example – if patients have a visual or hearing impairment, a learning disability or if English is not their first language.

- 11.5 You should ask your patients whether they have understood the information you have given them, whether they have any questions and if they would like more information before making a decision. You must answer patients' questions honestly and as fully as the patient wishes. You must not keep back any information that the patient needs to make a decision unless disclosing the information would cause the patient serious harm. In this context, 'serious harm' does not mean the patient would become upset or decide to refuse treatment.

12 Timing of consent process

- 12.1 Taking consent is not a one-off event. It involves a continuing dialogue with the patient, keeping them up-to-date with any changes in their condition and the treatments or investigation proposed.
- 12.2 Whenever possible, you should discuss treatment options and their risks at a time when the patient is best able to understand and retain the information. You should also give the patient enough time before the treatment to consider their options and reach a decision. You should not usually seek consent from a patient when they are stressed, sedated or in pain, and, therefore, less able to make a calm and reasoned decision.

13 Responsibility for seeking consent

- 13.1 If you are the doctor providing treatment or undertaking an investigation, it is your duty to make sure that the patient has given consent before providing treatment. As the treating doctor, you should usually give information and seek the patient's consent yourself, as you will have a full understanding of the procedure or treatment, how it is carried out and the risks attached to it. If it is not possible for you to do this, you may delegate all or part of the process to another suitably trained and qualified person. The person to whom you delegate must know enough about the proposed investigation or treatment, understand the risks involved and be able to explain and discuss these issues with the patient. If you delegate all or part of the consent process, you remain responsible for making sure that the patient has given their consent.
- 13.2 You should not delegate any part of the consent process to an intern unless the procedure is a minor one with which the intern is very familiar and the intern's medical supervisor has clearly explained the relevant information about the procedure to them.

14 Emergency situations

- 14.1 In an emergency, where consent cannot be obtained, you should provide medical treatment to anyone who needs it, provided the treatment is limited to what is immediately necessary to save a life or to avoid significant deterioration in the patient's health.

15 Refusal of treatment

- 15.1 Every adult with capacity is entitled to refuse medical treatment or withdraw consent. You must respect a patient's decision to refuse treatment or withdraw consent, even if you disagree with that decision. In these circumstances, you should explain clearly to the patient the possible consequences of refusing treatment and, where possible, offer the patient a second medical opinion.

- 15.2 You should record your discussion with the patient, the information you gave and the patient's refusal of treatment in the patient's medical notes.
- 15.3 If you have doubts or concerns about the patient's capacity to refuse treatment, you should follow the guidance in paragraph 10 and seek legal advice.

16 Advance healthcare plan or directive

- 16.1 Sometimes patients want to make plans for their medical treatment which will come into effect if they lose capacity in the future. Plans may include advance refusals of medical treatment or requests for specific procedures. You should do your best to help and support patients who ask for your assistance in writing an advance healthcare plan. You should ask patients with long-term conditions or conditions likely to result in their death or mental incapacity in the foreseeable future, if they have made an advance healthcare plan or directive. If a patient has lost capacity to make a decision, you should take reasonable steps to find out whether they have made an advance healthcare plan or directive.
- 16.2 An advance healthcare plan or directive has the same status as a decision by a patient at the actual time of an illness and should be followed provided that:
 - the request or refusal was an informed choice, in line with the principles in paragraph 9;
 - the decision covers the situation that has arisen; and
 - there is nothing to indicate that the patient has changed their mind.
- 16.3 You are not obliged to provide treatment that is not clinically indicated for a particular patient.
- 16.4 If you are concerned about an advance healthcare plan or directive, for example because of questions about the patient's capacity at the time of making the plan, or whether it applies in the current circumstances, you should make treatment decisions in the patient's best interests. In making such a decision, you should consult anyone with legal authority to make decisions on the patient's behalf, the healthcare team and the patient's family, if possible.

17 Consent to genetic testing

- 17.1 Genetic testing can help to diagnose an illness or help to predict the development of an illness in the future. Patients must have counselling about the possible consequences of genetic testing⁵ before you seek their consent.

18 Children and young people

- 18.1 When treating children and young people, your primary duty is to act in their best interests. You should involve them as much as possible in discussions about their healthcare, give them information suitable for their age, listen to their views and treat them with respect.

⁵ Disability Act 2005 Part 4 www.oireachtas.ie/documents/bills28/acts/2005/a1405.pdf

- 18.2 By law, patients aged 16 years and over are entitled to give consent to surgical, medical or dental treatment.⁶ Patients over 18 years are entitled to give consent to psychiatric treatment⁷, organ or tissue donation, or participation in medical research. The law relating to refusal of treatment by young people aged 16 and 17, against medical advice and parental wishes, is uncertain. If this situation arises, you should consider getting legal advice before acting on the decision.
- 18.3 Where the patient is under the age of 16 years, the parent(s) or guardian(s) will usually be asked to give their consent to medical treatment on the patient's behalf.
- 18.4 When patients under 16 want to make a healthcare decision without the knowledge or consent of their parent(s) or guardian(s), you should encourage them to involve their parent(s) or guardian(s) in the decision.
- 18.5 If a young person⁸ refuses to involve a parent/guardian, you should consider the young person's rights and best interests, taking into account:
- the young person's maturity and ability to understand the information relevant to the decision and to appreciate its potential consequences
 - whether the young person's views are stable and reflect their core values and beliefs
 - whether the young person's physical or mental health, or any other factors are affecting their ability to exercise independent judgement
 - the nature, purpose and usefulness of the treatment or social care intervention
 - the risks and benefits involved in the treatment or social care intervention
 - any other specific welfare, protection or public health considerations, covered by relevant guidance and protocols such as the 2011 Children First: National Guidelines for the Protection and Welfare of Children (or any equivalent replacement document). Where this is the case, the relevant guidance or protocols must be followed.
- 18.6 This assessment of maturity should be made for all young people under 16, including those who have been diagnosed with an intellectual disability.
- 18.7 You should provide treatment for young people without informing their parent(s) or guardian(s) if, having considered the factors in paragraph 18.5, you consider that it is in the patient's best interests to do so and the patient has sufficient maturity and understanding to make the decision.
- 18.8 Children and young people have a right to confidential medical treatment as set out in paragraph 29. However, parents and guardians also have a legal right to access medical records of their children until they are 18.⁹ You should tell children and young people that you cannot give an absolute guarantee of confidentiality.

⁶ 'Surgical, medical or dental treatment' includes any procedure undertaken for the purposes of diagnosis, including the administration of an anaesthetic which is ancillary to any treatment. Non-Fatal Offences against the Person Act 1997, section 23. www.irishstatutebook.ie/1997/en/act/pub/0026/sec0023.html#zza26y1997s23

⁷ Mental Health Act 2001 <http://www.irishstatutebook.ie/2001/en/act/pub/0025/>

⁸ A "young person" is generally considered to be a person under the age of consent; that is 16 (or 18 in the case of psychiatric patients), see also HSE National Consent Policy: http://www.hse.ie/eng/about/Who/qualityandpatientsafety/National_Consent_Policy/National%20Consent%20PolicyMay14.pdf

⁹ Freedom of Information Act 2014 section 37(8) <http://www.irishstatutebook.ie/eli/2014/act/30/section/37/enacted/en/html#sec37>

19 Personal relationships with patients

- 19.1 Patients who seek medical help from you should be able to trust that you will be concerned only with giving care, advice and treatment, and will not use your position for personal advantage.
- 19.2 You should make sure that you maintain professional relationships with patients, respecting their privacy and dignity. You must not use your professional position to form a relationship of a sexual, inappropriate emotional or exploitative nature with a patient or their partner, or with a close relative of a patient.

