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Referrals to complementary therapists regulated by statute

Guidance for GPs

Referrals to complementary therapists regulated by statute

Background

This guidance has been produced in response to evidence of continuing interest amongst patients in the use of treatment modalities which are currently outside NHS healthcare provision but which are delivered by professionals who have statutory regulation in place. The evidence base for these services is growing.

Patients currently self refer, or are referred by their GP or other health professional and are increasingly likely to find these professionals as service providers within their PCT. The majority of private health care providers now offer cover for these professional treatment services on condition that the patient is referred to the professional by their GP. Therefore, GPs may find numbers of patients requesting a referral for such treatment.

The BMA's policy on referral emphasises the need for increased awareness amongst medical students and highlights the value of post graduate education for health care professionals. Also emphasised is awareness that all practitioners providing treatment in the discrete disciplines of osteopathy and chiropractic have attained high levels of education and competence.

The aim of this guidance is to clarify the legal and ethical obligations of GPs in responding to requests for such treatment. The BMA welcomes greater use of the range of specialist skills within the health service, but needs to ensure potential legal implications related to referral to statutory regulated professionals are addressed.

GPs are obliged under their contracts, or agreements with PCOs to refer patients to services available under the NHS whether through the usual routes or via newer provider service contracts. Referral to a statutory regulated professional on a private basis should therefore not be considered a contractual requirement. However, in cases where a patient and their GP think treatment may benefit, a referral to a statutory regulated professional would fulfil the contractual responsibility. The GMC guidelines state that GPs should refer a patient "to another practitioner when it is in the patient's best interests" (Good Medical Practice 2c). GPs may prefer to suggest that patients visit a particular type of practitioner if the patient is in agreement, without actually making a formal referral but can offer to recommend a suitable individual. In doing so, however, they must satisfy themselves that the individual is competent. GPs can generally be confident of an individual's competence by their continuing membership of the relevant regulatory body; however any specific concerns about a particular practitioner should not be ignored.

A GP may not wish or feel able to advise a patient to consult a complementary therapist and therefore not wish to delegate or refer. In such cases, a GP is free to express their professional opinion; however they should make it clear that they have no objection to the patient independently consulting whoever they wish.

Delegation and Referral

The GMC distinguishes between delegation and referral in paragraphs 54 and 55 of *Good Medical Practice (2006 Edition)*.

Delegation and referral – paragraphs 54-55

54. *Delegation involves asking a colleague to provide treatment or care on your behalf. Although you will not be accountable for the decisions and actions of those to whom you delegate, you will still be responsible for the overall management of the patient, and*

accountable for your decision to delegate. When you delegate care or treatment you must be satisfied that the person to whom you delegate has the qualifications, experience, knowledge and skills to provide the care or treatment involved. You must always pass on enough information about the patient and the treatment they need.

55. Referral involves transferring some or all of the responsibility for the patient's care, usually temporarily and for a particular purpose, such as additional investigation, care or treatment that is outside your competence. You must be satisfied that any healthcare professional to whom you refer a patient is accountable to a statutory regulatory body or employed within a managed environment. If they are not, the transfer of care will be regarded as delegation, not referral. This means you remain responsible for the overall management of the patient, and accountable for your decision to delegate.

GP practices are entitled to employ complementary therapists, but must be certain that the health care professional is both appropriately registered with his relevant professional body and his registration is not currently suspended and has such clinical experience and training as are necessary to enable him properly to perform the services for which they are employed. The practice is also required to check two references before employment (except in an urgent situation, which we do not anticipate applying in this area of practice). [GMS c Regs sch 6 Paras 54, 56 and 59.] Complementary therapists should be covered by their own indemnity whether employed by the practice or otherwise.

Referral to registered professionals

GPs can safely *refer* patients to therapists who are registered as doctors, dentists or nurses with the GMC, GDC or Nursing and Midwifery Council (NMC) respectively, because these professionals would be fully accountable for their actions and the patient could seek legal redress against them in the event of an accident. Health Professionals registered with the Health Professions Council, Osteopaths regulated by the General Osteopathic Council (GOsC) and chiropractors, regulated by the General Chiropractic Council (GCC) are similarly regulated and GPs should carry no responsibility for the actions of such Health Professionals other than for the decision to refer. However, this should not negate any specific concerns a GP may have about a particular practitioner.

This principle also applies where practising doctors or nurses offer complementary treatment as a supplement to their normal services. Although the GP remains responsible for the overall management of the patient's care, he or she is not responsible for the detail of the treatment given.

GPs should be satisfied that the practitioner they are referring to is registered with the relevant body.

Chiropractors and Osteopaths are currently the only complementary therapists subject to statutory regulation, although several others operate under voluntary registering bodies and may be subject to statutory regulation in the future.

Delegation to other practitioners

GPs may delegate treatment to complementary therapists who are not registered with a statutory regulatory body. In doing so, they remain responsible for the treatment given and would bear some liability should the patient come to any harm. Whether GPs are prepared to delegate treatment in these circumstances would therefore depend principally upon their knowledge of, and

belief in the efficacy of, the therapy and their personal knowledge of the competence of the individual therapist.

The BMA advises (*Medical Ethics Today, 2004*)³ that:

For other therapists [not subject to a statutory regulatory body], the GP is considered to have delegated care and so retains responsibility for the overall management of the patient. When GPs employ CAM therapists who are not subject to a statutory regulatory body, they need to be satisfied that the individual is suitably qualified and experienced to undertake the role. GPs should also be aware that, in such circumstances, they may be held liable for any harm arising to their patients.

In delegating to non registered complementary therapists, GPs must

- ensure that tasks are delegated only to those who are competent to fulfill them, even though the person to whom care is delegated need not be medically qualified or subject to a statutory regulatory body.
- satisfy themselves that the treatment seems appropriate to the patient's needs and is likely to benefit the patient. As above, this presupposes some knowledge of, and belief in the efficacy of, the therapy.
- pass on enough information about the patient and the treatment needed (as stated by the GMC). The GP will need to exercise a degree of professional judgement in identifying the information that the therapist needs, and must ensure that they have the patient's clear consent to the disclosure of this information, particularly if it is likely to be of a sensitive nature.
- retain responsibility for managing the patient's care (as stated by the GMC). This might best be done by asking the patient to visit the GP again shortly after the treatment to review its effects. The GP must also ensure the patient has access to any conventional treatment they require. If the patient remains insistent upon seeing a complementary therapist rather than following the GP's advice that conventional treatment is required, the GP should record this matter clearly in the patient's notes and would also be well advised to confirm their advice to the patient in writing.

Further reading and information

1. GMC, Good Medical Practice 2006 Edition, GMC
2. BMA, Medical ethics Today, The BMA's handbook of Ethics and law: 2cd edition (2004) BMJ.
3. BMA science resource, www.bma.org.uk/health_promotion_ethics/complementary_medicine/camwhatpatientsmaybeusing.jsp
4. Web addresses for up to date information on current registrants of Osteopathy and Chiropractic. www.osteopathy.org.uk www.gcc-uk.org