



## Opinion Medico-Legal

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# The pitfalls of treating colleagues and family members

*Mr Niall Rooney, Consultant Lead Counsel in Medisec, outlines why best practice dictates that treating colleagues or family members should be avoided*

Doctors are frequently asked to provide medical advice or treatment to their family members or colleagues. Although it can seem like getting free or rapid medical advice or treatment is an assumed or expected perk of the relationship, it is often problematic for the doctor, may not be in the best interests of the patient and certainly requires careful consideration of the potential risks and challenges that can arise.

It is undoubtedly difficult to refuse to provide advice or treatment to a colleague, particularly where there has been a long-established culture in the hospital or practice of prescribing an occasional antibiotic or pain medication when the risks appear minimal. However, difficult it may be, for the reasons set out below, best practice is to advise your colleague to seek medical advice or treatment from their own doctor.

### Not all relationships are created equally

Having a close personal relationship with a patient can make it difficult to maintain clinical objectivity, and can impact the normal doctor-patient relationship. For example, might a doctor feel pressurised to sign a prescription requested by another doctor they work with or to provide treatment they would not usually provide to an employee where they may otherwise be left short-staffed?

When considering whether to treat those with whom you have a personal relationship with, doctors should be aware of the relevant section of the Medical Council's *Guide to Professional Conduct and Ethics for Registered Medical Practitioners* (the 'Ethical Guide').

### Treatment of relatives

**60.1** You should not treat or prescribe for members of your family or others with whom you have a close personal relationship except in emergencies. You must not prescribe controlled substances for them or issue sick certificates or reports for them except in emergencies.

Anecdotal evidence suggests the practice of informal prescribing for friends and colleagues is not uncommon. However, it is clear from the Ethical Guide that prescribing for a family member or those with whom a doctor has a close personal relationship should be avoided save in the emergency situations. Doctors who prescribe medication on an informal basis, often without a full clinical examination, are putting themselves at significant professional risk and may be subject to criticism. In addition, doing so may have implications for patient safety and continuity of care of the patient not least when in the absence of the full clinical records



or examination, the doctor must rely entirely on the patient to relay clinically relevant information.

If you decide to prescribe for colleagues or others with whom you have a close personal relationship with, you should make a clear record of the treatment provided as well as why no alternative was available at that time. It is important not only for continuity of care but also has potential legal implications if evidence is required for defending a claim or regulatory complaint. Where possible, any such prescribing should be conditional upon the person agreeing to you notifying their own doctor of the treatment provided or medication prescribed.

### Confidentiality

Whilst it is always important to keep patient information confidential, treating other doctors or members of staff can give rise to additional considerations such as who can access their records. If it is necessary to treat your colleagues, special consideration should be given to ensuring their information is kept strictly confidential. For example, many software packages include a facility to lock or limit access to some or all patient notes.

It should be explained to the other doctor or employee when accepting him/her as a patient that other members of staff may require access to their records in the ordinary course or may inadvertently see their records despite you taking all steps reasonably practicable to preserve patient confidentiality. All staff would ordinarily be expected to sign a confidentiality statement/agreement to safeguard against inappropriate access to records or use of confidential information, but it is worth ensuring such agreements are in place and to provide regular reminders/training to staff in relation to their obligations around patient confidentiality.

### Disputes over treatment

It is always a challenge to appropriately deal with a patient who is dissatisfied with the treatment or care they have received. Complaints or dissatisfaction coming from a colleague can complicate matters further and impact not only the doctor-patient relationship, but also wider relationships within the hospital or practice setting.

Take the example of a doctor's receptionist who is taken on as a patient and then suffers an adverse reaction to prescribed medication or a fainting episode after administration of the winter flu vaccine. We have seen time and again where these types of adverse events escalate into complaints or formal claims for compensation. It can be extremely difficult to avoid the issue becoming personal to one or both parties and there is significant potential for long established relationships to be damaged.

### Conflict of interests

It can be particularly difficult to avoid actual or perceived conflicts of interests when treating patients who are also colleagues in the hospital or practice. Clear conflicts of interest can exist from an employment law perspective when clinicians wear two hats: One as a treating doctor and the other as the employer or someone in a management role.

### Typical issues we have advised on in Medisec include:

- ▶ The difficulty of staff who may be reluctant to talk openly and discuss personal issues with the doctor, knowing that they are also their employer and thus hampering the doctor-patient relationship.
- ▶ The significant challenges that can arise if the treating doctor becomes aware of confidential information by virtue of having treated a colleague that can affect job performance, such as a health condition

or social/family circumstances, or information that can have patient safety implications such as where the colleague sought advice regarding drug or alcohol misuse.

▶ The dilemma of whether to issue a sick certificate to a colleague arises frequently. A refusal, even on strong clinical grounds, could lead to an accusation of prioritising the needs of the hospital or practice over the patient's best interests. Equally a doctor who provides a sick certificate to a colleague or employee may come under pressure or have a perception of pressure from the practice or hospital management who may want the employee back at work.

### No other alternative

Whilst it is preferable to have a policy against treating colleagues or members of staff, there may be scenarios where providing treatment is necessary or unavoidable. Such scenarios include cases of emergency where delay can have severe consequences to a patient's health. Equally, there will be occasions where colleagues or staff do not have easy access to an alternative doctor due to the geographical location of the practice or hospitals, in particular in remote rural communities. In such scenarios, treating colleagues or staff may be unavoidable and the treating doctor will have to take practical steps to safeguard confidentiality and to maintain clinical objectivity. Although not always possible, assigning the clinical care of the colleague or staff member to another employed doctor can be a practical step to address any actual or perceived issues around clinical objectivity.

### Conclusion

▶ Best practice is to avoid treating colleagues or family members. Instead they should be advised to attend their own doctor where possible.

▶ In emergency situations, it is appropriate to provide all necessary care to make the patient safe until further help can be sought from their own doctor(s).

▶ Where it is necessary to provide treatment or advice to colleagues, it is important to avoid any actual or perceived conflicts of interests such as clinical decisions being influenced by any business needs of the doctor or practice.

▶ Follow guidance from the Medical Council on treating those with whom the doctor has a close personal relationship, as well as guidance on maintaining adequate patient records.

*If you have any concerns in relation to the treatment of colleagues or family, you should contact your indemnifier for advice and guidance specific to your circumstances.*