20 Using social media

- 20.1 Social media¹⁰ provides new ways for doctors to communicate with patients, colleagues and the public. If you use social media, you should still maintain the professional standards expected in other forms of communication.
- 20.2 You should always think about the possible impact on colleagues, patients or the public's perception of the profession, before publishing comments on social media sites. You should treat patients and colleagues with respect and avoid abusive, unsustainable or malicious comments. You should make sure your comments are not defamatory or otherwise in breach of the law.
- 20.3 You should keep personal and professional use of social media separate and, as far as possible, avoid communicating with patients through personal social networking sites.
- 20.4 Social media sites cannot guarantee confidentiality, whatever privacy settings are used. You must not publish information about, or images of, individual patients from which those patients might be identified on publicly available platforms. You should avoid discussing or commenting on your patients on social media platforms. Further advice on maintaining confidentiality and using images of patients can be found at paragraph 34.
- 20.5 Closed professional networks are a useful way to share experiences and case studies, set up expert or learning groups, and get advice or help. When using professional networks, as far as possible, you should not give information that would identify patients. You should also take reasonable steps to check that the network you are using has effective security settings and privacy policies, to minimise the risk of information about patients becoming more widely available.
- 20.6 If you give clinical advice online, you should always identify yourself by name.
- 20.7 Patients and professional colleagues may rely on information you provide online. You must take all reasonable steps to make sure that any information or advice you give is accurate and valid. Information about your practice or the services you offer should be factual and verifiable. You should not make unsustainable claims for the effectiveness of treatments or exploit patients' vulnerability or lack of medical knowledge.
- 20.8 How or whether you use social media in your private life is a matter for you to decide. However, while settings on many platforms allow information to be shared only with a closed group of friends or family, this privacy cannot be guaranteed. To minimise the risk of information being shared more widely than you intend, you should usually use conservative

¹⁰ Social media is used here to mean web-based applications that enable users to create and exchange content. It includes blogs and micro blogs, professional and personal forum sites for sharing images and videos, and networking sites.

privacy settings for your personal social media. Before posting, you should consider how information or images you post might be viewed by patients or the public, if they were to become more widely available.

21 Relationships between colleagues

- 21.1 You have a duty to behave respectfully towards all staff in the workplace, including students. Avoid any form of sexual harassment, bullying or undermining of colleagues, particularly when you are in a position of authority or trust, for example if you are a supervisor for a trainee, or have direct management responsibility for a colleague.
- 21.2 Before entering into a sexual relationship, supervisors and their trainees should consider the power imbalance in the relationship and the potential for exploitation or conflicts of interest to arise. They should also consider how the relationship might be viewed by other trainees, and the effect these factors may have on the trainee in the future.
- 21.3 Subject to paragraph 73 of this guide, you should give professional support to colleagues including medical students, junior colleagues and less experienced doctors. You should not ask junior colleagues to carry out tasks for which they are not fully competent, except under the direct supervision of senior colleagues. If you are a junior doctor, you should consult promptly with your senior colleagues if a patient's condition gives cause for concern. If you are a senior doctor, you should encourage your junior colleagues to do this.
- 21.4 When disputes between colleagues arise, they should be settled as quickly as possible. Such disputes should not affect patient care. Denigrating a colleague is not appropriate and should be avoided. You should not deliberately damage the practice of colleagues.

22 Delegation and referral

- 22.1 'Delegation' involves you asking another health care professional to provide care on your behalf.
- 22.2 'Referral' involves you sending a patient to another doctor or healthcare professional to get an opinion or treatment. Referral usually involves the transfer (in part) of responsibility for the patient's care, usually for a set time and a particular purpose, such as care that is outside your area of expertise.
- 22.3 When you delegate or refer you must give sufficient information about the patient and their treatment to the clinicians continuing the care of the patient. You should take reasonable steps to make sure that the person to whom you delegate or refer has the qualifications, experience, knowledge and skills to give the care needed.

23 Handover

- 23.1 Handover is the transfer of professional responsibility and accountability for some or all aspects of the care of a patient, or group of patients, to another person or professional group on a temporary or permanent basis. You will hand over care when you change shift, refer a patient to secondary care or other health professionals, or when your patient returns to the care of their GP. Handovers may take place between teams and/or between individuals.
- 23.2 When you hand over care for a patient to another healthcare professional, team and/or

institution, you should check that they understand and accept responsibility for the patient's care. You should pass on all relevant information about the patient and the patient's care. When discharging patients back to primary care, you should give all relevant information promptly.

24 Healthcare resources

- 24.1 Your duty is to act in the best interests of patients and you have a responsibility to engage and advocate with the relevant authorities to promote the provision of suitable healthcare resources and facilities. If you work in a facility that is not suitable for patients or for the treatment provided, you have a responsibility to advocate on behalf of your patients for better facilities.
- 24.2 You have a duty to assist in the efficient and effective use of healthcare resources and to give advice on their appropriate allocation. You should balance your duty to do your best for each individual patient with the wider need to use finite healthcare resources efficiently and responsibly. Such awareness should inform decision-making in your clinical practice.

25 Clinical trials and research

- 25.1 If you are involved in any form of medical research, you have a duty to make sure that the highest ethical standards are followed when conducting the research.
- 25.2 In particular, you must make sure that all research participants are fully informed about all aspects of the study and understand the nature of the proposed intervention or treatment, especially if the intervention may not be of benefit to them, for example if they receive a placebo.
- 25.3 You must make sure that patients have given their consent voluntarily. If you are the patient's treating physician, you should consider asking someone else associated with the research to get consent from the patient. If a patient refuses to take part in the research, this must not influence your care of that patient in any way.
- 25.4 You must comply with the Data Protection Acts and you should be aware of the guidelines published by the Office of the Data Protection Commissioner in relation to medical research¹¹. See also the section on confidentiality, paragraph 29.
- 25.5 You must not claim authorship of work you have not written or contributed to. You have a responsibility to make sure any publication you are involved in is accurate.
- 25.6 If you are paid, directly or indirectly, by pharmaceutical, medical device or other commercial companies or organisations to conduct medical research, you must make sure that the payment does not influence your study design or interpretation of research data.
- 25.7 If you are paid, directly or indirectly, by pharmaceutical, medical device or other commercial companies or organisations in connection with medical research, you must address any potential conflict of interest and disclose the payment in any publication of research results. You should also follow the guidance on conflict of interests in paragraph 62.

¹¹ https://www.dataprotection.ie/documents/guidance/Health_research.pdf

- 25.8 If you act as an investigator in a clinical trial or any form of medical research, you must submit and receive approval from the relevant research ethics committee before the research begins. You must make sure that the trial conforms to the Declaration of Helsinki¹² and any relevant national legislation.

¹² <http://www.wma.net/en/30publications/10policies/b3/>

26 Protection and welfare of children

- 26.1 You must be aware of and comply with the national guidelines and legislation for the protection of children, which state that the welfare of the child is of paramount importance¹³.
- 26.2 If you believe or have reasonable grounds for suspecting that a child is being harmed, has been harmed, or is at risk of harm through sexual, physical, emotional abuse or neglect, you must report this to the appropriate authorities and / or the relevant agency without delay. You should inform the child's parents or guardians of your intention to report your concerns taking into account that this may endanger you or the patient. Giving relevant information to appropriate authorities or statutory body for the protection of a child is a justifiable breach of confidentiality, provided that you follow the guidance in paragraph 31.2.

