

# The Gardaí and the GP

**It is important always to consider the full circumstances of a Garda request and to take advice when considering whether to divulge confidential patient information, writes Mary Davin-Power**

GPs AND MEMBERS OF AN GARDA SÍOCHANA have traditionally enjoyed a good and supportive working relationship, and it is my experience that each endeavours to lend assistance to the other when necessary.

GPs receive frequent requests from Gardaí for reports or records. GPs may be asked to assess a patient at a Garda station, or to attend to someone suffering an acute psychiatric episode. These scenarios may involve patients who are unknown to the GP; there may be no medical history, and the patient may be a reluctant historian, adding to the complexity of the consultation.

These attendances may involve some aspect of forensic assessment. For instance, the patient may have been the victim of an assault, may require assessment for fitness to be interviewed, or may require medical assessment, as is the detainee's right to request medical care should they fall ill. These requests by their very nature can be time-sensitive and the absence of a formalised structure of committed Garda doctors with forensic training often leaves the Garda in the position of needing to call around local GPs to request attendance.

Below are some hypothetical queries:

## Call to assess a person for the purposes of involuntary admission

*I just received a call from the local Gardaí to come out to 'commit' my patient who is having a psychiatric crisis. I am in the middle of a surgery – must I go?*

The process of arranging involuntary admission for any patient is complex. Such requests can come during a normal surgery, and often the GP cannot leave their scheduled patients. The GP can feel conflicted and yet ethically under an obligation to attend.

It is useful to remember that one does not have to be the patient's usual GP or have prior knowledge of the patient/detainee in order to sign a recommendation (Form 5) for involuntary admission to a psychiatric facility under the Mental Health Act 2001<sup>1</sup>, so it is worth asking if alternative options are available to the Gardaí.

It is open to the GP to decide whether to attend, bearing in mind the best interests of an ill person, the safety of the public, the GP's obligations to their own patients waiting to be seen and of course one's own skill and competency. In the absence of a contractual arrangement with the Gardaí, there is no strict obligation on the GP to attend, although many will accommodate the request.

GPs have 24 hours from receipt of the application to undertake the examination and complete Form 5, so this timeline will be relevant unless there is imminent danger to the patient or the public.

## Fear for GP's safety

*I have been requested by the Gardaí to attend an agitated patient at their home to 'sign them in'. I am happy to do so*

*but I am aware that they have a history of violence, and I am concerned about my safety.*

The Medical Council Guide to Professional Conduct and Ethics 8th Edition as amended, states: "You are not obliged to put yourself or others at risk of harm when assessing or treating a patient. However, in such circumstances, you should make a reasonable effort to conduct an appropriate clinical assessment and treatment, taking appropriate measures to protect yourself and others".

A patient may be violent as a consequence of their illness, or actively suicidal. In such an instance, it is not unreasonable to request that the Garda accompany you, or that the patient be assessed in the Garda Station. Under section 12 of the Mental Health Act 2001, the Gardaí have the power to take a person into custody where they believe the person poses an immediate risk to themselves or others.

Sometimes in extreme cases, particularly during the pandemic, remote consultations may (but not always) suffice, if the patient is sufficiently well known to the GP. However, we would advise that you proceed with caution and contact your indemnifier for specific advice.

For more details on a GP's role in admissions under the Mental Health Acts, you can refer to the article on this topic in the February 2022 edition of *Forum* available on [www.icgp.ie](http://www.icgp.ie)

## The ill patient/detainee:

*I have been called to the Garda station to assess a patient who has become ill after an altercation in the street. Must I attend? They are not a patient of mine?*

It often happens that a person detained by the Gardaí has complex health needs and/or becomes unwell while in detention. The Gardaí are obliged to seek medical help and may call on a GP for help. These calls, initially for medical care only, can evolve into more complex cases, e.g. a drug overdose, alcohol intoxication, methadone dosage, the unconscious patient. Many GPs feel they do not have the expertise to manage such cases but are reluctant to leave the detainee unattended for their medical needs.

The doctor should always practise within their area of expertise, and where they feel that they do not have the knowledge and skills required, they should refer to the appropriate specialist centre.

Such cases may subsequently require a medical report and a court appearance at a later date as a witness; therefore, if a GP decides to attend such a consultation, very detailed records must be taken.

## Firearms certification

*I have just received a telephone call from the local Garda sergeant regarding whether a patient of mine is fit to hold a firearms certificate. I am aware they have suffered mild mental illness in the past – what should I do?*

In order to apply for or renew a firearms licence, an appli-

cant must complete a form for submission to the Gardaí, self-declaring medical suitability to hold a firearm, and including written consent to contact their (named) GP if the Garda deems it appropriate.

The GP might then receive an informal call from the Gardaí, enquiring as to the medical suitability of the applicant. While there is an official form for the applicant requesting the firearms certificate, there is no reciprocal certificate for the GP to complete supporting (or denying) medical suitability. Despite the often informal nature of these communications from the Gardaí, careful consideration must be given to a doctor's duty of confidentiality. In our view, it is preferable for the GP to ask the Garda to put the request in writing, and for the GP to provide a written response following a consultation with the patient.

The GP should firstly assess and consult with the patient and ensure they are aware of and give consent to the nature and extent of any declaration to be given to the Gardaí. The GP may be of the view that the patient is unsuitable to hold a firearm for medical reasons and the GP should let the patient know their view. If the patient decides that the GP cannot impart this information to the Gardaí, then the GP should respond informing the Gardaí that he/she is not in a position to complete the request. Where there is any doubt, a referral to a suitable specialist may be offered by the GP.

#### Deceased patient records

*Two Gardaí came into the surgery requesting a report on a deceased patient; the subject of a violent assault – they have*


*not given a reason for the request. Can I oblige?*

All such requests should be in writing specifying the reason why the request has been made. The Garda may be acting on the instruction of the coroner and if so, the GP can provide the report, on sight of that request in writing. It is advisable to seek assistance from your indemnifier when preparing a coroner's report.

If the Gardaí are investigating a crime, patient confidentiality extends beyond death and the consent of the legal personal representative or a court order may be required. We would strongly recommend contacting your indemnifier immediately before releasing any records or a report. Always remember if providing a report, it should be relevant, factual and not misleading. You may be asked to attend court and give evidence on foot of it and you may be cross-examined in relation to it.

#### Conclusion

It is important always to consider the full circumstances of a Garda request and to take advice when considering whether to divulge confidential patient information.

When considering a request to examine/treat a person, it is also important to consider whether any alternatives are available to Gardaí when you are not in a position to attend in light of obligations to other patients. GPs should always be careful not to act outside their scope of competence when assessing patients, having been requested to do so at the request of any party, including the Gardaí. 

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