Guide to Professional Conduct & Ethics for Registered Medical Practitioners

9th Edition 2024

Comhairle na nDochtúirí Leighis
Medical Council

Contents

Introduction

The Medical Council protects the public by promoting and ensuring high standards of education, training, conduct and competence among doctors who are registered with the Medical Council. As part of its role, and to support doctors to meet these high standards, the Medical Council produces guidance on matters related to professional conduct, ethics and aspects of practice.

Doctors[1] hold a privileged position of trust in society. To maintain this trust, you are expected to demonstrate professionalism through application of the required skills and knowledge and adherence to high standards of professional conduct and ethics.

This guide outlines the values and principles that underpin professionalism and good medical practice in the interests of patients and the broader population. It specifies how these values and principles apply in various aspects of your professional practice e.g. with patients, in your practice settings, in the broader community, and with your colleagues.

Patients are individuals with diverse needs. This guide acknowledges their right to be treated with dignity and respect, and to participate in decisions about their treatment and care.

This guide outlines general principles that you are expected to adhere to and observe as well as more specific guidance in relation to identified aspects of practice. It is not a legal code. The guide does not aim to address every clinical and non-clinical situation that arises in practice. However, understanding and applying these principles will assist you to safely navigate situations that arise in professional interactions.

You have a duty to comply with the laws and regulations pertaining to your practice. Your practice and conduct will also be informed by professional, clinical, and organisational policies and guidelines.

1 Throughout this guide, the terms 'doctor and 'you' refer to registered medical practitioners (medical doctors who are registered with the Medical Council)

The Medical Council acknowledges that healthcare is complex and that doctors work in a demanding environment where responsibility for standards of healthcare is shared with other doctors, health professionals, health service management and organisations locally, regionally, and nationally. The Medical Council also acknowledges that doctors need to be supported by the health service and by colleagues in their efforts to provide good standards of care.

This guidance applies to those persons registered with the Medical Council including registered medical practitioners, and medical interns. This guidance should also inform medical education.

The guidance in this 9th edition is effective from 1st January 2024 and remains effective until such time as it is updated by the Medical Council[2]. This guidance should, be read in conjunction with all relevant policy and legal developments during its period of application.

"You are expected to demonstrate professionalism through application of the required skills and knowledge and adherence to high standards of professional conduct and ethics."

2 The 8th edition of the Guide to Professional Conduct for Registered Medical Practitioners (as amended 2019) will continue to apply until the 9th edition comes into effect on 1st January 2024.

How the Medical Council expects you to use this guidance

In this guide:

The term **'you must'** is used where there is an absolute duty on you to comply with the guidance that follows.

The term **'you should'** is used to describe best practice in most circumstances, accepting that it may not always be practical to follow the guidance or that another approach may be appropriate in particular circumstances. You should exercise your judgement in such cases.

Exercising judgement means that doctors may reach different conclusions when faced with the same situation. If you apply this guidance, act in good faith in the interests of patients and respect their will and preferences, you will be in a good position to explain and justify your decisions and actions if a concern is raised about your practice.

Some chapters and subjects in this guidance are introduced using general guidance. Where this happens, the general guidance should inform your interpretation of the subsequent, related paragraphs.

Note regarding terminology and reference sources:

- 'Treatment' also includes assessment, investigation, and treatment.
- 'Parent' also includes 'legal guardian'.
- 'Legislation'/ 'policies/ 'regulations': The guide includes links and references to legislation, and policies, applicable as of the date of publication, to help you understand both your legal and professional ethical obligations. References to the law are included where relevant, but these are not definitive statements of the law, and may be superseded by future policy, legislative[3] and/or developments as a result of case law.
- As a doctor, you have a duty to keep up to date with policy and legal developments that could affect your practice.

3 Any reference to legislation contained in this guidance, whether a reference to any enactment or otherwise, should be construed as a reference to such provision as amended, adapted or extended from time to time.

Values and principles underpinning good professional practice

Good professional practice requires that you:

- ✓ Provide a good standard of practice and care.
- ✓ Recognise that patients are individuals with diverse needs and acknowledge their right to be treated with dignity and respect, and to be involved in decisions about their treatment and care.
- ✓ Ensure that the care of patients is at the centre of your practice.
- ✓ Act promptly if you think the safety, dignity or comfort of patients or colleagues is being compromised.
- ✓ Act with honesty, integrity and compassion.
- ✓ Be honest and open with patients when things go wrong.
- ✓ Learn from patient safety incidents and contribute to improving the quality and safety of patient care.
- ✓ Work respectfully and effectively with colleagues.
- ✓ Never discriminate unfairly[4] against patients or colleagues.
- ✓ Use healthcare resources wisely and efficiently (taking account of the needs of your patient, other patients and the wider population).
- ✓ Demonstrate leadership as appropriate to your role, and work with others to make healthcare more supportive, inclusive and fair.
- ✓ Strive to create and maintain a healthcare environment that supports those who receive and provide healthcare services.
- ✓ Protect and promote the health of patients and the public.
- ✓ Care for your own health and wellbeing.
- ✓ Ensure your conduct is of a standard that justifies your patients' trust in you and the public's trust in your profession.

4 Discrimination is unlawful on the grounds set out in the Equal Status legislation. The Equal Status Acts 2000 to 2018 can be accessed at: https://www.irishstatutebook.ie/eli/2000/act/8/enacted/en/html

When standards are not met

The majority of doctors demonstrate the expected standards of practice, conduct and behaviour, but a small proportion fall short. The Medical Council must act in the public interest when it is made aware of a risk to patient safety arising from the practice or conduct of a doctor, or to maintain public confidence in doctors, or where it is necessary to intervene to maintain professional standards. For further information about how the Medical Council deals with such situations see paragraph 64 (Complaints made to the Medical Council about a doctor).

CHAPTER 1

Good medical practice and patient safety

1. Good medical practice

Good medical practice depends on doctors working together with patients and colleagues toward shared aims and with mutual respect. Such partnership depends on establishing trust, providing patient-centred care, working collaboratively with patients and colleagues, advocating for patients and communicating effectively with patients, colleagues and others.

1.1 Good communication 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:

- Identify yourself by name and role before you start any consultation, investigation or treatment.
- Be honest and give relevant information. You should welcome questions from patients and respond to them in an open, honest and comprehensive way.

1.2 You must provide a good standard of medical practice, including maintaining medical records. If you assess, diagnose, or treat patients, you must work in partnership with them to:

- Assess their condition(s), taking account of their history, views and needs.
- Examine the patient where clinically indicated.
- Provide (or arrange) prompt and suitable advice, investigations or treatment as indicated.
- Refer a patient to another practitioner, or service, when this serves the patient's needs (see paragraph 33 'Continuity of care').

2. Patient safety

Providing and promoting good medical care, applying the values and standards of the profession, listening to and acting on patients' and colleagues' concerns, and fostering learning from adverse events all contribute to a culture of patient safety.

2.1 You must practise and promote a positive culture of patient safety. This includes:

- Providing a good standard of practice[5] and care, maintaining your professional competence, keeping your knowledge and skills up to date, reflecting on your practice and working within your sphere of competence.
- Supporting and demonstrating effective communication, partnership and teamwork with patients and colleagues.
- Identifying concerns about the quality of patient care and services and notifying these to the appropriate person or authority.
- Encouraging and supporting a culture in which staff can raise concerns openly and safely at all levels.
- Contributing to improvements in the quality of services and outcomes.
- Complying with and supporting safety procedures such as infection control, incident and risk management.

2.2 Where an unintended and unanticipated outcome occurs, you must:

- Make sure that the effect on the patient is minimised as far as possible and that they receive further appropriate care as necessary.
- Facilitate timely and compassionate open disclosure and support the patient through this process (also see paragraph 4 – Open Disclosure).
- Report the incident, learn from it and take part in any review of the incident.

5 The Medical Council's Eight Domains of Good Professional Practice describe a framework of competencies applicable to all doctors across the continuum of professional development from formal medical education and training through to maintenance of professional competence. See Appendix A.

3. Identifying and raising concerns

3.1 You must raise concerns where you believe that patient safety or care is being compromised by the practice of colleagues, or by systems, policies and procedures in the organisations in which you work. Before doing so, you should consider seeking advice from an experienced colleague or from your medical indemnity organisation.

3.2 If your concerns are not resolved within the organisation, you should raise the issue with the relevant regulatory authority[6] or through the applicable notification or disclosure pathways.[7]

4. Open disclosure

Healthcare is complex, and sometimes things go wrong, which may result in harm to patients. Open disclosure is an honest, open, compassionate, consistent and timely approach to communicating with patients, and, where appropriate, their family, carers and/or supporters, following patient safety incidents.[8] It includes acknowledging what has happened, expressing regret for what has happened, keeping the patient informed and providing reassurance in relation to on-going care and treatment, how lessons will be learned from what happened, and the steps being taken by the health services provider to try to prevent a recurrence of the event.