27 Protection and welfare of vulnerable persons

- 27.1 A vulnerable person¹⁴ is someone who has a physical, intellectual or mental disability and is incapable of independent living.
- 27.2 You should be alert to the possibility of abuse of vulnerable persons and notify the appropriate authorities if you have concerns. Giving relevant information to the appropriate authorities for the protection of others from serious harm is a justifiable breach of confidentiality, provided you follow the guidance in paragraph 31.2. You should make every effort to involve vulnerable persons in decisions about their care. You should not assume they do not have the ability to consent (see also paragraph 10).

28 Reporting of alleged historic abuse

- 28.1 Where adult patients disclose historic abuse, you must assess the current risk to your patient or to any other child or adult who may be in contact with the alleged abuser. If you consider that anyone is at risk, you should report this to the appropriate authorities, preferably with your patient's consent.
- 28.2 If you are a manager, you should make sure you are competent and trained to fulfil any responsibilities with regard to the reporting of alleged abuse that are part of your role.

29 Confidentiality

- 29.1 Confidentiality is central to the trust between you and your patients and a core element of the doctor/patient relationship. However, sharing information, in appropriate circumstances, is also important, both for patient care and for the safety of the patient and others.
- 29.2 You should protect your patients' privacy by keeping records and other information about patients securely. You should guard against accidental disclosures.
- 29.3 Before sharing or disclosing any identifiable information about patients, you must take into

¹³ Children First: National Guidance for the Protection and Welfare of Children (2011) <http://www.dcyd.gov.ie/documents/Publications/ChildrenFirst.pdf> and Children First Bill 2014 <http://www.oireachtas.ie/documents/bills28/bills/2014/3014/b3014d.pdf>

¹⁴ See also <http://www.hse.ie/eng/services/publications/corporate/personsatriskofabuse>.

account the Freedom of Information (FOI) principles (see Appendices A and B). You must be clear about the purpose of the disclosure and that you have the patient's consent or other legal basis for disclosing information. You must also be satisfied that:

- you have considered using anonymised information (information that does not identify the patient), and you are certain that it is necessary to use identifiable information;
- you are disclosing the minimum information to the minimum number of people necessary; and
- the person or people to whom you are disclosing the information know that it is confidential and that they have their own duty of confidentiality.

30 Disclosure with consent

- 30.1 Where a patient is capable of making their own decisions about their healthcare, you must get their consent before giving information that identifies them:
- to the patient's relatives and close friends. While the concern of the patient's relatives and close friends is understandable, you must not disclose information to them without the patient's consent. If the patient does not consent, you should respect their decision, except where failure to disclose information would put the patient or others at risk of serious harm;
 - for research. In some cases it may be possible to give coded (pseudonymised¹⁵) data, which you can disclose without explicit consent. The Data Protection Commissioner has published a guide to using health data in research¹⁶;
 - to disease registers (with the exception of the National Cancer Registry).
- 30.2 If the patient lacks capacity to give consent and is unlikely to regain capacity, you should consider making a disclosure if it is in the patient's best interests (see paragraph 31.2).
- 30.3 Most people understand and accept that information must be shared within the healthcare team and support staff to provide safe and effective care. If disclosure of a patient's information is necessary as part of their care and treatment, you should disclose the information to an appropriate person and make sure they understand that the information is confidential. You should explain to the patient that information is being shared for their benefit and with whom the information is being shared. If the patient objects to the transfer of information that you consider necessary for the provision of safe care, you should explain that you cannot refer them or arrange their treatment without disclosing that information.
- 30.4 Clinical audit, quality assurance, education and training are essential in providing safe and effective healthcare now and in the future. Whenever possible, information should be anonymised or coded before it is disclosed to anyone outside the healthcare team. Where this is not possible, you must make sure that the patient is told about the disclosure and given the opportunity to object. You must respect the patient's wishes.

¹⁵ Pseudonymisation takes the most identifying fields within a data set and replaces them with artificial identifiers, or pseudonyms. For example, a name is replaced with a unique number. The purpose is to render the data record less identifying and, therefore, reduce concerns with data sharing and data retention. Source: <http://www.pseudonymised.com/> (accessed 19/01/2016)

¹⁶ Data Protection Guidelines on research in the Health Sector
https://www.dataprotection.ie/documents/guidance/Health_research.pdf

31 Disclosure without consent

31.1 When you disclose information as required by law or in the public interest, you should inform patients of the disclosure, unless this would cause them serious harm, or would undermine the purpose of the disclosure.

31.2 Disclosure required by law

You must disclose information where this is required by law. For example:

- when ordered by a judge in a court of law, or by a tribunal or body established by an Act of the Oireachtas;
- where required by infectious disease regulations;
- where you know or have reasonable grounds for believing that a crime involving sexual assault or other violence has been committed against a child or other vulnerable person.¹⁷

31.3 Disclosure in the public interest - Disclosure in the public interest may be made to protect the patient, other identifiable people, or the community more widely. Before making a disclosure in the public interest, you must satisfy yourself that the possible harm the disclosure may cause the patient is outweighed by the benefits that are likely to arise for the patient or for others. You should disclose the information to an appropriate person or authority, and include only the information needed to meet the purpose.

32 Disclosure after death

32.1 Patient information remains confidential even after death. If it is unclear whether the patient consented to the disclosure of information after their death, you should consider how the disclosure might benefit or cause distress to the deceased's family or carers. You should also consider the effect of disclosure on the reputation of the deceased and the purpose of the disclosure. Your discretion in this area might be limited by law¹⁸. See also paragraph 67 in relation to Open Disclosure and Duty of Candour.

33 Medical records

33.1 Medical records consist of relevant information learned from or about patients. They include visual and audio recordings and information provided by third parties, such as relatives.

33.2 You must keep accurate and up-to-date patient records either on paper or in electronic form. Records must be legible and clear and include the author, date and, where appropriate, the time of the entry, using the 24-hour clock.

33.3 If you are working in out-of-hours services or telemedicine, you should make every effort to ensure that any notes you make about a patient are placed in the patient's medical record with their general practitioner as soon as possible (see paragraph 43).

33.4 You must comply with data protection and other legislation relating to storage, disposal and

¹⁷ Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 <http://www.irishstatutebook.ie/2012/en/act/pub/0024/>

¹⁸ Freedom of Information Act 2014 <http://www.irishstatutebook.ie/eli/2014/act/30/enacted/en/pdf>

access to records. You should understand the eight rules of data protection (see Appendix B).

- 33.5 Patients have a right to get copies of their medical records except where this is likely to cause serious harm to their physical or mental health. Before giving copies of the records to the patient, you must remove information relating to other people, unless those people have given consent to the disclosure.
- 33.6 You should keep medical records for as long as they are likely to be relevant to the patient's care, or for the time the law or practice standards require. You may also wish to take advice from your medical defence organisation or legal adviser about retaining records for medico-legal purposes.

34 Recording

- 34.1 Audio, visual or photographic recordings of a patient, or a relative of a patient, in which that person is identifiable should only be made with their express consent. You should keep these recordings confidential as part of the patient's record. You should be aware of security when sharing information by electronic means, including text, other electronic messaging or emailing, and you should do all you reasonably can to protect confidentiality. You should get consent before sharing videos, photos or other images of patients.
- 34.2 In exceptional circumstances, you may take images of patients using your personal mobile device. You should do so only when this is necessary for the patient's care. The images must not identify the patient, must be kept for the minimum time needed and must be deleted as soon as possible. You are responsible for data protection in this regard and you must comply with any rules and procedures of your employer.

