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PATIENT CONFIDENTIALITY & MANAGED HEALTHCARE PROGRAMMES

Several SMA members have asked Council's view about third-party managed healthcare companies advocating collection of claims via Internet. While this appears to be an efficient method of collection, the Council would like to highlight to members the legal and ethical implications as we understand that claims for payments may need to be accompanied by information relating to the individual patient's symptoms and diagnoses.

Members are reminded that patient consent is necessary as a requirement for release of patient information. The following Ethical Guidelines and legislation must be considered before deciding to participate in a scheme of this nature:

1. SMC Ethical Code

Section 20 (b) (ii) refers to the abuse of the relationship between practitioner and patients. It states that "improperly disclosing, without consent or without cause, information on patients obtained in confidence in the course of attending to the patients" is an offence or misconduct which may become the subject of disciplinary action.

2. SMA Ethical Code

Chapter 1 Paragraph 2 on "Statutory Requirements as to Disclosing" stipulates that "It is a practitioner's obligation to observe strictly the rule of professional secrecy by refraining from disclosing voluntarily **without the consent** of the patient (save with statutory sanction) to any third party information which he has learnt in his professional relationship with the patient.

Paragraph B of SMA Ethical Code on "Medical Records and Reports" states that "Third party who frequently seek information from a doctor are:

- (i) employers who request reports on the medical condition of absent or sick employees.
- (ii) insurance companies requiring particulars about the past history of proposers for life insurance or deceased policy holders, and
- (iii) solicitors engaging in threatened or actual legal proceedings.

In all such cases where medical information is sought, the doctor should make it a rule to refuse to give any information in the absence of the consent of the patient or failing this for good and sufficient reasons, that of the nearest competent relatives."

STATEMENT ON “PATIENT CONFIDENTIALITY & MANAGED HEALTHCARE PROGRAMMES”

3. Private Hospitals & Medical Clinics Act Chap 248

Section 13 (2) stipulates that “The Director and an authorized officer shall not disclose any information which is contained in the medical record, or which relates to the condition, treatment or diagnosis, of any person, as may have come to his knowledge in the course of carrying out any investigation or performing any duty or function under this Act unless the disclosure is made

(c) for any other purpose with the consent of the person to whom the information relates or the representative of such person.

Section 13 (3) states - For the purpose of Subsection (2) (c), “representative” –

- (a) in relation to a deceased person, means his executor, administrator or next-of-kin.
- (b) In relation to an infant, means one of his parents or his guardian, or
- (c) In relation to a mentally disordered person, means the committee of the estate of that person appointed under the Mental Disorders and Treatment Act (Cap 178).

As the onus for releasing the medical information comes from the medical practitioner, he/she should not rely on the third-party payer to seek the consent of the patient. The SMA Council’s advice to members are :

- 1) **Do obtain patient's consent before any information is released to any third-party payer.**
- 2) **Do be reminded that the consent obtained is not a BLANKET CONSENT, but a consent for information to be released pertaining to that particular consultation.**

41st SMA Council

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