4.1 When a patient safety incident occurs, the response from health service providers, including doctors, must be professional, and empathetic.

4.2 You must practise, promote and support a culture of open disclosure.

4.3 You must comply with any applicable legislation[9] and any national policies regarding open disclosure.

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6 Examples include, but are not limited to, the Health Information and Quality Authority (HIQA), the Mental Health Commission, the Health Products Regulatory Authority (HPRA), the Health and Social Care Professions Council (CORU), the Medical Council, the Nursing and Midwifery Board of Ireland (NMBI), and the Dental Council.

7 For information on protected disclosures and whistleblowing generally, see Citizens Information https://www.citizensinformation.ie/en/employment/enforcement-and-redress/protection-for-whistleblowers/#8a139e.

8 A 'Patient safety incident' includes harm events, no harm events, and near miss events.

9 Important legislation in this area includes the Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023 https://www.irishstatutebook.ie/eli/2023/act/10/enacted/en.

5. Protection and welfare of children and young people[10]

5.1 You must be aware of and comply with the national guidelines[11] and legislation[12] for the protection of children, which state that the welfare of the child is of paramount importance.

5.2 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 / psychological abuse or neglect, you must report this to the appropriate authorities and / or the relevant agency without delay.[13]

5.3 You should inform the child's family of your intention to report your concerns, unless you believe that this may endanger the child, you, or your colleagues or that knowledge of the proposed report could impede any investigation of the concerns. See also paragraphs 22 and 26 for further guidance about consent and confidentiality as they relate to children and young people.

6. Protection and welfare of adults at risk of abuse

Abuse is what happens when a person's rights and dignity are not respected by another person. It includes physical, emotional, sexual, financial, organisational, institutional, and cyber abuse, or neglect.

6.1 You should be alert to the possibility that adults can be at risk of abuse and you should notify the appropriate authorities if you have concerns.[14]

10 The Child and Family Agency (Tusla) provides some guidance and resources regarding child protection and welfare. https://www.tusla.ie/services/child-protection-welfare/

11 Children First: National Guidance for the Protection and Welfare of Children https://www.gov.ie/en/publication/114c50-children-first-national-guidelines-for-the-protection-and-welfare-of/

12 This includes the Children First Act 2015 https://www.irishstatutebook.ie/eli/2015/act/36/enacted/en/index.html and the Child Care Act 1991 https://revisedacts.lawreform.ie/eli/1991/act/17/revised/en/html

13 As provided for in National Guidance. See www.tusla.ie

14 For further general information and guidance about reporting concerns see Safeguarding Ireland https://www.safeguardingireland.org/

7. Reporting of alleged historic abuse

7.1 Where patients disclose abuse that took place during childhood, you must assess the current risk to your patient and/or to any other person who may be in contact with the alleged abuser.

7.2 If you consider that anyone is at risk, you must refer to the relevant guidance[15] and, where required, you must report this to the appropriate authorities.[16] You should inform the patient of your reporting obligations and seek their consent. However, your reporting obligation remains even if the patient does not consent.

8. Providing care in emergencies

In emergencies, you should provide assistance or care unless you are satisfied that appropriate care is being provided by others. When considering the care you can offer, you should take into account your own competence and safety (see also paragraphs 17 and 22.6 'Consent in Emergency Situations').

9. Healthcare resources

Healthcare resources are finite. It is important that you are responsible in your use of resources and identify when a lack of resources is likely to impact on the quality and safety of patient care. You have a broad responsibility to use resources sustainably. How you implement this will vary depending on your role and responsibilities.

9.1 You should strive to use resources equitably, efficiently and sustainably, consistent with evidence-based patient care, and in the context of planetary health and the environment. You should balance your duty of care to each patient with your responsibility to the community, the wider population and global health.

9.2 You should prioritise the safe medical care of patients and highlight concerns when lack of resources poses a risk to patient safety.

15 Children First: National Guidance for the Protection and Welfare of Children https://www.gov.ie/en/publication/114c50-children-first-national-guidelines-for-the-protection-and-welfare-of/ and any other applicable guidance, including guidance on safeguarding vulnerable adults.

16 The Child and Family Agency (Tusla) https://www.tusla.ie/

“As well as good standards of clinical care, safe patient care requires a well organised practice supported by robust systems, appropriate record keeping, organisation of rota and cover arrangements, among others.”

10. Safe environment and premises

10.1 Patients and members of the public expect that the premises in which they receive medical care are suitable for such practice e.g., safe, clean, accessible and allows for privacy as far as possible.

10.2 If you have control over, or responsibility for, the practice premises you should take all reasonable steps to ensure that appropriate standards are met.[17]

10.3 If you do not have control over, or responsibility for, the practice premises, you should raise any concerns that you identify, or have knowledge of, regarding the suitability of premises, to the appropriate person or authority. See also ‘Identifying and raising concerns’ (paragraph 3) and ‘Healthcare resources’ (paragraph 9).

17 Such standards include applicable infection control and health and safety requirements. Where there is a legal obligation to comply with certain standards, these standards must be met, for example, under Health and Safety Legislation.

11. Leadership and management for doctors

11.1 Good leadership is widely recognised as being central to the delivery of safe and effective healthcare. Your leadership and management responsibilities will vary depending on your practice and your role.

11.2 Even if your role does not directly involve providing clinical care, your primary responsibility is the health, safety and quality of care of patients.

11.3 As well as good standards of clinical care, safe patient care requires a well organised practice supported by robust systems, appropriate record keeping, organisation of rota and cover arrangements, among others. Depending on your level of authority you should work to improve systems and raise concerns with an appropriate person or authority if you believe processes and administrative systems in the healthcare setting are impeding good patient care.

11.4 If you identify incidents or risks to patient safety in the healthcare system, you must take appropriate action to manage these and to make the necessary notifications.[18]

12. Health and wellbeing of doctors

Self-care is an important element of good professional practice.

12.1 You should:

- Look after your own health and wellbeing. This is in your own interest but also supports you to sustain safe and effective medical practice.
- Have your own general practitioner. This should not be a person with whom you have a close family or personal relationship.
- Be vaccinated against common communicable diseases.
- Not treat or prescribe for yourself, (subject to paragraph 12.2).

18 These may include risk and incident management systems and may also include open disclosure requirements or other disclosures or notifications.

12.2 You must not prescribe controlled drugs for yourself.

12.3 Doctors are entitled to good care and support from colleagues and employers when they suffer ill-health.

12.4 If health and wellbeing risks arise for you from your work, you should raise these concerns with an appropriate person or authority such as your employer.

12.5 If you have concerns about your health, you should consider seeking guidance and support from colleagues and /or family and friends, or support services provided by a professional body or organisation.[19]

12.6 If you have a condition 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 advise you, and to make sure you do not pose a risk to yourself, patients and others. If such a risk exists, you must inform the Medical Council as soon as you become aware of it.[20]

19 See the Medical Council website which lists supports for doctors including 'Doctor Well-being- A guide from the Medical Council https://www.medicalcouncil.ie/public-information/wellbeing/doctor-well-being-booklet.pdf

20 You must abide by the reporting requirements to the Medical Council in respect of relevant medical disability.

CHAPTER 2 Consent

13. Consent – general principles[21]

Consent is a fundamental ethical and legal requirement in medical practice and is based on respect for patient autonomy.

13.1 You must obtain informed consent from the patient, or have another lawful authority, before initiating any treatment.[22],[23]

13.2 Every adult patient is presumed to have capacity to make decisions about their health care.

13.3 In order to come to a decision about whether to proceed with any proposed treatment, patients must be sufficiently informed about the treatment options and the nature, risks and benefits of such treatment options.[24]

13.4 Patients have the right to have an advocate of their choice present during discussions about their healthcare.

21 These general principles may not all apply in specific situations e.g., in emergencies (see paragraphs 17 and 22.6), and where a patient does not have capacity to make the decision in question (see paragraph 14). Consent issues relating to patients aged under 18 years are considered in paragraph 22.

22 'Treatment' includes any examination or investigation.

23 While not applicable in all settings, the HSE 'National Consent Policy' provides comprehensive, detailed information and useful guidance on obtaining consent and associated considerations.

24 See paragraph 15 for further information on informed consent.

13.5 The process of consent involves dialogue between the patient and the doctor and the ongoing sharing of relevant information in relation to the patient's condition and any proposed treatment. You must listen to the patient and provide them with information in a way that they can understand. You should give the patient as much time and support as possible and answer their questions as accurately and honestly as you can.