35 Physical and intimate examinations

- 35.1 Clinical assessments of patients often involve a physical examination as well as relevant history-taking. Before undertaking any physical examination, including an intimate examination, you should explain to patients why it is needed and what will be involved, and get their consent.
- 35.2 You should respect patients' dignity by giving them privacy to undress and dress, and keeping them covered as much as possible. You should not help the patient to remove clothing unless they have asked you to do so, or you have checked with them that they want your help.
- 35.3 Where an intimate examination is necessary, you must explain to the patient why it is needed and what it will entail. You must ask the patient if they would like a chaperone to be present – for example, a nurse or family member - and note in the patient's record that a chaperone was offered. You should also record if a chaperone was present, had been refused, or was not available but the patient was happy to proceed.
- 35.4 You must not carry out intimate examinations on anaesthetised patients unless the patient has given written consent to this in advance.

36 Continuity of care

- 36.1 Patients benefit when all those treating them are fully informed about their condition and

medical history. Many patients value having their own GP or being treated by the same doctor or team during the course of an illness, as this helps them to develop relationships with their clinicians.

- 36.2 If you are unable to continue to care for a patient or group of patients either as an individual practitioner or as part of a team or group, you should tell the patient(s) and make arrangements for another doctor or service to take over their care. Until care has been taken over by another doctor or service, you are responsible for your patients. This means that you must provide emergency services and any care or treatment that your patients may need. When alternative medical care is in place, you should facilitate the transfer of the patients' medical records without delay.
- 36.3 The health of vulnerable groups such as prisoners, homeless people and those with chronic conditions, may be harmed when their care is interrupted or when other clinicians take over their care without adequate knowledge of their history and needs. You should do your best to make sure that the care of vulnerable groups of patients is not disrupted.
- 36.4 You should make arrangements to transfer patient care so that your patients continue to receive care if you are unexpectedly unable to continue providing care yourself as a result of illness or for other reasons.
- 36.5 If you feel unable to continue to provide effective care for a patient because the therapeutic relationship has broken down, you should get the patient's consent to send all of his or her medical records to another doctor of your or the patient's choice. You should document this in their medical records.

37 Retirement and transfer of patient care

- 37.1 If you are planning to retire or to reduce your patient list, you should make arrangements for the transfer of your patients to another doctor. You should let your patients know before these arrangements take effect. With the patient's consent, all relevant medical records should be sent to the doctor taking over the care of the patient. If you are responsible for medical records¹⁹, you must make sure the records are transferred securely or disposed of appropriately. See also paragraphs 33.4 and 33.5

38 Referral of patients

- 38.1 It is in the best interests of the patient that the overall management of their health is under the supervision and guidance of a general practitioner.
- 38.2 If you consider that it is in the best interests of the patient to be referred for specialist opinion, you should consider relevant professional guidelines and refer your patient to a specialist who is competent and appropriately skilled to deal with the particular patient. (See also paragraph 23.)
- 38.3 Normally, consultants will see patients following referral from their general practitioner, another consultant or treating doctor. In some cases there might be no such referral. In all cases, you should inform the patient's general practitioner of the patient's progress, unless

¹⁹ You will be responsible if you are a data controller under the Data Protection Act 1988 and Data Protection (Amendment) Act 2003. See <http://www.irishstatutebook.ie/1988/en/act/pub/0025/sec0001.html#sec1> and <http://www.irishstatutebook.ie/eli/2003/act/6/enacted/en/print>

the patient specifically objects. (See also paragraph 30.3.)

- 38.4 You should usually help a patient who requests another opinion unless you judge that this is not in their best interests. You should make copies of all relevant information available to another registered doctor nominated by the patient.
- 38.5 You must not pay a fee to another practitioner for the referral of patients or accept a fee for making a referral.

39 Refusal to treat

- 39.1 In exceptional circumstances, you may need to consider refusing specific treatments to individual patients. You should not refuse or delay treatment because you believe that a patient's actions or lifestyle have contributed to their condition. However, you may refuse treatment if you have grounds for believing that your patient is unlikely to co-operate or make the lifestyle changes needed to make the treatment effective. You may also refuse specific treatments that you judge would not be effective, or that would be likely to be of more harm than benefit to the patient.
- 39.2 If you decide to refuse treatment, you should explain your reasons to the patient and offer them an opportunity to have your decision reviewed by another clinician.

40 Medical reports

- 40.1 You should prepare or deliver reports with the patient's consent. Reports should be specific to the episode for which the report has been requested. If the report relates to the patient's current state of health, you should carry out an up-to-date examination where appropriate.
- 40.2 Reports must be relevant, factual, accurate and not misleading. Their content must not be influenced by financial or other inducements or pressures.
- 40.3 You should provide reports promptly so that the patient does not suffer any disadvantage.
- 40.4 You are entitled to request a professional fee for providing a report. The time and amount of the payment is generally a matter between you and the person or agency that requested the report. You must not negotiate your fee based on the outcome of litigation.
- 40.5 If you are asked to conduct an examination and give the results to a third party such as an insurance company, employer or legal representative, you should explain to the patient that you have a duty to the third party as well as to the patient, and that you cannot keep relevant information out of the report. You should be satisfied that the patient understands the scope and purpose of the examination, and has given their consent to the examination and the preparation of the report. You should apply the same standard of professionalism to conducting these examinations and preparing these reports as you apply to the care and treatment of patients.

41 Certification

- 41.1 In issuing certificates, reports, prescriptions and other formal documents, you must be accurate and make sure the document is legible. You must also include your Medical Council registration number²⁰. You should only sign a certificate, prescription, report or document for a patient following a review of the patient's condition.

42 Prescribing

- 42.1 The prescriptions you issue must be legible, dated, signed and must state your Medical Council registration number.
- 42.2 You must make sure that prescription pads and prescription-generating software are kept securely and are only accessible to those authorised to prescribe.
- 42.3 When prescribing medications, you must comply with the Misuse of Drugs legislation and other relevant regulations and/or guidelines.
- 42.4 If a telephone prescription is necessary, it must be given in accordance with the 'Exemptions for Emergency Supply' provisions set out in national regulations²¹. You must make a note of the call in the patient's records and send a written prescription to the pharmacist within 72 hours.
- 42.5 As far as possible, you should make sure that any treatment, medication or therapy prescribed for a patient is safe, evidence-based and in the patient's best interests. Where possible, when prescribing²² drugs avoid the use of brand names – unless there is a good reason for using them. You should be particularly careful when prescribing multiple medications in case the combination might cause adverse reactions, and you should liaise with the pharmacy to clarify any issues or concerns you may have. You should take special care when prescribing for patients who may have an impaired ability to metabolise the medication prescribed. You should weigh up the potential benefits with the risks of adverse effects and interactions when deciding what to prescribe. You should review patients' treatment regimes periodically.
- 42.6 You should keep up-to-date with developments in medication safety. You should seek independent, evidence-based sources of information on the benefits and risks associated with medicines before prescribing.
- 42.7 You must be aware of the dangers of drug dependency when prescribing benzodiazepines, opiates and other drugs with addictive potential. You should refer patients with drug dependencies to the appropriate drug treatment services and supports unless you have appropriate training, facilities and support yourself. You should not undertake treatment of opiate dependency unless you have been approved under the Methadone Treatment Protocol. You should safeguard patients with drug dependencies by taking reasonable steps to make sure that they are not inappropriately obtaining drugs from multiple sources. You can do this, for example, by liaising with drug treatment services, other doctors and pharmacists.

