ASMS
ASSOCIATION OF SALARIED MEDICAL SPECIALISTS
TOI MATA HAUORA

20 October 2022

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Tēnā koe Kanny

Doctors and health-related commercial organisations

Thank you for the opportunity to comment on the draft revised statement on *Doctors and health-related commercial organisations*. As you are aware, the Association of Salaried Medical Specialists Toi Mata Hauora (ASMS) is the union and professional association of salaried senior doctors and dentists. ASMS was formed in April 1989 to advocate and promote the industrial and professional interests of our members, most of whom are employed by Te Whatu Ora. We have over 5,500 members.

ASMS agrees that doctors should be alert to the potential for interactions with health-related commercial organisations to influence, or appear to influence, their clinical decision-making or judgement.

How health-related commercial organisations can influence doctors and the medical profession

We suggest this section could emphasise the subconscious influence that marketing and promotional activities can have on a doctor's professional and clinical decisions. The Royal Australasian College of Physician's (RACP) guidelines for ethical relationships highlights the risk:

- *Healthcare professionals of all kinds often assume they are immune from skilled advertising techniques.*
- *Evidence shows that both health care decision making and the conduct of research are profoundly affected by such influences.*
- *This raises the possibility that health professionals may unwittingly become agents of industry.*[1]

We note that the Council's existing statement says that doctors "must recognise that you are susceptible to the influence exerted by health-related commercial organisations".

Subliminal influence can bias professional judgement and impact on patient care. We suggest that bias is possibly harder for a health professional to identify than a conflict of interest. They may be less likely to accept they have a prejudice than a conflict of interest exists and may not be as alert to the potential for real or perceived bias.

We therefore recommend the statement includes more discussion on bias, as a separate issue to conflict of interest. Advice on how doctors can recognise potential bias in different settings would be helpful. This includes potential for bias when engaging in research.

Our responses to the questions raised in the consultation are set out below.

Key points at the outset of the statement.
Do these key points provide an accurate overview of the statement? What changes (if any) should we make to the key points?

ASMS appreciates the value of providing key points at the outset of the statement. However, we consider they could be improved by making the following changes.

- Health-related commercial organisations **actively work** to influence how doctors practise and the decisions they make.
- **Doctors are susceptible to this influence**.
- It is important to **recognise, assess and manage** any conflicts of interest **and/or** bias that may arise from your interaction with health-related commercial organisations.
- The primary concern of a doctor is the care of their patients, whereas a primary goal for commercial organisations **is to make a profit**.
- **Relationships with health-related commercial organisations can undermine patient trust if conflicts of interest and bias are not managed.**

Terms used in the statement.
Are the terms clear and fit for purpose? What changes (if any) should we make?

We suggest the definition of "duality of interests" comes before the definition of "conflict(s) of interest" because, in a particular decision-making setting, a duality is the precursor for a conflict of interest to arise.

The RACP guidelines clarify the meaning of these terms and how they interrelate. They also provide 'tools' to help doctors distinguish between a duality and a conflict of interest and, where a conflict is identified, what steps should be taken to manage it.[2] We suggest the statement acknowledge and refer to this specific information.

We also suggest the first example listed under the definition of health-related commercial organisations is amended to "the pharmaceutical, **complementary and alternative medicines industries**".

Are there any changes we should make to 'Principles to consider when you interact with health-related commercial organisations'?

We have the following comments and suggestions on this section.

ASMS agrees that a doctor's integrity (being honest and trustworthy) is an important aspect of a doctor's professionalism. We suggest the discussion on integrity includes that relationships with health-related commercial organisations are inherently risky and can undermine patient trust if are they not well managed.

However, we believe the statement in this section "Because of the inherent power and knowledge imbalance in a relationship, patients and the public are inclined to trust you" should be removed.

ASMS supports and promotes patient-centred care, i.e., where the doctor-patient relationship is one of mutual respect; where patients believe doctors value their autonomy and ability to make informed decisions; and where they feel comfortable to engage in dialogue related to their health care, or the care of a whānau member. We recognise there are often systemic barriers to fully

achieving this, such as time constraints and workload. Nevertheless, we do not accept, as suggested in the draft statement, that their conduct and decisions should be to justify patient trust in them that is based on a power and knowledge imbalance.