13.6 For consent to be valid, it must be given freely. Patients must understand that they have the right to give, decline and withdraw consent at any time.

14. Capacity and Assisted Decision Making[25],[26]

14.1 In some situations, you may have concerns about a patient's ability to make an informed decision such as where a patient is unable to communicate a clear and consistent choice, where their decision goes against their previously expressed wishes or is out of character for them or where it seems objectively unwise.

14.2 A person may lack 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.

14.3 A determination that a patient lacks capacity to make a decision must only be based on an appropriate assessment of their capacity having taken all reasonable steps to optimise their ability to participate as fully as possible in decision-making relating to their care.

14.4 In assessing patients' capacity, you must 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
- Their ability to communicate their decision, with help or support, where and when needed.

25 The Assisted Decision-making (Capacity) Act 2015 introduces important changes for supported decision making. https://www.irishstatutebook.ie/eli/2015/act/64/enacted/en/html

26 The Decision Support Service https://www.decisionsupportservice.ie/ is a useful reference which provides information, including guidance documents and codes of practice for decision supporters, professionals and organisations.

14.5 An assessment that a patient lacks capacity to make a particular decision does not imply that they are unable to make other decisions or that they will be unable to make this or other decisions in the future.

14.6 Adults who are considered not to have decision-making capacity are entitled to the same respect for their dignity and personal integrity as any other person. You must 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.

14.7 Where a person lacks capacity to make their own decision, you:

- Must give effect, as far as is practicable, to the patient's past and present will and preferences.[27]
- Must consider the patient's beliefs and values and any other factors the patient would be likely to consider if they were able to do so.
- Must consider the views of any person named by the patient as a person to be consulted, and any decision-making supporter or person with legal authority to act on behalf of the patient.
- May also consider the views of any carer of the relevant person, anyone who has a bona fide interest in the welfare of the relevant person, or healthcare professionals.
- Must act in good faith and for the benefit of the person.
- Must act in a manner that minimises the restriction of the person's rights and freedom of action.
- Must have due regard to the rights of the person to dignity, bodily integrity, privacy, autonomy, and control over his or her financial affairs and property.
- Must consider the likelihood of the patient recovering capacity and the urgency of making the intervention prior to, or to promote, such a recovery.
- Must ensure that decisions you make are proportionate to the significance and urgency of the situation and are as limited in duration as is possible in the circumstances.

27 See also paragraph 20 Advance healthcare planning.

15. Requirements for informed consent

15.1 Patients must receive sufficient information about any proposed treatment in a way that they can understand. This will vary depending on:

- The patient's own wishes.
- The patient's level of knowledge and understanding.
- The nature, complexity and urgency of the treatment indicated.
- The likelihood of success or failure of the treatment and the risks associated with taking no action or taking an alternative approach.

15.2 When providing information you should consider the patient's priorities and needs. For example, patients' beliefs, culture, occupation or other factors that may have a bearing on the information they need to reach a decision.

15.3 You should consider the timing for providing information and, where possible, provide time for patients to consider the information they have been given before reaching a decision.

15.4 You should not withhold information from a patient based on your belief that they may become upset by the information or refuse the treatment.

15.5 You should ensure that patients with specific physical, cognitive, neurodiverse, cultural and language needs have access to the supports they require to engage in the consent process.

15.6 Where there is a language barrier, and where consent is being sought for treatment that may have a significant impact on the patient's health and wellbeing, an interpreter proficient in the patient's language is required to facilitate informed consent. A professional interpreter should be used where practicable. The use of family (in particular of children and young people) and friends should be avoided if at all possible. It is acknowledged that this approach may not be possible in emergency situations.

16. Responsibility for seeking consent

16.1 If you are the doctor treating the patient, it is your responsibility to ensure that the patient has given consent to the treatment.[28]

16.2 If it is not possible for you to do so, you may delegate the task of providing information and seeking consent to another doctor who:

- Is suitably trained and qualified.
- Has sufficient knowledge of the proposed intervention and of its benefits and risks.
- Is able to provide the information the patient requires.

16.3 However, as the treating doctor, if you delegate all or part of the consent process, you remain responsible for ensuring that the patient has given informed consent.

16.4 You must 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 you have clearly explained the relevant information about the procedure to them.

17. Consent in emergency situations[29]

In an emergency situation it may not be possible to obtain consent from a patient. In such circumstances, you should (subject to paragraph 8 Providing care in emergencies) provide such treatments as are immediately necessary to save the patient's life or prevent serious harm to their health, unless you are aware of a valid and applicable advance refusal of such treatment.

28 Or, where the patient cannot consent, it is your responsibility to ensure that there is other valid authority in order to proceed with treatment.

29 See also paragraph 8 'Providing care in emergencies'.

18. Where a patient declines treatment

18.1 Every adult with capacity is entitled to decline medical treatment. You must respect a patient's decision to decline treatment even if you disagree with that decision, or you consider it unwise or likely to lead to serious harm to the patient. In these circumstances, you should explain clearly to the patient the possible consequences of their decision and offer them a second medical opinion.

18.2 You should document your discussion with the patient, the information you gave and the patient's decision to decline treatment in the patient's medical notes.

18.3 If you have doubts or concerns about the patient's capacity to decline treatment, you must comply with the provisions of the Assisted Decision Making (Capacity) Act 2015 or the Mental Health Act 2001[30].

19. Withdrawal of consent

An adult with capacity can withdraw their consent at any time, including during treatment. In these circumstances you should stop the treatment, discuss the patient's concerns, explain the consequences of not completing treatment and respect the withdrawal of consent. This should be documented in the patient's medical notes.

20. Advance healthcare planning

20.1 Advance healthcare planning is a process that enables a patient to consider and express their will and preferences in relation to medical treatment that may be proposed at a future time when the patient lacks decision-making capacity. Where you have an ongoing professional relationship with a patient, it is good practice to engage in discussions about planning for their future healthcare.

20.2 Having such a plan in place can assist medical professionals, as well as persons close to the patient, to ensure that the patient's will, and preferences are followed, in so far as they can be, in circumstances where the patient does not have the ability to communicate their wishes or is deemed not to have capacity to make decisions at a particular time.

30 See Mental Health Act, 2001 https://www.irishstatutebook.ie/eli/2001/act/25/enacted/en/html

20.3 An Advance Healthcare Directive is a legally binding document[31] which enables patients to:

- Make an advance expression of their will and preferences concerning treatment decisions that may arise if they subsequently lack capacity and/ or
- Name a person or persons authorised to make those decisions for them should they be unable to do so themselves.

20.4 If a patient is assessed as lacking decision-making capacity, you should take all reasonable steps to find out whether they have made an Advance Healthcare Directive.

20.5 An Advance Healthcare Directive must be respected, as long as it clearly sets out the treatment decisions and circumstances in which it should apply, and it complies with the provisions of the Assisted Decision-Making (Capacity) Act 2015.

20.6 A request for a specific treatment in an advance healthcare directive is not legally binding but must be considered. If you decide not to provide such a treatment you must document your reasons for not doing so and provide a copy to the patient's designated healthcare representative.

20.7 If you are concerned about the validity or applicability of an advance healthcare directive you must follow the provisions of the Assisted-Decision Making (Capacity) Act 2015.

31 See Assisted Decision-making (Capacity) Act 2015 https://www.irishstatutebook.ie/eli/2015/act/64/enacted/en/html for further information on an Advanced Healthcare Directive.

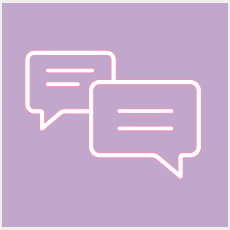
21. Consent to genetic testing

21.1 Genetic testing[32] can help to diagnose an illness or help to predict the development of an illness in the future. In genetic testing there are frequently complex and sensitive issues with significant implications for the patient and their family.

21.2 Where genetic testing is being considered, patients must, as part of the process of obtaining informed consent, be offered information about the purpose and potential outcomes of the genetic test and the potential implications for their health or the health of family members.

21.3 You should offer 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.

"You should offer 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."



32 Part 4 of the Disability Act 2005 https://www.irishstatutebook.ie/eli/2005/act/14/enacted/en/html deals with genetic testing. Typically Genetic testing involves the examination of samples taken from a living person for the purpose of analysing the patients DNA for the purpose of (a) confirming an existing disease (b) ascertaining the person's predisposition or susceptibility to a disease or (c) identifying the carrier of a disease.