²⁰ Medical Practitioners Act 2007 S43

²¹ Medicinal Products (Prescription and Control of Supply) Regulations 2003

²² Health (Pricing and Supply of Medical Goods) Act 2013: <http://www.irishstatutebook.ie/eli/2013/act/14/enacted/en/pdf>

43 Telemedicine

- 43.1 Telemedicine describes the delivery of health care services through information and communication technologies to promote the health of individuals and their communities. It involves the exchange of information between doctors and patients, or between doctors and professional colleagues, for the diagnosis, treatment and prevention of disease and injuries, and for research, evaluation and continuing education.
- 43.2 If you provide telemedicine services to patients within the State, you should be registered with the Medical Council. This is to maintain public confidence in telemedicine.
- 43.3 You must follow the standards of good practice set out in this guide, whether you provide services using telemedicine or traditional means. In particular, you should:
- make sure that patients have given their consent to conduct the consultation through telemedicine and consent to any treatment provided. See paragraphs 9 to 13;
 - follow paragraph 44 of this guide if you advertise on websites or similar media; protect the privacy of patient information through effective security measures; protect patients' privacy by following the guidance on confidentiality and medical records set out in paragraphs 29 and 33, and explain your information policies to users;
 - comply with data protection principles if you transfer any personal patient information to other jurisdictions²³; and
 - inform the patient's general practitioner of the consultation (see paragraph 33.3).
- 43.4 You must satisfy yourself that the services you provide through telemedicine are safe and suitable for patients. You should explain to patients that there are aspects of telemedicine that are different to traditional medical practice – for example, a consultation through telemedicine does not involve a physical examination and any additional risks that may arise as a result.

44 Provision of information to the public and advertising

- 44.1 Information about medical services published in the media, internet or other means is generally in the public interest provided the information is factually accurate, evidence-based and not misleading.
- 44.2 You must include your Medical Council registration number in your letter headings, medical prescriptions and all other documentation and records (paper or electronic) related to your practice, and in any information you publish about your practice or services. Your letter headings should not include membership of associations or societies other than those recognised or accredited by appropriate training bodies. Information about your practice or services should also explain that doctors may only practise in countries in which they are registered.
- 44.3 You may advertise your practice by publicising the name and address of the practice, the practice hours and contact details. You may only include your area of specialty if it is one that is recognised by the Medical Council and you are entered for that specialty in the Specialist Division of the Register. You may display a professional plate and sign at your

²³ See Data Protection Act 1988 s11 and Data Protection Commissioner's guidance

place of practice indicating your registered name, registered qualifications or international equivalents, and registered specialties. The plate may also indicate hours of attendance, telephone numbers, services you provide and details of emergency services.

- 44.4 If you want to publish more information about the services you provide, you must make sure the information is true and verifiable, does not make false claims or does not have the potential to raise unrealistic expectations. For example, you should avoid using photographic or other illustrations of the human body to promote cosmetic or plastic surgery procedures as they may raise unrealistic expectations among potential patients. You should include information about any risks associated with the services you provide.
- 44.5 The fees you charge should be appropriate to the service you provide. You should tell patients before the consultation and treatment what the costs are likely to be.

45 Nutrition and hydration

- 45.1 Food and drink are basic needs of human beings. All patients are entitled to appropriate food and drink and to assistance from healthcare staff if they need help to eat and drink. You should check with patients and with the healthcare team that your patients are receiving sufficient food and drink along with any help they may need to eat and drink.
- 45.2 If a patient is unable to take sufficient food or drink orally, you should consider giving nutrition and/or hydration by subcutaneous, intravenous or enteral feeding routes. You should assess whether doing this will be of overall benefit to the patient, taking into account the patient's views, if known, and balancing the benefits, burdens and risks of each form of treatment. You should be sensitive to the emotional impact on the patient and their family of not providing nutrition and/or hydration. If you decide that providing artificial nutrition or hydration through medical intervention will not be of overall benefit to the patient, you must make sure the patient is kept as comfortable as possible and their symptoms addressed. Where possible, you should tell the patient and/or those close to them of your decision and the reasons for it. (See also paragraph 46.5).

46 End of life care

- 46.1 When patients are nearing the end of life, it is your responsibility to make sure they are comfortable, suffer as little as possible and die with dignity. You should treat them with kindness and compassion.
- 46.2 Communicating with patients and their families is an essential part of good care. You should be sensitive in presenting information, but make sure that patients and their families have a clear understanding of what can and cannot be achieved. You should offer advice on other treatment or palliative care options that may be available to them. You should make sure that support is given to patients and their families, particularly when the outcome is likely to be distressing for them.
- 46.3 Usually, you will give treatment that is intended to prolong a patient's life. However, there is no obligation on you to start or continue treatment, including resuscitation, or provide nutrition and hydration by medical intervention, if you judge that the treatment:
- is unlikely to work; or
 - might cause the patient more harm than benefit; or

- is likely to cause the patient pain, discomfort or distress that will outweigh the benefits it may bring.
- 46.4 You should carefully consider when to start and when to stop attempts to prolong life. You should make sure that patients receive appropriate pain management and relief from distress, whether or not you are continuing active treatment.
- 46.5 If there is a disagreement within the healthcare team or between the healthcare team and the patient or the patient's family about whether it is appropriate to withdraw treatment, or not to start a treatment, you should make every effort to resolve the issue. You should explain the reasons for your decision and listen carefully to the views of others. If an agreement cannot be reached, you should consider seeking advice from an experienced colleague, getting a second opinion, involving an independent advocate, or using a mediation service if available.
- 46.6 You should respect a refusal of treatment in a patient's advance healthcare plan or directive. There is further guidance on this in paragraph 16.
- 46.7 As a doctor, you play an important role in supporting patients, families and the community to deal with the reality of death. After the death of a patient, you should be available to speak with the bereaved family if that is what they wish. You should, as far as possible, explain the circumstances of the patient's death to the family in an open and sensitive way unless the patient previously recorded an objection to such information being given. (See paragraph 32).
- 46.8 If patients are diagnosed with a condition that is likely to lead to their death in the near future, and if they are suitable candidates to donate their organs, you should raise this sensitively with them. If the patient asks for information, you should explain how they can record their wishes. If a patient is close to death and cannot give their views, you should ask the patient's family whether the patient had expressed any views about organ or tissue donation or if they might want to donate. When patients are being considered as possible organ donors, your primary responsibility remains to their care and all decisions should be made for their benefit.
- 46.9 You must not take part in the deliberate killing of a patient.

47 Assisted human reproduction

- 47.1 Assisted human reproduction treatments such as In Vitro Fertilisation (IVF) should only be used after thorough investigation has shown that no other treatment is likely to be effective. You should make sure that patients have been offered appropriate counselling and have had enough time to consider the information before giving informed consent to any treatment.
- 47.2 Assisted human reproduction services should only be provided by suitably qualified professionals, in appropriately accredited facilities, and in line with international best practice. You should do regular clinical audits and follow-up of outcomes.
- 47.3 If you offer donor programmes to patients, you must have strong governance structures and keep accurate records so that the identity of the donor can be traced. Donor programmes should be altruistic and non-commercial. You should also comply with industry accreditation standards for donation programmes.

47.4 You must not take part in the creation of new forms of human life solely for experimental purposes. You must not engage in human reproductive cloning.