We recommend that the principle "Beware of the potential to overtreat" is amended to "Beware of the potential **for bias and/or** to overtreat". This would reinforce that both overtreatment and bias are possible outcomes if doctors are not alert to the influence that health-related commercial organisations can have on how they practise.

Is the guidance in 'Areas where you may have to manage conflicts of interest' clear, appropriate and practical? What changes (if any) should we make?

We have the following comments and suggestions on this section.

For clarity, we suggest that paragraphs 17 & 18 about referrals would fit better under an overarching section on referring patients. The section could include paragraph 20 on managing the conflict of interest when referring to a facility a doctor owns or has a financial interest in.

ASMS supports ethical referrals that are patient-centred and where clinical decisions are based on evidence. It is considered by some that arm's-length referral to an independent service is the most appropriate and ethical to avoid conflicts of interest. [3]

We agree that a doctor should be cautious about referring a patient to a facility they, or someone they have a close relationship with, own or have a financial interest in. This should be a last resort i.e., when there is no other option available. There is the potential for this to be more acutely experienced in smaller centres/regional Aotearoa and there will be inequity across the country/system. We particularly agree with the advice in paragraph 20 (c) that a doctor must provide information about fees, incidental costs and wait times so the patient is fully informed to make a decision on whether to receive care at the referred facility.

Paragraph 19 advises doctors not to charge a higher fee where they believe there is a high chance of success in the proposed treatment. While we agree with this position, we suggest it does not relate to a discussion on referrals. We believe it would fit better in a separate section on managing bias.

Further, we note that the section on *When selling products to patients* (paragraphs 21-22) does not highlight the impact subconscious bias may have on how doctors promote products to patients. We consider that practical advice on this issue would be helpful to include in a section on bias.

Paragraph 27, in the section *Meetings and educational events supported by health-related commercial organisations*, is vague and not practical in our view. It would be difficult for a doctor to assess whether a payment for attending an educational event is, or is not, a monetary amount that would be perceived as influencing the content of their presentation or their practice. We consider that the onus is on the organisers of any sponsored educational event to disclose the funding received from a health-related commercial organisation and how it is used, including payment to presenters. In addition, they should disclose products, samples or other collateral given to attendees at these events.

We suggest the section *When engaging in research* states that it is undesirable for a doctor engaged in research, that involves their own patients, to take primary responsibility for seeking their consent to participate. This is because of the possibility of a conflict between the doctor's interest in conducting the research and the need to ensure their clinical judgements are in the best interests of patients.[4]

ASMS supports the advice in the section *When you are in a governance or leadership role with a health-related commercial organisation* and the subsequent section on managing related conflicts of interest. We suggest these two sections could be collapsed into one.

We note that the current statement advises a doctor to act, e.g., by making their objections known, where a decision by the organisation they are involved with is putting or will put patients at risk of harm. We think this should be retained to reinforce that a doctor's first obligation is to the wellbeing of patients in any situation.

Conclusion

ASMS believes that doctors can, and do, navigate and manage competing interests ethically and in the best interests of patients.

Overall, we consider the revised draft statement is a useful guide for doctors to be alert to the possibility that engaging with health-related commercial organisations could result in a conflict of interest or bias that needs to be recognised and managed.

We have suggested changes in the following key areas:

1. More discussion should be included, in a separate section, on the potential for bias in decision making through influence exerted by health-related commercial organisations.
2. Patient trust in doctors is fostered through patient-centred care and not because of an imbalance in power and knowledge in the relationship.
3. It is the responsibility of organisers of sponsored educational events to disclose information about funding received from a health-related commercial organisation, including any payment made to a doctor who presents.

Nāku noa, nā

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[1] The Royal Australasian College of Physicians Guidelines for ethical relationships between health professionals and industry, Sydney 2018, p27-28. https://www.racp.edu.au/docs/default-source/fellows/guidelines-for-ethical-relationships-between-physicians-and-industry.pdf?sfvrsn=67c1101a_4
[2] Ibid, p7-11.
[3] The Royal Australian and New Zealand College of Radiologists, Faculty of Clinical Radiology, Ethical Referrals in Clinical Radiology, Discussion Paper 26 August 2021, p5.
[4] Ibid, p57