22. Consent and declining treatment – Children and young people

22.1 Children and young people[33] should be involved in, and consulted on, decisions about their healthcare. You should give them information in accordance with their age and maturity, listen to their views and treat them with respect. Your primary duty is to act in their best interests.

22.2 Consent to and refusal of medical treatment in respect of persons aged under 18 years is complex. This guidance is focused on general principles, and you should seek further guidance[34] in situations where you are unclear about the approach to take.

22.3 Consent and refusal by a young person aged over 16 years

22.3.1 In line with current practice, a young person aged 16 years and over can give consent to medical, surgical and dental treatment. This also applies to treatment of a young person for a mental illness except where the young person has been admitted under the Mental Health Acts.[35]

22.3.2 In general, for a young person aged under 18 years it is necessary to obtain consent from the young person's parent(s) for voluntary psychiatric admission, organ or tissue donation, or participation in medical research. It is good practice to seek the assent of the young person in these circumstances.

22.3.3 Subject to 22.3.2, where the young person gives consent to treatment, it is not necessary to obtain consent from their parent(s). It is however good practice to involve parent(s) in healthcare decision-making for young people, if the young person consents to their involvement.

33 In this section/ guide, 'child' refers to a person aged under 16 years and 'young person' refers to a person aged 16 or 17 years.

34 The Health Service Executive (HSE) has published national policies on 'Consent' and 'Consent in Health and Social Care Research' www.hse.ie While not mandatory in all healthcare settings they are useful resources and have specific sections dealing with children and young people.

35 Mental Health Acts 2001 to 2018

22.3.4 The law relating to refusal of treatment by young people aged 16 and 17, against medical advice and against parental wishes, is uncertain. If this situation arises, you should consider obtaining legal advice as to whether a court application is necessary.

22.4 Consent and refusal by a child aged under 16 years

22.4.1 In general, the consent of a parent (s) should be obtained before providing treatment to a child under the age of 16 years. It is good practice to involve the child in the discussion as appropriate to the situation and the child's level of maturity. Their assent should be sought.

22.4.2 If a child under 16 years does not wish to involve a parent(s) in decisions about their treatment you should, where appropriate, encourage and advise them to do so.

22.4.3 If the child still refuses to involve their parents, you should act in their best interests, taking into account:

- The child's maturity and ability to understand the information relevant to the decision and to appreciate its potential consequences.
- Whether the child's physical or mental health, or any other factors, are affecting their ability to make a decision.
- Any other specific welfare, protection, or public health considerations, covered by relevant legislation guidance and protocols such as the Children First Act 2015[36] and the Children First: National Guidance for the Protection and Welfare of Children 2017[37] (or any equivalent replacement document). Where this is the case, you must follow the relevant guidance or protocols.

36 Children First Act 2015 https://www.irishstatutebook.ie/eli/2015/act/36/enacted/en/index.html

37 Children First National Guidance https://www.gov.ie/en/policy-information/d1b594-children-first and https://www.tusla.ie/children-first/children-first-guidance-and-legislation

22.4.4 In general, where a patient aged under 16 years refuses treatment, but where the parent(s) or legal guardian consents, the doctor may proceed with treatment in the best interests of the child, taking account of the age and maturity of the child, and the urgency of treatment being proposed. If the treatment is not urgent, it is good practice to allow time for discussion with the child and parent(s) or legal guardian with a view to achieving consensus.

22.5 Consent – Children and young people – Refusal of treatment by parent(s)/legal guardian

22.5.1 Where a parent refuses to consent to an intervention which you reasonably believe to be in the best interests of the child or young person, you must act in the child or young person's best interests, whilst making all reasonable efforts to reach a consensus with the parent.

22.5.2 If it is not possible for you and the parent to reach consensus, it may be necessary to seek legal advice as to whether an application to the court is required to determine what is in the best interests of the child or young person.

22.6 Children and young people – consent in emergencies[38]

22.6.1 In emergency situations it may not be possible to obtain consent from the child, young person or their parent(s) and there may be insufficient time to make an application to court without exposing the child or young person to an immediate risk of death or serious injury. In such circumstances, you should provide the minimum treatment necessary to preserve life or prevent serious harm to the child or young person. You should record the basis for your evaluation that immediate intervention is required and the steps which you have taken on this basis. See also paragraph 8 'Providing care in emergencies'.

38 See also paragraph 8 'Providing care in emergencies'

23. Consent - Clinical trials and research

23.1 If you are responsible for, or involved in, the planning or conducting of medical research or clinical trials you must be aware of and follow the appropriate requirements for informed consent of participants.[39] See preceding paragraphs in this Chapter and paragraph 57 'Clinical Trials and Research'.

23.2 In particular, you must make sure that research participants are fully informed about all aspects of the research or clinical trial and understand the nature of any proposed intervention or treatment, especially if the intervention may not be of benefit to them.

23.3 You must make sure that patients have voluntarily consented to participation in the research or clinical trial. If you are also the patient's treating doctor, you should consider asking someone else associated with the research to conduct the consent process.

23.4 If the patient does not consent to participation in the research or clinical trial this should not influence your care of the patient in any way.

23.5 Adults who lack decision- making capacity must not be unfairly excluded from the potential benefits of research participation, nor may their lack of capacity to consent be used to inappropriately include them in research. However, special measures will need to be taken to protect their rights and interests.

24. Physical and intimate examinations

24.1 Clinical assessment of patients may involve a physical examination as well as relevant history-taking.

24.2 Before undertaking any physical examination, including an intimate examination, you should discuss this with the patient, explaining why it is needed, what will be involved and addressing any concerns that the patient may have, and obtain consent.

39 In addition to legal requirements, organisations may have organisation-specific policies. E.g. the HSE has the HSE National Policy for Consent in Health and Social Care Research https://hseresearch.ie/consent/

24.3 Intimate examinations include examinations of breasts, genitalia and rectum. Consent for intimate examinations must be documented in the patient's medical record.

24.4 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.

24.5 A chaperone can act as a safeguard for both the doctor and the patient during an intimate examination. You should ask the patient if they would like a chaperone to be present and record their wishes.

24.6 If a chaperone is not available, you should confirm if the patient wishes to proceed or make alternative arrangements, as long as the delay would not adversely affect the patient's health.

24.7 You must not carry out intimate examinations on anaesthetised patients unless the patient has given explicit (usually written) consent to this in advance.

CHAPTER 3 Confidentiality

25. Confidentiality - General principles

25.1 Confidentiality is central to the doctor-patient relationship. It supports trust and confidence and reassures patients that they can safely reveal information that is required in order for you to provide appropriate medical care.

25.2 Doctors have a professional and ethical duty to maintain patient confidentiality. However, this duty of confidentiality is not absolute. There are situations where the disclosure of relevant information is appropriate in the interest of patient care and there are also situations where disclosure of information is required by law or in the public interest. Doctors also have a legal obligation towards the personal data of their patients.[40]

25.3 Except where required by law or in the public interest, patient consent is required for the disclosure of information about them to others within or outside the healthcare team.

25.4 You should protect your patients' privacy and you must ensure that patient information in your control is protected against improper disclosure, access or loss.[41]

25.5 In circumstances where the patient lacks decision-making capacity to consent to disclosure, the provisions of the Assisted Decision-Making (Capacity) Act[42] must be followed.

40 Legal requirements for maintaining the confidentiality of personal data fall under Data Protection legislation and regulation, disease notification and where applicable, Freedom of Information legislation. You must comply with the applicable legislation and regulations and seek guidance from your organisation and/or your indemnifier as appropriate.

41 Further guidance on processing special categories of personal data i.e. data concerning health, can be found at Article 9 of the GDPR or by referring to the Data Protection Commission website.

42 Assisted Decision-making (Capacity) Act 2015 https://www.irishstatutebook.ie/eli/2015/act/64/enacted/en/html

26. Confidentiality – Children and young people

26.1 You have the same duty of confidentiality to children and young people as you have to adults. Therefore, the guidance in paragraph 25 Consent - general principles applies in the same way regarding using, sharing, or disclosing information about children and young people.

26.2 Parents[43] often want and need information about their children's healthcare so that they can make decisions or provide care and support to them. Children and young people are usually happy for information to be shared with their parents.

26.3 If a child or young person does not want to share information with their parents, you should usually try to encourage them to involve a parent in such circumstances. If they refuse and you consider it is necessary and in the child's best interests for the information to be shared, you may, depending on the circumstances, consider disclosing information to parents. You should record your discussions and reasons for sharing the information.

26.4 Parents may be entitled by law to access their child's medical records.[44] You should tell children and young people that you cannot give an absolute guarantee of confidentiality.