48 Abortion

- 48.1 You have an ethical duty to make every reasonable effort to protect the life and health of pregnant women and their unborn babies.
- 48.2 During pregnancy, rare complications can arise where a therapeutic intervention is required which may result in there being little or no hope of the baby surviving. In these exceptional circumstances, it may be necessary to terminate the pregnancy to protect the life of the mother while making every effort to preserve the life of the baby.
- 48.3 Abortion is legally permissible where there is a real and substantial risk to the life of the woman which cannot be prevented by other means.²⁴ This risk, while substantial, may not be immediate or inevitable in all cases. This risk should be assessed in light of current evidence-based best practice.
- 48.4 With regard to abortion abroad, it is lawful to give information in Ireland subject to strict conditions²⁵. However, it is not lawful to promote or advocate an abortion in such cases.
- 48.5 You have a duty to provide care, support and follow up for women who have had an abortion.

49 Conscientious objection

- 49.1 You may refuse to provide or to take part in the provision of lawful treatments or forms of care which conflict with your sincerely held ethical or moral values.
- 49.2 If you have a conscientious objection to a treatment or form of care, you should inform patients, colleagues and your employer as early as possible.
- 49.3 When discussing these issues with patients, you should be sensitive and considerate so as to minimise any distress your decision may cause. You should make sure that patients' care is not interrupted and their access to care is not impeded.
- 49.4 If you hold a conscientious objection to a treatment, you must:
- inform the patient that they have a right to seek treatment from another doctor; and
 - give the patient enough information to enable them to transfer to another doctor to get the treatment they want.
- 49.5 If the patient is unable to arrange their own transfer of care, you should make these arrangements on their behalf.
- 49.6 In an emergency, you must make your patient's care a priority and give necessary treatment.

²⁴ Under the Protection of Life during Pregnancy Act 2013, medical procedures for a pregnant woman, which result in the ending of an unborn human life, are lawful in three specified categories of circumstances: (1) Risk of loss of life from physical illness, (2) Risk of loss of life from physical illness in emergency, and (3) Risk of loss of life from suicide.

²⁵ Regulation of Information (Services Outside the State For Termination of Pregnancies) Act, 1995 www.irishstatutebook.ie/1995/en/act/pub/0005/index.html

50 Patients who pose a risk of harm to others

- 50.1 Some patients present a risk of harm to others which may or may not arise from clinical causes. You are not obliged to put yourself or others at risk of harm when assessing or treating a patient. However, in such circumstances, you should make a reasonable effort to conduct an appropriate clinical assessment and treatment, taking appropriate measures to protect yourself and others. (See also paragraph 63.1 regarding patient safety and advocacy.)

51 Treatment of prisoners

- 51.1 Prisoners are particularly vulnerable patients. They have the right to the same standard of care and treatment as others, to respect for their confidentiality with due regard for safety and security. They also have a right to be treated with courtesy and respect. (See also paragraph 36 on continuity of care.)
- 51.2 You should take suitable precautions if you think there is a risk to your personal safety or the safety of others.
- 51.3 You must not participate in the practice of torture or other forms of cruel, inhuman or degrading procedures.²⁶ You must not assist with executions.

52 Restraint

- 52.1 Managing patients with challenging behaviour requires a multidisciplinary and holistic approach. Physical restraint and the prescription of medication to control behaviour should only be considered when other approaches have failed. You must follow the Rules Governing the Use of Seclusion and Mechanical Means of Bodily Restraint²⁷.
- 52.2 If you prescribe medication to control behaviour, you should make sure it is appropriate, in the patient's best interests, and that the minimum dose is used for the minimum amount of time necessary. You should follow the prescribing guidance in paragraph 42.
- 52.3 If you are aware of the use of patient restraint that you consider to be disproportionate, excessive or inappropriate, you should raise your concerns with the senior clinician or with someone in a position to investigate the situation (see the guidance in paragraph 65).
- 52.4 If patients lack capacity to make a decision about treatment or examination, and this may cause harm to themselves or others, you may use appropriate physical or chemical restraint where this is in the patient's best interests. This should be used for the minimum amount of time necessary. You should follow the guidance on prescribing in paragraph 42.

53 Emergencies

- 53.1 In emergencies, either in clinical settings or in the community, you should provide assistance or care unless you are satisfied that appropriate care will be provided by others. When considering the care you can offer, you should take into account your own

²⁶ World Medical Association, Declaration of Tokyo, revised 2006.

[http://www.wma.net/en/30publications/10policies/c18/index.html.pdf?print-media-type&footer-right=\[page\]/\[toPage\]](http://www.wma.net/en/30publications/10policies/c18/index.html.pdf?print-media-type&footer-right=[page]/[toPage])

²⁷ S69 of The Mental Health Act 2001 requires seclusion and physical restraint to be used only in accordance with Rules made by the Mental Health Commission. The Rules can be found at

http://www.mhcirl.ie/for_H_Prof/Mental_Health_Commission_Rules/Seclusion_and_Mechanical_Restraint/

competence and safety.

54 Registration

- 54.1 You must practise in the name(s) under which you are registered and always use your registration number when representing yourself as a registered medical practitioner²⁸.
- 54.2 You should always identify yourself to patients before you start any consultation, investigation or treatment.
- 54.3 You are required by law²⁹ to notify the Council of anything that might affect your continuing registration. This includes:
- criminal convictions in or outside the State;
 - decisions by regulatory bodies in or outside the State not to grant you registration or a licence; or
 - decisions by regulatory bodies in or outside the State to remove or restrict your registration.

You must notify the Council within 30 days of learning of your conviction or other relevant finding. The police or courts may also notify the Council about convictions. You must be honest about convictions or other matters that may affect your registration when making your annual declaration to the Medical Council.

55 Premises and practice information

- 55.1 Patients and members of the public are entitled to expect that your premises are clean, accessible and suitable for medical consultations and examinations. The layout of the premises should allow privacy for patients during consultations. (See also paragraph 24.1.)

56 Employment issues

- 56.1 Providing references
- 56.1.1 To protect patient safety, you must make sure that references you provide for colleagues are accurate, honest and include all relevant information.
- 56.2 Accepting posts
- 56.2.1 If you decide not to take up a job you have accepted, you should inform the employer as soon as possible. In these situations, or if you leave your employment without giving the notice required by your contract, you should do your best to ensure that patient care is not compromised.
- 56.3 Locum and rota arrangements
- 56.3.1 If you are going to be absent from work, you should make sure that locum cover or other arrangements are in place to protect the safety and welfare of your patients. If you are self-employed, you should make these arrangements yourself. You should then make sure that the locum doctor is qualified and registered with

²⁸ See Section 43(8) of The Medical Practitioners Act 2007 <http://www.irishstatutebook.ie/2007/en/act/pub/0025/print.html#sec43>

²⁹ Medical Practitioners Act 2007 S55 <http://www.irishstatutebook.ie/2007/en/act/pub/0025/sec0055.html#sec55>

the Medical Council. As far as possible, tell your patients about the temporary arrangements that will be in place during your absence. (See also paragraph 23 on handover of patient care.)

56.3.2 If you work in a rota system, you should make sure that there is clear communication among the participants, particularly when care is handed over at the beginning and end of shifts. Each person should know who is on duty at any given time. (See paragraph 22.)

56.4 Participating in recruitment panels

56.4.1 If you are involved in recruiting doctors, you should be fair and objective in your assessment of candidates. You should understand and comply with requirements of the employment equality legislation.

57 Professional indemnity

57.1 You must have adequate professional indemnity cover for all healthcare services you provide³⁰.

58 Health and well-being of doctors

58.1 You have an ethical responsibility to look after your own health and well-being. You should not treat or prescribe for yourself. You should have your own general practitioner, who is not a member of your family, and you should be vaccinated against common communicable diseases.

58.2 If you have an illness which could be a risk to patients or which could seriously impair your judgement, you must consult an appropriately-qualified professional and follow their advice. This professional will have a dual role: to help and counsel you, and to make sure you do not pose a risk to patients and others. If such a risk exists, you must inform the Medical Council as soon as possible.

