FACTSHEET

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Private Medical Attendant Reports (PMA)

Doctors are often asked to complete PMAs in respect of their patients. Usually, PMAs are requested in the context of life assurance policies or mortgage applications and generally they are straightforward. Sometimes, members contact Medisec with queries and this factsheet addresses the most common issues that arise with PMA, including consent and the extent of the disclosure.

Informed Consent should be provided by the patient

Ideally, doctors should obtain written consent signed by the patient to disclose their confidential information to an insurance company. Sometimes, insurance companies provide the doctor with a photocopy of the patient's signature but it may have been signed some years ago. In addition, some insurance policies do not require a signature so a signed consent may not be available.

It is important for the doctor to ensure they have full, valid and informed consent from the patient to disclose any information to the insurance company.

Under the Medical Council *Guide to Professional Conduct and Ethics for Registered Medical Practitioners* 9th Edition, 2024 (available on the Medical Council website) (paragraphs 51.3) doctors have a duty to third parties (which would include insurance companies) as well as to patients and to not omit relevant information from the report.

Sometimes patients are naturally anxious that nothing prejudicial is disclosed unless absolutely necessary. Patients may need to be reminded that it is important that they are accurate and honest in their disclosure to insurance companies and they should not omit anything of significance.

An insurance company is essentially offering a product to customers subject to its terms and conditions, one of which is to have a PMA form returned duly completed. An insurance company is entitled to ask any question once there is no legal impediment to the question being asked. In turn, the customer has the option to accept or reject the product together with its terms and conditions.

It is important that the patient fully understands a doctor's obligations in completing a PMA report. Doctors should highlight to patients that any non-disclosure, misleading or untruthful information on a form may render the policy void and cause a claim to be rejected years later. Patients should be aware that the information contained in the PMA report may be used by the insurance company to calculate the risk and premium for the insurance product. Doctors should take steps to satisfy himself / herself that the patient understands the purpose and scope of the report and of any examinations or investigations required to support its preparation.

As a practical step, we recommend that doctors go through completed PMA reports with patients prior to submission to the insurance company. This allows an opportunity to explain to patients the extent of the consent provided and explain that consent for disclosure of all their medical history can extend back to long forgotten illnesses and ailments. Reviewing the completed PMA report with a patient will also help ensure the patient understands the information that is being disclosed and the purpose and scope of the report. It also gives doctors and patients the opportunity to spot any errors / inaccurate information included in the report.

Refusal of consent

If a patient objects to any necessary or relevant information being provided in the report, they are effectively not consenting to disclosure of that information. Doctors should not compromise their position

by omitting any relevant details from the report and should simply write on the relevant section of the form *"no consent from the patient to disclose"* or decline to submit the form in such circumstances.

While the implications of refusing consent to disclosing certain information is a matter between the patient and the insurance company, doctors should make patients aware that failing to disclose details may mean the insurance company cannot process the application. In circumstances where the report or information is required for a claim, refusing consent may have implications for the processing of the claim.

Doctors should ensure to carefully document any discussions with the patient in the medical records.

Information about genetic conditions and inheritable illnesses

The Disability Act 2005 and the Code of Practice on Data Protection for the Insurance Sector directs that an insurance company cannot take the results of an applicant's genetic screening into account whatsoever when considering an application for an insurance policy. Doctors are not obliged to reveal the results of any genetic screening to the insurance company, and if they do so, the insurance company needs to disregard this information and cannot take these results into account. This applies to both positive and negative tests. Under the legislation, an insurer may not take into account a negative genetic test result even if asked to do so.

However, it is important to clarify that where a patient is suffering from the effects of a genetic illness, then his clinical condition and diagnosis can be disclosed. The exception does not change a doctor's legal obligation to provide the insurance company with full details of any symptoms experienced, non-genetic laboratory tests or investigations and/or treatment when answering the questions on a PMA form. An example of this would be where a patient has been identified as a carrier of the gene for haemochromatosis through genetic testing. If clinically well, and suffering no sequelae, the result of the test need not be disclosed. If the patient is suffering any consequences of haemochromatosis, say, cirrhosis and diabetes, or is going for regular venesection, then this may be included in the PMA report.