"Confidentiality is central to the doctor-patient relationship. It supports trust and confidence and reassures patients that they can safely reveal information that is required in order for you to provide appropriate medical care."

43 Parents and legal guardians.

44 Including Freedom of Information and relevant data protection legislation.

27. Disclosure of patient information within the healthcare team

27.1 Most patients understand that their information needs to be shared with others involved in their healthcare. When sharing information about a patient with health professionals and others involved in their medical and healthcare, you should ensure that there is a justifiable basis for doing so and only share such information as is necessary.[45] Patients should be informed that such sharing of information is commonly required to arrange and provide interventions and treatment and care.

27.2 If a patient objects to this sharing of information, you should explain the implications for their treatment of a decision not to consent to the provision of information. The explanation should include, where relevant, an explanation that referral may not be possible without disclosing necessary information.[46]

28. Disclosure of patient information outside the healthcare team

28.1 Before disclosing any identifiable information about patients outside the healthcare team, you must be clear about the purpose of the disclosure and that you have the patient's consent or other legal basis for the disclosure. You must also be satisfied that:

- You comply with the applicable data protection legislation.[47]
- It is not possible to use anonymised information.
- You are disclosing the minimum information to the minimum number of people necessary.
- The person or people to whom you are disclosing the information knows that it is confidential and that they have their own duty of confidentiality.

45 In line with data protection legislation any transfers of information should take place in a way that safeguards the information.

46 For further information about consent and the sharing of patient information see Recital 32 of the General Data Protection Regulation (GDPR).

47 "Data Protection Laws" means all applicable national and EU data protection laws, regulations and guidelines (See https://www.dataprotection.ie)

28.2 People close to a patient, whether family, friends or support persons may, out of concern, request information about the patient. While their concern is understandable, you should not disclose information to them without the patient's consent.

28.3 Clinical audit, quality assurance, education and training are essential in providing safe and effective healthcare now and in the future. Whenever possible, individual patient information used for such purposes should be anonymised[48] or coded before it is disclosed to anyone outside the healthcare team.

29. Disclosure of patient information outside the healthcare team without consent

There are limited circumstances where you can disclose information without consent, when by law or in the public interest. When you disclose information as required by law or in the public interest, you should inform patients of the disclosure, unless this would undermine the purpose of the disclosure.

29.1 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.
- When required by a tribunal or body established by an Act of the Oireachtas.
- When required under legislation.[49]
- 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.[50]

48 Further information about anonymization and de-anonymisation can be found on the Data Protection Commission website www.dataprotection.ie

49 Including, but not limited to, the Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023 https://www.irishstatutebook.ie/eli/2023/act/10/enacted/en/

50 Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 https://www.irishstatutebook.ie/eli/2012/act/24/enacted/en/html

29.2 Disclosure to protect other individuals and in the public interest

There can be a public interest in disclosing information where the benefits to another individual or society outweigh the duty of confidentiality. This may occur in exceptional circumstances to protect individuals or society from risks of serious harm, such as from serious communicable diseases or serious crime. You must carry out a balancing exercise of individuals rights and the public interest. You may consider legal advice before making disclosure in such circumstances.

You should disclose the information to an appropriate person or authority and include only the information needed to meet the purpose.

30. Disclosure after death

30.1 Your professional duty of confidentiality remains even after a patient's 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 persons close to them. You should also consider the effect of disclosure on the reputation of the deceased and the purpose of the disclosure.

30.2 In certain circumstances, you may be required by law to disclose patient information after death.[51]

51 For example the Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023 places obligations on health services and practitioners to engage in mandatory disclosure and external notification of notifiable incidents. Freedom of Information legislation also provides for disclosure of information to designated persons in limited circumstances.

31. Photographic, video or audio recording of a patient by a doctor

31.1 Making audio, video or photographic recordings of a patient on your personal or work devices may be necessary for safe patient care. You must take particular care in relation to the storage and sharing of recordings of a patient.

31.2 Where you determine that making audio, video or photographic recordings of a patient is necessary and appropriate for patient- care and/ or beneficial for education and training purposes, you must explain this to the patient and obtain their consent to both the making and any proposed sharing of a recording.

31.3 You must take all reasonable and required steps to ensure that you follow your professional duty of confidentiality as well as your legal duties regarding data protection. You should keep these recordings confidential as part of the patient's record (see paragraph 38). If they are being used for education and training purposes beyond the patient's healthcare team, you must ensure that the patient is neither identified nor identifiable, unless they have given consent to being identified.

31.4 You should be aware of security[52] when sharing information by electronic means, including text, other electronic messaging or emailing, and you should take all reasonable measures to protect confidentiality.

32. Photographic, video or audio recording by a patient during a consultation

You should be aware that patients may wish to record all or part of a consultation. If they wish to do so you should facilitate their request. If you consider that recording could have a negative impact on your consultation you should explain this to your patient and, if possible, come to agreement.

52 Security includes being mindful of the threat of cybersecurity attacks and taking all necessary precautions.

CHAPTER 4

Continuity of Care

33. Continuity of care

Continuity of care is the provision of healthcare in a coordinated manner with the involvement of different practitioners in different healthcare settings. The movement of patients within and between primary, secondary and tertiary care has the potential to be high risk for their safety if continuity of care is disrupted.

33.1 It is in the best interests of the patient that the overall management of their care is under the supervision and guidance of a general practitioner. The general practitioner should be informed, in a timely and prompt manner, of any treatment, referrals and plans for care provision.

33.2 When referring, delegating or transferring the care of a patient, or discharging a patient, you must share all relevant information with colleagues in a prompt and timely manner.

33.3 You should facilitate a patient who requests another opinion unless you have reasonable grounds not to do so.

33.4 Where a patient has been referred to you by another doctor you should, with the patient's consent, keep the referring doctor informed of the patient's progress (see also paragraphs 27 and 28 regarding consent and disclosure).

33.5 Delegation involves requesting another health care professional or team to provide care on your behalf. You should take reasonable steps to ensure that the colleague or service to whom you delegate has the knowledge and skills to provide that care.

33.6 Handover is the temporary 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. When you handover care of a patient to another healthcare professional, team and/or institution, you should check that they understand and accept responsibility for the patient's care.

33.7 Discharge of a patient from care must be accompanied by a timely and prompt discharge summary which includes at least the minimum basic information, including:

- A summary of relevant medical and treatment history.
- Medication and medication changes.
- Any planned follow-up by the discharging service.
- Action required by primary care/community services (if involved).
- Action required by the receiving GP clearly documented.

33.8 When discharging care to the patient's GP, the doctor who orders diagnostic tests or investigations must follow up on the results to ensure these investigations have taken place, results are followed up and appropriate action taken, including communication to the GP.

33.9 If you have a consultation with a patient through an 'out of hours' or 'telemedicine' service, and are not the patient's usual doctor, you must, unless the patient does not consent, provide an update to the patient's general practitioner as soon as possible and include such information as is necessary and appropriate to facilitate continuity of care.

33.10 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 nominated doctor. You should document this in their medical records.

34. Prescribing

Prescribing is the issuing of a prescription for a medication, treatment or therapy.

34.1 You should only prescribe medication, treatment or therapy when you have adequate knowledge of the patient's condition and believe that such prescription is indicated. You should ensure that any treatment, medication or therapy prescribed for a patient is safe and evidence-based.

34.2 The prescriptions you issue must clearly identify the patient to which they refer. They must be legible, dated, signed or authorised[53], and must state your Medical Council registration number.

34.3 You must make sure that your prescription pads and access to prescription-generating software are kept securely and are only accessible to those authorised to prescribe.

34.4 You should keep up to date with developments in relation to the medications, treatments and therapies that you prescribe.

35. Prescribing Controlled Drugs[54]

35.1 When prescribing controlled medications, you must comply with applicable legislation and follow applicable guidelines.[55]

35.2 If an emergency prescription is appropriate, it must be given in accordance with the applicable legislation and regulations.[56]

53 'Authorised' means that a prescription which is transferred via the national electronic prescription transfer system is traceable electronically back to the prescriber.

54 See also the joint Medical Council and Pharmaceutical Society of Ireland guidance on Safe Prescribing and Dispensing of Controlled Drugs https://www.medicalcouncil.ie/professionalism/safe-prescribing-and-dispensing-of-controlled-drugs/safe-prescribing-and-dispensing-of-controlled-drugs.html

55 See the joint guidance from Medical Council and Pharmaceutical Society of Ireland 'Safe Prescribing and Dispensing of Controlled Drugs https://www.medicalcouncil.ie/news-and-publications/publications/

56 This includes medicines legislation (including regulations under the Irish Medicines Board Acts 1995 and 2006) and misuse of drugs legislation.