59 Concerns about a colleague's abuse of alcohol or drugs or other health problems

59.1 If you are concerned about a colleague's health or professional competence due to the misuse of alcohol or drugs, a physical or psychological disorder or other factors, your primary duty is to protect patients. If there is a risk to patient safety, you must inform the relevant authority of your concerns without delay. If there is no current risk, you should support your colleague by advising them to seek expert professional help or to consider referral to the Medical Council's Health Committee.

60 Treatment of relatives

60.1 You should not treat or prescribe for members of your family or others with whom you have a close personal relationship except in emergencies. You must not prescribe controlled substances for them or issue sick certificates or reports for them except in emergencies.

³⁰ The Medical Practitioners (Professional Indemnity) (Amendment) Bill, if passed and enacted will require the Council to define categories of practitioners who will be legally required to obtain professional indemnity or insurance and to provide evidence (to the Council) that they hold the minimum level of medical indemnity insurance.

61 Medical ionising radiation

- 61.1 If you perform examinations that require exposure to medical ionising radiation, you must comply with relevant national regulations and accepted professional standards. All radiation procedures should be clinically justified and the safety of the patient must always be paramount. You should inform patients about the procedure and get their consent. (See also paragraphs 9 to 11.)
- 61.2 If you are not a radiologist and you undertake radiation procedures for patients, you must complete a training course in radiation safety and techniques. This course must be specified by the Medical Council³¹.
- 61.3 Radiological consultation and investigative procedures should only be performed at the request of a registered medical practitioner or other specialist practitioner and agreed with the radiologist. Reports of radiological procedures should be reviewed and verified by the radiologist before filing. The requesting clinician has an equal responsibility to review and act on the report.

62 Managing conflicts of interest

- 62.1 You must not let financial considerations influence or appear to influence your management of patients. You must tell patients about any beneficial interest you or a close family member has in a private clinic, hospital, pharmacy or other institution to which you propose to refer them to for investigation or treatment.
- 62.2 If you are associated with private clinics or hospitals, you should make sure that the services offered to patients conform to the clinical and ethical standards of the profession.
- 62.3 You should not accept gifts (including hospitality) from pharmaceutical, medical devices or other commercial enterprises. This does not prevent you attending educational meetings or receiving payment of reasonable fees for professional services to commercial enterprises. You should be aware that even low-value promotional materials can influence prescribing and treatment decisions.
- 62.4 If you are involved in procuring facilities or services, you should follow local and national procurement policies.
- 62.5 If you are responsible for education activities in your hospital or any other institution, you should make sure that any funding from commercial enterprises is channelled through unrestricted Education and Development Funds and managed without influence from the commercial enterprise.
- 62.6 Conflicts of interest may arise if you get financial support or other resources from pharmaceutical companies or related enterprises in connection with professional activities including lectures, presentations, publications, development of clinical services or research. In these circumstances, you should tell patients and any other relevant party about any professional relationship you have with these companies³².

³¹ S.I. No. 478/2002 - European Communities (Medical Ionising Radiation Protection) Regulations 2002.
<http://www.irishstatutebook.ie/2002/en/si/0478.html>

³² See Medical Council guidance on Relationships between Doctors and Industry – Frequently Asked Questions
<http://www.medicalcouncil.ie/News-and-Publications/Publications/Professional-Conduct-Ethics/Relationship-between-doctors-industry.pdf>

- 62.7 If you are involved in any way in promoting or endorsing specific healthcare products or services, you must declare any financial or commercial interest you have in the organisation or company providing the products or services.
- 62.8 For other guidance on conflicts of interest, see paragraph 5.7.

63 Doctors in management roles

Your primary objective is the health, safety and care of patients, even if your role does not involve providing clinical care for individual patients. You may still be accountable to the Medical Council for your conduct.

63.1 Patient safety and advocacy

- 63.1.1 As a doctor in a management role, you have a responsibility to advocate for appropriate healthcare resources and facilities if insufficient resources are affecting or may affect patient safety and quality of care.
- 63.1.2 As a manager, you share the responsibility for patient safety within your organisation. You should satisfy yourself that clinical audit, handover (see paragraph 23) and confidentiality systems are in place. You should also satisfy yourself that systems are in place to give early warning of any failure or potential failure in the clinical performance of individuals or teams. You should make sure that any failures are dealt with quickly and effectively. You should also make sure that staff understand the importance of these systems and how to use them.
- 63.1.3 If you are responsible for managing a team or department, you should make sure that:
- systems are in place for staff to raise concerns about patient safety;
 - staff know about these systems and how to use them;
 - staff are encouraged to raise sincerely-held concerns;
 - the concerns of staff are investigated promptly.

You should not start disciplinary measures against a staff member for raising concerns that they believe to be true³³.

63.2 Planning and using resources

- 63.2.1 The effective and efficient use of resources reduces waste and increases the availability of health care for all patients. As far as possible, you should make sure that systems are in place to promote the efficient and fair use of available resources. As a manager, you may have to decide how to share limited resources. Tensions may arise between the need to promote and protect patient safety and the need to meet the needs of the community within limited resources. Your primary duty remains the care and safety of patients, but as a manager, you must consider the overall needs of the community of patients your organisation serves, even where this may conflict with the needs of individual patients. (See also paragraph 24.)

³³ For further information about the circumstances in which disclosures are protected, see Protected Disclosures Act 2014

64 Culture of patient safety

- 64.1 Providing medical treatment necessarily involves some degree of risk. However, you should make sure as far as possible that the services and treatments you provide are safe and comply with the standards of the profession. You should promote a culture of patient safety within the context of the wider healthcare system. (See also the guidance in paragraph 63.1.)
- 64.2 Despite the best efforts of staff, adverse events may still arise. Adverse events are events that result in unintended outcomes for patients as a result of clinical interventions or omissions, or the systems or processes used in managing patient care.
- 64.3 If an adverse event occurs, you should make sure its effects on the patient are minimised as far as possible. If the patient needs further care because of the adverse event, you should make sure they are helped and supported through this process.
- 64.4 If you are involved in an adverse event, you should report it, learn from it and take part in any review of the incident.

65 Raising concerns

- 65.1 If you are aware of systems or service structures that lead to unsafe practices which may put patients, you or other colleagues at risk, you must inform an appropriate person or authority. You should follow the guidance in paragraph 63.1 about raising concerns about safety in the environment in which you work.
- 65.2 If your concerns are not resolved despite reporting them to an appropriate person or authority, you may consider raising the issue outside the organisation. Before doing this, you should ask for advice from an experienced colleague or from your medical indemnity organisation. You must not disclose confidential information about patients.
- 65.3 If you are a member of a board and are concerned that a decision of the board or other governing body is putting patient safety at risk, you should formally raise your concerns with the board and ask that they are formally recorded.

66 Maintaining competence

- 66.1 Maintaining your competence throughout your professional career is an essential element of professionalism. Patients expect you to be up-to-date and competent in your speciality or field of practice. You must make sure you maintain and improve your knowledge and skills, recognise and work within the limits of your competence, and address areas within the scope of your practice where you lack competence to provide safe care. (See also paragraph 6.1.)
- 66.2 You should keep in mind the need to maintain your competence as you conduct your day-to-day practice, identifying areas where you may need to update your knowledge or skills³⁴. You should also use external and objective information sources, where possible, to assess your training or development needs. You must address these areas of your practice by taking part in the professional competence schemes set up by the Medical Council and

³⁴ See obligations to maintain professional competence under Section 94 of the Medical Practitioners Act 2007 <http://www.irishstatutebook.ie/2007/en/act/pub/0025/sec0094.html#sec94>

engaging in relevant practice-based activities to enable you to continue to provide a high standard of care.

