

By Dr Chin Jing Jih

Back-dating Medical Referrals to 'Assist' Patients in Claims – Is This Practice Professional and Ethical?



Dr Chin Jing Jih is a Senior Consultant with the Department of Geriatric Medicine, Tan Tock Seng Hospital.

He is also an SMA Council Member. Besides chairing the SMA Ethics Committee, and directing the SMA Centre for Medical Ethics and Professionalism, he is also a member of the National Medical Ethics Committee and serves as an Associate Editor of the *Singapore Medical Journal*.

Like most doctors, he too has bills to pay and mouths to feed, and wrestles daily with materialistic desires that are beyond his humble salary. He, however, believes that a peaceful sleep in the night is even more essential.

QUERY FROM MEMBER DR X:

I am a general practitioner running a suburban neighbourhood practice with two other partners. Last week, a patient requested for a referral to a particular private surgeon for “an operation to remove my gallstones”. Nothing that unusual, except that the cholecystectomy had already taken place last month. She wanted the referral to be back-dated to pre-date her first consultation with the surgeon. Apparently, only after the surgery did she recall the clause in her medical insurance which states clearly that the policy will not reimburse any elective specialist treatment unless first referred by a primary care physician. This is a patient who I have been managing for years, and I feel compelled to help her. Is this professionally acceptable? Afterall, the surgery is medically indicated, and I would have written the referral had she presented to me earlier.

REPLY FROM SMA CENTRE FOR MEDICAL ETHICS & PROFESSIONALISM:

Medical referral to a healthcare colleague is a form of inter-professional communication in the context of patient management. It is made primarily for a specific clinical indication or purpose and is based on the clinical judgement of the referring doctor that the referral can potentially benefit the patient. Making a medical referral is thus a professional obligation based on the patient's best interests.

However, medical referrals must be made within existing legal, ethical and professional boundaries, especially when it involves a legal contract between the patient and a third party such as an insurance company. In this case, in an

attempt to repair a technical error that was due to the patient's oversight, she has in effect asked the doctor to misrepresent a fact to the insurance company. Although the referral is deemed medically valid when considered retrospectively, it does not change the fact that a referral was not made by the primary physician in the first place.

No doctor should be compelled by a patient to make a medical referral, or to write it in a way demanded by the patient, especially when it violates basic principles of law and medical ethics. Some doctors may be pressurised to back-date their referrals with the intent of ‘helping’ the patients meet the contractual requirements for insurance or medical benefit claims, while others might argue that it is the prerogative of a doctor to exercise his right of professional autonomy to back-date the referral as he or she sees fit.

However, doctors must also recognise that medical referrals are also medico-legal documents, and any deliberate deviation from the truth or attempt to misrepresent may have serious legal and ethical implications. If the insurance company subsequently discovers that the referral was made only as an afterthought after the specialist consultation and treatment, it will (and so will any form of deliberate misrepresentation) adversely affect the patient's rights of claims, and worse, the doctor's reputation and professional integrity. Not only do such acts to advocate for patients via dishonest means not help to address the real issues, they may instead perpetuate the problems for future patients, and worse, reduce trustworthiness for the medical profession. Finally, it is also a form

of fraud to deceive the insurance company.

As in any clinical decision, a doctor will have to be able to justify any referral made, and should not be coerced or be pressured by patients to act against his own better judgement. If a doctor feels strongly that the treatment is medically indicated and the insurance company should not be too inflexible in applying the contractual clauses, then the doctor should address the issue at the policy level, or appeal strongly on behalf of the patient through available channels, instead of distorting the rules of distributive justice to benefit a particular patient.

In summary, Dr X should decline the request from his patient to generate a 'retrospective'

back-dated referral, and should instead advise the patient that claims related to insurance policies or medical benefits entitlement can only be approved on the basis of accurate information and honest disclosure. Any dishonesty, misrepresentation and inaccuracy in disclosure in the process of drawing up an insurance policy or making a claim will potentially lead to the policy being declared null and void, thereby rendering any insurance claim invalid. In the overall scheme of things, it is certainly not in the patient's best interest for Dr X to collude with her in a breach of insurance contract. And this is legally a fraudulent act, irrespective of the good intentions of the doctor. ■