35.3 You must be aware of the dangers of drug dependency when prescribing benzodiazepines, opiates and other drugs with addictive potential. Unless you have appropriate training, qualifications, facilities and support, you should refer patients with drug dependencies to the appropriate drug treatment services.[57]

35.4 You should safeguard patients with drug dependencies by liaising with drug treatment services, other doctors and pharmacists, to minimise the patient's opportunities for obtaining drugs from multiple sources.

36. Transcribing Prescriptions

Transcribing is the act of transferring a medication order from an original prescription to another type of prescription.

36.1 Transcribing incurs the same responsibilities as prescribing. The general principles outlined in relation to continuity of care should be followed.

36.2 If you have any issues or concerns about transcribing an original prescription you should liaise with and seek clarification from the original prescribing doctor or member of their team before issuing a prescription.

37. Telemedicine[58]

Telemedicine is the use of technology such as telephones, websites, apps, and software platforms to provide and support healthcare for patients.

37.1 If you provide telemedicine services to patients, you must observe the same standards of conduct and practice as would be expected if treating the patient in-person.

57 You should not prescribe opioid substitution therapy unless you have completed the required, approved training.

58 See also the Medical Council's publication 'Telemedicine: Phone and Video Consultations – A guide for doctors' https://www.medicalcouncil.ie/public-information/telemedicine-phone-and-video-consultations-guide-for-doctors/

38. Medical Records

38.1 You must keep accurate and up-to-date medical records either on paper or in electronic form. These must be legible and clear and include the author, registration number, date and, where appropriate, the time of the entry and should be made contemporaneously in so far as possible. Retrospective notes are acceptable in circumstances where it was not possible for the doctor to record the notes at the time of the event. In these circumstances you must document:

- That it is a retrospective entry.
- The date and/ or event that it relates to.
- The date/ time the retrospective note was made.

38.2 Clinical notes contained in the medical record must not be altered. If it is necessary to amend a clinical note a new entry should be made.

38.3 You must comply with data protection and any other legislation and regulations relating to maintenance, storage, disposal and access to records.

38.4 Patients have the right to get copies of their medical records. Where the contents of this record may pose a risk of serious harm, access can be restricted.[59]

> **"You must keep accurate and up-to-date medical records either on paper or in electronic form."**

59 See Data Protection Legislation, including The Data Protection Act 2018 (Access Modification) (Health) Regulations 2022 which regulate subject access to health data where the application of that right would be likely to cause serious harm to the physical or mental health of the data subject but only to the extent to which, and only for as long as, such application would be likely to cause such harm. https://www.irishstatutebook.ie/eli/2022/si/121/made/en/

39. Retention of medical records

39.1 The length of time for which you keep patient records should take account of medical professional requirements to retain records (to support continuity of care, transfer of care and potentially for medico-legal purposes) and data protection principles.

39.2 You must keep medical records for as long as required by law or for as long as they remain clinically relevant.[60]

39.3 If you have ownership and responsibility for records and receive a request to delete or destroy patient records under data protection principles, you should first consider whether there is a professional and/or medico-legal requirement to retain them. If in doubt about the appropriate time periods and whether deletion of records is appropriate, you should obtain advice from your medical indemnifier, employer or legal adviser.

40. Cessation of practice and transfer of patient care

40.1 Patient care can be impacted where doctors are no longer able to provide care and where continuity of care arrangements are not in place. You should have plans in place to deal with foreseen and unforeseen cessation of practice.

40.2 If you are planning to reduce your patient list or cease practice, you should make arrangements for continuity of patient care and facilitate the transfer of your patients to another doctor or service. 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.[61]

60 While not applicable to all settings, the HSE has published a Code of Practice for Healthcare Records Management which includes a suggested schedule for retention of different categories of healthcare record. www.hse.ie

61 Confidentiality of patient information should be protected (see Chapter 3 (Confidentiality) and paragraph 38 (Medical records) and consider data protection requirements.

41. Doctor's decision not to provide specific requested interventions

41.1 If you are requested to initiate interventions for a patient that you consider are not clinically indicated or are likely to be of more harm than benefit to the patient, you may (subject to paragraph 42) decide not to provide such interventions.

41.2 While you should not refuse or delay an intervention because you believe that a patient's actions or lifestyle have contributed to their condition, you may refuse such intervention if you have reasonable grounds for believing that your patient is unlikely to co-operate or make the lifestyle changes needed to make the intervention effective.

41.3 If you refuse to provide a requested intervention, you should explain your reasons to the patient, offer to refer them for a second opinion, and document grounds for your decision making in their medical record.

42. Conscientious objection

You may refuse to provide, or to participate in carrying out, a lawful procedure, treatment or form of care which conflicts with your moral values, subject to compliance with the guidance set out below.

42.1 If you have a conscientious objection to providing or participating in a lawful procedure, treatment or form of care, you must:

- Inform your employer, colleagues and the patient as soon as possible.
- Inform the patient that they have a right to seek the lawful procedure, treatment or form of care from another doctor.
- Give the patient enough information to enable them to transfer to another doctor to obtain the required treatment.
- Make such arrangements as may be necessary to enable the patient to obtain the required treatment (see transfer of care).
- Not mislead or obstruct a patient's access to the lawful procedure, treatment or form of care based on your conscientious objection.

42.2 In referring a patient and/or facilitating their transfer of care, you must make sure that this is done in a safe, effective, and timely manner.

42.3 When discussing the referral and/or transfer of care with the patient, you must be sensitive and respectful to minimise any distress your decision may cause the patient. In an emergency situation, you must provide the care and treatment your patient needs.

42.4 You must provide care, support and follow-up for patients who have had a lawful procedure, treatment or form of care to which you have a conscientious objection.

43. Treatment of prisoners

43.1 Prisoners have the right to the same standard of care and treatment as any other patient and they must be treated with the same courtesy, dignity and respect.

43.2 You must not participate in the practice of torture or other forms of cruel, inhuman or degrading procedures.[62]

43.3 You must not assist with executions.

62 For definition of 'torture' see the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading

44. Restraint

Managing patients with challenging behaviour requires a multidisciplinary and holistic approach.

44.1 Physical and mechanical restraint, seclusion and the prescription of medication should only be considered when other approaches have failed. You must follow the applicable guidance/rules on the use of restraint and seclusion.[63]

44.2 If you prescribe medication to treat agitation/aggression, you should make sure it is appropriate, and that the minimum dose is used for the minimum amount of time necessary.

44.3 If you consider the use of patient restraint to be disproportionate, excessive, or inappropriate, you must raise your concerns with the senior clinician or with someone in a position to investigate the situation (see the guidance in paragraph 3 - Raising Concerns).

45. Patients who pose a risk of harm

Some patients present a risk of harm to others which may or may not arise from clinical causes.

45.1 You should not put yourself or others at risk of harm when assessing or treating a patient.

45.2 If a patient is using violence or threatening to use violence against you, your colleagues or staff, and it is not safe to proceed with an assessment, the patient should be advised that medical care will be provided as soon as it is safe to do so.

45.2 However, in such circumstances, you should make a reasonable effort to conduct a clinical assessment and treatment, taking appropriate measures to protect yourself and others.

63 Depending on the setting in which the patients reside, the guidance from HIQA https://www.hiqa.ie/, and / or the Mental Health Commission https://www.mhcirl.ie may be applicable

46. End of Life care

46.1 As a doctor, you play an important role in supporting patients, families and the community to deal with the reality of death. You should be sensitive in discussing end of life options, including palliative care, and make sure that patients and their families[64], have a clear understanding of what can and cannot be achieved.

46.2 When patients are nearing the end of life, you share responsibility with others to make sure they are comfortable, suffer as little as possible and die with dignity. You should treat them with kindness and compassion. You should make sure that patients receive appropriate pain management and relief from distress.

46.3 You should involve patients (and/or persons with decision-making authority in relation to the patient) in decision-making about their end-of-life care, respecting their will, preference any Advance Healthcare Directive and decision-making capacity. This may include discussions on potential organ donation, where appropriate.

46.4 You should not start or continue treatment, including resuscitation, or provide nutrition and hydration by medical intervention, if you consider the treatment:

- Is unlikely to work.
- Might cause the patient more harm than benefit.
- Is likely to cause the patient pain, discomfort or distress that will outweigh the benefits.

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. 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 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 expressed an objection to such information being given (see paragraph 30 'Disclosure after death').

64 If they are involved in such discussions with the patients consent

CHAPTER 5 Professionalism

47. Maintaining professional boundaries with patients

Trust is the foundation of the patient-doctor relationship. Patients should be able to trust that you will behave professionally towards them.