- 66.3 You must keep a record of the activities you have completed, reflect on the issues and apply what you have learned to your practice.

67 Open disclosure and duty of candour

- 67.1 Open disclosure is supported within a culture of candour. You have a duty to promote and support this culture and to support colleagues whose actions are investigated following an adverse event. If you are responsible for conducting such investigations, you should make sure they are carried out quickly, recognising that this is a stressful time for all concerned.
- 67.2 Patients and their families, where appropriate, are entitled to honest, open and prompt communication about adverse events that may have caused them harm. When discussing events with patients and their families, you should:
- acknowledge that the event happened;
 - explain how it happened;
 - apologise, if appropriate; and
 - assure patients and their families that the cause of the event will be investigated and efforts made to reduce the chance of it happening again.

68 Teaching and training

- 68.1 Teaching and training medical students and junior colleagues is vital to the continued provision of safe and effective healthcare. You should be willing to take part in teaching and training and support and encourage students and colleagues to develop their knowledge and skills. You must treat students and trainees with respect and dignity.

69 Training and trainees

- 69.1 If you have a formal role in training, you should:
- supervise trainees and make sure they act within the limits of their competence;
 - give trainees constructive feedback;
 - be thorough, fair and objective in your assessment of trainees; and
 - offer support to trainees who have problems with their performance.
- 69.2 If you are a trainee, you must be clear about your learning objectives. You should be aware of support and training structures and local grievance procedures.

70 Teaching and medical students

- 70.1 Most patients support medical education and training and understand its importance. If you intend to involve students in a patient's care, you should tell the patient about this in advance. Wherever possible, you should respect the wishes of patients who do not want students involved in their care and reassure them their care will not be affected by their

decision in any way. You should make sure that patients are not burdened by contact with medical students.

- 70.2 You should make sure that students working with your patients fully understand their role in relation to patient care, identify themselves by name to patients and do not represent themselves as doctors. You should do your best to see that students are familiar with and follow the principles in this guide and in our Guidance on Undergraduate Professionalism³⁵.
- 70.3 Students must get permission from patients before they interview or examine them.

71 Allowing school students and others access to patients

- 71.1 You may be asked to allow school students or other people who are not health professionals to observe the clinical care of patients. In considering such requests, you must put patients' safety and rights first. You should check that any student or anyone else who will have access to patients or information about them, has been appropriately vetted and understands their duty of confidentiality. You should make sure that each student (or other person) has signed a formal agreement not to disclose information while observing patient care or afterwards. You must get the consent of patients before allowing students or other people to observe or be involved with your patients.

72 Language skills

- 72.1 You must have a good command of the English language to enable you to communicate effectively with patients and colleagues.

73 Concerns about colleagues

- 73.1 If you have concerns about a colleague's conduct or competence, you should first talk through your concerns with the doctor in question in a sensitive and discreet way.
- 73.2 If you have any concerns about patient safety, you must act to prevent any immediate risk to patient safety by notifying the relevant authorities (including the Medical Council) about your concern as soon as possible.
- 73.3 If you are not sure who you should report your concern to, ask a senior colleague, the Medical Council or your medical indemnity company for advice.

³⁵ A Foundation for the Future: Guidelines for Medical Schools and Medical Students on Undergraduate Professionalism, 2015



Appendix A: Principles of Freedom of Information (FOI) Legislation

The following text is taken from the Information Commissioner website.

Freedom of Information: Principles & Assumptions

The principles and assumptions, on which the FOI regime is framed, are worth restating. The FOI Act presumes disclosure of information as the norm in speaking of “access to the greatest extent possible” in its Long Title.

Principles

- Non-disclosure provisions must not be confused with confidentiality provisions.
- Non-disclosure provisions must be specific.
- Need for each non-disclosure provision must be clear.
- Non-disclosure provisions must be reviewed on a regular basis.
- Non-disclosure provisions emanating from EU Directives must be ‘intra vires’ those Directives and must not be magnified in transposing regulations into Irish statute.
- Non-disclosure provisions must be kept to a minimum.

Assumptions

- Public bodies holding records covered by non-disclosure provisions may, or may not, be included in the First Schedule (subject to FOI in their own right).
- If not, there is no access mechanism through that public body. However, access may be sought where the records in question are held by a public body which is subject to FOI.
- Non-disclosure provisions are justified only where Part III of the FOI Act (Exempt Records) is not sufficient to protect the particular interests concerned.
- There are very few situations where Part III of the FOI Act does not provide appropriate protection for any interests concerned.
- The Official Secrets Act continues to protect against unauthorised disclosure of official information by civil servants.



Appendix B: Confidentiality – Relevant Legislation

The following text is taken from the Data Protection website.

Data Protection

Data Protection Acts 1988 and 2003.

<http://www.dataprotection.ie/viewdoc.asp?DocID=796>

The eight rules of data protection are:

1. Obtain and process information fairly
2. Keep it only for one or more specified, explicit and lawful purposes
3. Use and disclose it only in ways compatible with these purposes
4. Keep it safe and secure
5. Keep it accurate, complete and up-to-date
6. Ensure that it is adequate, relevant and not excessive
7. Retain it for no longer than is necessary for the purpose or purposes
8. Give a copy of his/her personal data to an individual, on request

Source: <https://www.dataprotection.ie/docs/A-Guide-for-Data-Contollers/696.htm#3> accessed 22/01/2016

Freedom of Information Legislation

Freedom of Information Act 1997, section 6

<http://www.irishstatutebook.ie/1997/en/act/pub/0013/>

Freedom of Information Act 2014

<http://www.irishstatutebook.ie/2014/en/act/pub/0030/index.html>

Forthcoming Health Information and Patient Safety Act – this had not been enacted at the time of printing

<http://health.gov.ie/wp-content/uploads/2015/11/Revised-General-Scheme-HIPS-Bill.pdf>

Health (Provision of Information) Acts 1997 and 2003 and associated regulations

<http://www.irishstatutebook.ie/1997/en/act/pub/0009/>

The Statistics Act 1993

<http://www.irishstatutebook.ie/1993/en/act/pub/0021/>

Infectious Diseases Regulations 1981 as amended in 2003 and 2011

<http://www.irishstatutebook.ie/1981/en/si/0390.html>



Appendix C: Information for Patients before giving Consent

The information that patients want or should know before they decide whether or not to consent to treatment or an investigation may include:

- details of the diagnosis and prognosis, and the likely prognosis if the condition is left untreated;
- uncertainties about the diagnosis, including options for further investigation before treatment;
- options for treating or managing the condition including the option not to treat;
- the reason for a proposed investigation or treatment;
- details of the procedures or therapies involved, including methods of pain relief;
- details of the procedure and what the patient might experience during or after the procedure, including common and serious side effects;
- explanations of the likely benefits and the probabilities of success for each option;
- discussion of any serious or frequently occurring risks and any lifestyle changes which may be caused or required by the treatment for each option;
- information about whether or not a proposed treatment is experimental;
- information about how and when the patient's condition and any side effects will be monitored or re-assessed;
- the name of the doctor who will have overall responsibility for the treatment and, where appropriate, the names of the senior members of the team;
- whether doctors in training will be involved;
- the extent to which students may be involved in an investigation or treatment;
- a reminder that patients can change their minds about a decision at any time;
- a reminder that patients have a right to seek a second opinion; and
- details of costs or charges which the patient may have to meet, where applicable.

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