Family History

Another common query that arises when completing PMA forms is whether a doctor is obliged to enter details of the patient's family history. If a doctor has information about a member of the patient's family, and that person is identifiable, then the doctor should have the consent of that person in order to reveal their medical information. If a patient reports a general family history of conditions or illnesses which may be relevant to the patient's health, this information can only be provided, if it is derived solely from the patient's own clinical records with the patient's consent, and does not identify a family member. When providing such information the doctor must ensure that the family members are not identifiable i.e. there should be no reference to parent, father, mother etc.

If there is any uncertainty regarding disclosure of information about a patient's family history, it is advisable to leave it to the patient themselves to offer this information to the insurance company if requested. A doctor can complete that section with "*family history information can be obtained directly from the patient*".

Other considerations:

PMA reports form part of a patient's clinical record

It is important to always keep a record of the completed report on the patient file. If there is a request for disclosure of a patient's records (either under Freedom of Information Act, Data Protection Acts or through the discovery process through the Courts) PMA reports will need to be disclosed as part of the patient's records. There is no distinction between the clinical notes and the PMA reports. Both will be

regarded as an accurate and contemporaneous record of the patient's health, diagnosis and treatment plan. The PMA report, whether it is an application for insurance or an application for benefit under an insurance policy, should be treated by doctor as requiring as much accuracy in its completion as the patient's clinical notes. A failure to do so, or treating the forms as separate and distinct from the clinical records, could expose a doctor to criticism.

Reports should be completed promptly

Delays in completing PMA reports can cause significant difficulty to a patient keen to have insurance in place for example for a mortgage approval. Doctors should ensure to provide reports promptly so that the patient does not suffer any disadvantage (paragraph 51.6 of the Medical Council's Ethical Guide).

Post-death inquiries from Insurance Companies

We often receive queries from doctors regarding requests for information received from insurance companies following the death of a patient. The standard clause in most life insurance policies which is signed by the patient / policyholder at the time of application, usually confirms consent to the insurance company seeking medical information from any medical doctors at any time; and often specifies that the authority remains in force after death.

Medisec advises a cautious approach is adopted before releasing any records or information pertaining to a deceased patient to an insurance company even in the presence of a signed consent clause. If a doctor receives such a request, we recommend that they notify the Legal Personal Representative (e.g. executor) of the deceased patient's estate about the request for information.

The general rule of thumb when disclosing information to a third party is that a doctor should only disclose information that is relevant to the purpose of the request. While it may seem more convenient to attach a full set of the deceased patient's records in response to open ended questions regarding medical history or medical attendances prior to death, doctors should bear in mind that the duty of confidentiality to the patient continues after death and disclosure of the full set of the patient's records is not therefore recommended. We strongly recommend that doctors discuss the relevant information with the Legal Personal Representative (LPA) prior to it being disclosed to the insurance company and seek their consent and that details of any discussions with the Legal Personal Representatives are carefully documented.

If a report is to be furnished, it should be confined to the purpose for which the report has been requested (paragraph 51.3 of the Medical Council's Ethical Guide). A more prudent approach is to respond only to the specific questions asked.

On occasion, insurance companies may revert seeking disclosure of the entire set of a deceased patient's records. If such a request is received, in line with the obligations under Section 51.3 of the Medical Council's Guide to Professional Conduct and Ethics for Registered Medical Practitioners, 9th Edition, 2024 a doctor should consider whether disclosure of the full set of records is necessary or whether it would be sufficient to only provide records in relation to the specific issues raised by the insurance company. If disclosure of the full set of records is deemed necessary, the usual considerations which apply in respect of deceased patients should be considered including:

I. Seeking consent from the LPR
II. Whether the disclosure might benefit or cause undue distress to the Deceased's family or persons close to them;
III. The impact that any release would have on the reputation of the Deceased.

For further information on disclosure of medical records, see our Factsheet on *Requests for Deceased Patients' Records* (available on our website).

In some cases where an insurance company requests medical records of a deceased patient who was a GMS patient, it may be appropriate to direct them to the local Freedom of Information (FOI) officer.

If you have any queries about requests for information received from insurance companies or requests for PMA reports, please do not hesitate to contact Medisec for further advice.

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