47.1 Patients trust that you will be concerned only with giving care, advice and treatment, and will not use your position for personal advantage.

47.2 You must not form or pursue a sexual or improper relationship with a patient.

47.3 You must not use your professional relationship with a patient to pursue a sexual or improper relationship with someone close to them.

48. Treating people close to you

48.1 In relation to people with whom you have a close personal relationship:

- You should not treat, prescribe, or issue sick certificates or reports except in emergencies.
- You must not prescribe controlled substances except in emergencies.

> **"Trust is the foundation of the patient-doctor relationship. Patients should be able to trust that you will behave professionally towards them."**

49. Communicating with the public

49.1 Media generally and in public

49.1.1 Maintaining public trust in the profession requires that doctors consistently apply professional standards and ethical principles, including patient confidentiality and privacy, and respect for persons, to communications in public, in the media and in online settings.

49.1.2 Using traditional media, speaking engagements, social media, digital media, and other public-facing platforms to communicate can bring significant benefits to patients, the public and colleagues but may also pose risks as well as professional and ethical challenges.

49.1.3 Patients and the public should be able to trust what a doctor says, whether that communication is spoken or in writing – for example in the media, online, or in public settings or events.

49.1.4 You should consider the possible impact on patients, and the public's perception of the profession, before making comments publicly, via media, online or in-person.

49.2 Online communications

49.2.1 If you give clinical advice online, you should always identify yourself by name. You are legally liable for anything you publish on your own social channels and should take this into consideration when posting content or advice publicly.

49.2.2 Researching and following the personal behaviours of patients online or on social media[65] platforms may threaten the trust needed for a strong patient–doctor relationship and should not be undertaken.

49.2.3 You should take reasonable steps to check that any network you are using has effective security settings and privacy policies, to minimise the risk of information about patients becoming more widely available.

65 Social media platforms include, but are not limited to: social networking sites, professional networking sites, image and video sharing networks, video hosting platforms, discussion forums, review sites, shared blogging platforms and interest-based networks

49.2.4 You must not publish information or comments about, or images of, individual patients from which those patients might be identified or identifiable on publicly available platforms. Further advice on maintaining confidentiality and using images of patients can be found at paragraph 31 (Photographic, video or audio recording of a patient by a doctor).

49.2.5 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. 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.

49.2.6 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, you should not give information that identifies individual patients without their consent.

49.3 Personal and private online communication

49.3.1 You should keep personal and professional use of social media separate.

49.3.2 You should, as far as possible, avoid communicating with patients through personal social networking sites.

49.3.3 Social media sites cannot guarantee confidentiality, regardless of privacy settings used. You must not publish information or comments about, or images of, individual patients from which those patients might be identified on publicly available platforms.

Further advice on maintaining confidentiality and using images of patients can be found at paragraph 31 (Photographic, video or audio recording of a patient by a doctor).

50. Fees, advertising and provision of practice information

50.1 Fees

The fees you charge should be appropriate to the services you provide. The schedule of fees or envisaged costs should be made available to the patients before the consultation and treatment commences.

50.2 Information

50.2.1 Patients and professional colleagues may rely on information you provide. You must ensure that any information you give is accurate and valid. You must not make claims, that cannot be substantiated, for the effectiveness of treatments.

50.2.2 In providing information about yourself or about the services you provide, you must not exploit or damage the trust and confidence that patients and the public have in doctors.

50.3 Advertising

50.3.1 Advertising in relation to the services you provide should be responsible, accurate, ethical, legal, and truthful.

50.3.2 Advertising and information provided about your practice must only include reference to your having a specialty if the specialty is one recognised by the Medical Council and you are entered for that specialty in the Specialist Division of the Register.

50.3.3 Where your services are advertised, the advertisement should provide appropriate information about fees that apply to these services.

51. Medical Reports

Doctors may be requested to provide medical reports relating to their patients to third parties e.g., insurance companies, legal professionals or employers.

51.1 If the report relates to the patient's current state of health, you should, where appropriate, carry out an up-to-date examination.

51.2 You should be satisfied that the patient understands the purpose and scope of the report and of any examinations or investigations required to support its preparation and that the professional standards for consent and disclosure are followed. (see chapters 2 and 3).

51.3 The report should be confined to the purpose for which the report has been requested. You should inform the patient that you have a duty to the third-party as well as to the patient and that you cannot omit relevant information from the report.

51.4 In producing your report, you should distinguish clearly between facts identified and verified by you, and information provided to you by the patient or by others.

51.5 You are entitled to request a professional fee for providing a medical report. The fee should be appropriate to the service provided and must not be based on the outcome of litigation. The content of reports must not be influenced by financial or other inducements or pressures.

51.6 You should provide reports promptly so that the patient does not suffer any disadvantage from delay.

52. Certification

52.1 In issuing certificates, reports and other formal documents, you must be accurate and make sure the document is legible. You must also include your Medical Council registration number

52.2 You should only sign a certificate, report or document for a patient following a review of the patient's condition.

53. Expert Witnesses

53.1 If you are acting as an expert witness in relation to legal proceedings, your first duty is to be of assistance to the relevant court or tribunal in providing an independent expert opinion. You must be honest and objective in all your spoken and written statements.

53.2 You must make clear the limits of your knowledge and competence.

53.3 You must not act as an expert witness in areas outside your scope of practice, experience and expertise.

53.4 These obligations override any instructions from the person paying you a professional fee for your expert opinion.

54. Conflicts of Interest

54.1 You must not let financial or other secondary considerations influence or appear to influence your management of patients.

54.2 You should identify, avoid where possible, and manage such conflicts.

54.3 You must not allow your interest to affect the way you provide treatment to, prescribe for, advise, or refer patients. You must tell patients and any other relevant parties about any beneficial interest that you, or anyone with whom you have a close personal or business relationship, have in relation to an individual or organisation providing healthcare such as a pharmaceutical or medical devices company, a nursing or care home, or a pharmacy or dispensary. You should also be prepared to exclude yourself from related decision-making.

54.4 If you have an interest in a private clinic or hospital or other health-related commercial organisation, you should make sure that the services offered to patients conform to the clinical and ethical standards of the profession.

54.5 You should not accept gifts (including hospitality) from pharmaceutical, medical devices or other health related commercial organisations. 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 and avoid any such influence.

54.6 If you are responsible for education activities in your workplace or organisation, 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.

54.7 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.

55. Relationships with colleagues

55.1 You must be aware of the impact of your conduct on your colleagues[66], including how this may affect the quality of care and treatment of patients. You must behave respectfully towards all colleagues, including students. You must not engage in any form of bullying, harassment, abuse, discrimination, undermining of colleagues, or condone such behaviour by others. This applies to all interactions, including social media and networking sites.

55.2 You should not engage in a sexual or improper relationship with a colleague where there is a significant power imbalance. If you enter a relationship with a colleague, you should be aware of how your behaviour can impact performance within and outside your team.

55.3 You should give professional support to colleagues including medical students and less experienced doctors. You should not ask colleagues to carry out tasks for which they are not fully competent, except under the direct supervision of senior/ competent colleagues.

55.4 If you are a less experienced doctor, you should consult promptly with your senior colleagues if you are unsure about the appropriate management of a patient's condition, or if their condition gives cause for concern.

55.5 When disputes between colleagues arise, this should be addressed appropriately and promptly and should not affect patient care.

55.6 You should not denigrate a colleague or a colleague's practice.

66 Colleagues include anyone you work with, whether or not they are a medical professional.

56. Concerns about colleagues

56.1 If you have concerns about a colleague's conduct, competence or health[67] you should, where you determine that it is safe for you to do so, first discuss your concerns with the doctor in question in a sensitive and discreet way.

56.2 If your concern relates to their health, you should encourage them to seek appropriate medical support and to avail of relevant support services.[68]

56.3 If you do not consider it appropriate or safe for you to broach the concern yourself you should seek the advice of an appropriate person or authority e.g., a colleague, a manager or your professional body/ organisation. You should, to maintain appropriate confidentiality, consider anonymising the situation initially.

56.3 If you are concerned that a colleague may be putting patients at risk or is otherwise unfit to practise you must escalate those concerns in accordance with paragraph 3 (raising concerns).

"If you are a less experienced doctor, you should consult promptly with your senior colleagues if you are unsure about the appropriate management of a patient's condition, or if their condition gives cause for concern."

67 Including, but not limited, to substance use or addiction.

68 See the Medical Council website which lists supports for doctors including 'Doctor Well-being- A guide from the Medical Council' https://www.medicalcouncil.ie/public-information/wellbeing/doctor-well-being-booklet.pdf

57. Clinical trials and Research

57.1 Medical research is a key enabler of best practice in the pursuit of optimal healthcare outcomes. If you are involved in clinical trials or any form of medical research, you must follow and promote relevant ethical standards.

57.2 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 Helsinki[69] and any relevant national policies and legislation.

57.3 You must follow the applicable guidance and regulations pertaining to obtaining informed consent from patients/ participants involved in medical research (see Chapter 2 including paragraph 22).

57.4 You must, in conducting, communicating and publishing research, comply with your professional and legal duties to protect, promote and maintain appropriate patient confidentiality. See also Chapter 3 (Confidentiality).

You should be aware of and comply with any guidance published by the Data Protection Commission or other appropriate body in relation to medical research.

57.5 You should follow the guidance outlined in paragraph 54 (Conflicts of interest) in relation to the planning, conducting and publication of any medical research and clinical trials with which you are involved.

57.6 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.

69 Declaration of Helsinki 'Ethical Principles for Medical Research involving Human Subjects' https://www.wma.net/policies-post/wma-declaration-of-helsinki-ethical-principles-for-medical-research-involving-human-subjects/

58. Teaching and training

Teaching and training medical students and colleagues is vital to the continued provision of safe and effective healthcare.

58.1 You should be willing to take part in teaching and training, and support and encourage students and colleagues to develop their knowledge and skills.

58.2 You must treat students and trainees with respect and dignity.

58.3 Trainers

58.3.1 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 and timely feedback.
- Be thorough, fair and objective in your assessment of trainees.
- Offer support to trainees who have problems with their performance.

58.4 Trainees

58.4.1 If you are a trainee, you must take responsibility for your own learning objectives.

58.4.2 You should be aware of support and training structures and local grievance procedures.

58.5 Medical Students

58.5.1 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 ensure that patients are not overburdened by contact with students.

58.5.2 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 guidance in this guide and in the Medical Council's Guidance on Undergraduate Professionalism.[70]

58.5.3 Students must get permission from patients before they interview or examine them.

59. Allowing school students to observe your practice.

59.1 You may be asked to allow school students to observe the clinical care of patients. In considering such requests, you must put patients' safety and rights first.

59.2 Patient consent must be obtained before you facilitate observation of their care by school students. You must ensure that patients are aware that they can refuse or withdraw consent at any time.

59.3 Before you consider facilitating a school student's access to patients, or to information about them, you must be satisfied that the student understands the requirement to maintain, and commits to maintaining, confidentiality. This commitment by the student must be documented in writing.

70 www.medicalcouncil.ie

CHAPTER 6

Regulatory requirements

60. Registration

60.1 In order to practise medicine in the Republic of Ireland you must be registered with the Medical Council. You must not practise if you are not registered.

60.2 If your registration lapses, you must not practise medicine during the period of being unregistered.

60.3 Information that you provide to the Medical Council, whether at initial registration, renewal of registration, or at any other time, including your answers to any questions, must be complete, accurate, honest and up-to-date.

60.4 You must practise in the name(s) under which you are registered and use your registration number when representing yourself as a registered medical practitioner.

60.5 You must comply with any legal requirements to notify the Medical Council of matters that may impact your registration such as relevant medical disabilities, criminal convictions, relevant proceedings and decisions by other regulatory bodies, inside or outside the state, to restrict, not to grant, or to remove your registration.

60.6 You must be registered in the European Union to practice telemedicine within the State.

61. Maintaining professional competence

61.1 Maintaining professional competence throughout your career is an essential element of professionalism. Patients expect you to be up to date and competent in your field of practice and your specialty (where applicable).

61.2 You must meet the Medical Council's requirements for maintenance of professional competence and should be aware of the eight domains of good professional practice (see Appendix A).

61.2.1 You must enrol in a professional competence scheme that reflects your area of practice.

61.2.2 You must plan, undertake and keep a record of your continuing professional development (CPD) as your professional competence scheme operator may direct.

61.3 In planning your CPD you should reflect on your practice and identify aspects of your practice where you may need to update your knowledge or skills to support you to continue to provide a high standard of care.

62. Professional Indemnity

You must have the applicable professional indemnity cover for all healthcare services you provide.[71]

63. Language skills

In the interest of patient safety and to support safe and effective communication, you should be sufficiently proficient in the use of the English language (both written and verbal) to enable you to communicate with patients and colleagues.

71 Please see the he Medical Practitioners Act (2007) as amended for information around indemnity, including s.38.A. which sets out the duty of a medical practitioner in relation to indemnity https://www.irishstatutebook.ie/eli/2007/act/25/enacted/en/html. Please also see the Medical Council (Evidence of Indemnity) Rules 2018 (S.I. No. 222 of 2018) for further detail.

64. Complaints made to the Medical Council about a doctor

The Medical Council must act in the public interest when it is made aware of a risk to patient safety arising from the practice or conduct of a medical practitioner, or to public confidence in medical professionals, or where it is necessary to intervene in order to maintain professional standards. Such intervention is usually following the receipt of a complaint. The Medical Council can take action where complaints are determined to be of a serious nature, giving rise to concerns over a doctor's fitness to practise.

For information about the Medical Council's Complaints Process please see the Medical Council's website.

Grounds for consideration by the Medical Council of a complaint against a doctor:

- Professional misconduct, this is:
  - Conduct which doctors of experience, competence and good repute consider disgraceful or dishonourable and/or
  - 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.
- Poor professional performance is defined by the Medical Practitioners Act 2007[72] as a failure by the practitioner to meet the standards of competence (whether in knowledge and skill or the application of knowledge and skill or both) that can reasonably be expected of medical practitioners practising medicine of the kind practised by the practitioner.

> **"The Medical Council can take action where complaints are determined to be of a serious nature, giving rise to concerns over a doctor's fitness to practise."**

72 See https://www.irishstatutebook.ie/eli/2007/act/25/enacted/en/html

This has been interpreted by the Supreme Court to mean a "serious failure"[73]

- A relevant medical disability (a physical or mental disability (including addiction to alcohol or drugs) that may impair the doctor's ability to practise medicine or a particular aspect of medicine).
- A failure to comply with one or more condition(s) attached to a doctor's registration.
- A failure to comply with an undertaking given to the Medical Council or to take any action specified in a consent given in the context of a previous inquiry.
- Contravention (infringement) of the Medical Practitioners Act (as amended).
- A conviction in the State for an offence triable on indictment or if convicted outside the State, for an offence that would be triable on indictment in the Irish courts.
- Failure to comply with regulations made under section 13 (2) of the Health (Pricing and Supply of Medical Goods) Act 2013.

73 See Corbally v Medical Council & Ors [2015] 2 IR 304

Appendix A

Eight Domains of Good Professional Practice[74]

74 The Eight Domains of Good Professional Practice are provided for in the Rules for the Maintenance of Professional Competence (No2) in Statutory Instrument 171/ 2011. https://www.irishstatutebook.ie/eli/2011/si/171/made/en/print

Patient Safety and Quality of Patient Care

Patient safety and quality of patient care should be at the core of the health service delivery that a doctor provides. A doctor needs to be accountable to their professional body, to the organisation in which they work, to the Medical Council and to their patients, thereby ensuring the patients whom they serve receive the best possible care.

Relating to Patients

Good medical practice is based on a relationship of trust between doctors and society and involves a partnership between patient and doctor that is based on mutual respect, confidentiality, honesty, responsibility and accountability.

Communication and Interpersonal Skills

Medical practitioners must demonstrate effective interpersonal communication skills. This enables the exchange of information, and allows for effective collaboration with patients, their families and also with clinical and non-clinical colleagues and the broader public.

Collaboration and Teamwork

Medical practitioners must co-operate with colleagues and work effectively with healthcare professionals from other disciplines and teams. He/she should ensure that there are clear lines of communication and systems of accountability in place among team members to protect patients.

Management (including Self Management)

A medical practitioner must understand how working in the health care system, delivering patient care and how other professional and personal activities affect other healthcare professionals, the healthcare system and wider society as a whole.

Scholarship

Medical practitioners must systematically acquire, understand and demonstrate the substantial body of knowledge that is at the forefront of the field of learning in their specialty, as part of a continuum of lifelong learning. They must also search for the best information and evidence to guide their professional practice.

Professionalism

Medical practitioners must demonstrate a commitment to fulfilling professional responsibilities by adhering to the standards specified in the Medical Council's "Guide to Professional Conduct and Ethics for Registered Medical Practitioners".

Clinical Skills

The maintenance of professional competence in the clinical skills domain is clearly specialty-specific and standards should be set by the relevant Postgraduate Training Body according to international benchmarks.

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