Department of Health,
P.O. Box 5013,
Wellington.
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CLINICAL SERVICES LETTER NO. 166

To Medical and Dental Practitioners

HEALTH BENEFITS AND MEDICAL DISCIPLINE

Recent allegations that some medical practitioners have been making fraudulent Social Security claims attracted publicity in the news media. It is important that the relevant legislation is clearly understood by medical practitioners as well as the full implications for them of any successful prosecution of offences under the Social Security legislation.

Any person convicted of making a false claim in order to obtain a benefit under the Social Security Act 1964, is liable to a fine not exceeding $500 or to imprisonment for a term not exceeding 12 months or both.

For a medical practitioner so convicted, further action through his own professional disciplinary machinery is inevitable. The department may, in any such case, complain to the Medical Council who, if they consider a complaint of disgraceful conduct in a professional respect has been established, may impose penalties. Complaints of this nature may alternatively be referred to the Medical Practitioners Disciplinary Committee if the charge is considered to be one of professional misconduct.

The exercise of the various powers and the applications of the various provisions described below may follow a conviction under the Act but are not dependent on any such conviction.

The penalties that may be imposed by the Medical Council include a fine, censure, payment of costs, suspension of the person from practice as a medical practitioner for a period not exceeding 12 months, or even removal of the practitioner's name from the Medical Register.

The Medical Practitioners Disciplinary Committee has the power to censure, fine, or order payment of costs, and may also recommend to the

Minister of Health that the medical practitioner be excluded for up to 6 months from any scheme whereby payments are made from public funds in respect of general medical services. The Minister also has the power to require a medical practitioner to support every claim for Social Security payment for medical services by a certificate signed by the patient, or some person acting on behalf of the patient, to the effect that the medical service has in fact been provided at the time and place specified in the claim.

The Social Security (General Medical Services) Regulations 1950 impose several important obligations on medical practitioners. These include the keeping of comprehensive patient records which must incorporate a clinical history and a record of the treatment or service provided for each patient seen. These records are to be open for inspection by the Medical Officer of Health and the medical practitioner is also required to answer all inquiries with respect to these records made by the Medical Officer of Health. The Minister may disallow any claim for payment if records have not been kept or if the records kept are inadequate. The practitioner is also required to explain or substantiate to the Medical Officer of Health any claim or the reasonableness of the amount of the claim. Failure or refusal to do so may result in the Minister, after reference to the Medical Services Advisory Committee or to the Medical Practitioners Disciplinary Committee, directing that the claim be disallowed or any payment be recovered.

Certain other complaints relating to these regulations may be referred by the Minister to the Medical Practitioners Disciplinary Committee for investigation. These include:

(a) Excessive numbers of visits to a patient.
(b) Unduly large numbers of consultations on any day or days.
(c) Unduly large numbers of daily services, having regard to the facilities used in the practice and the manner of conducting the practice.
(d) Culpable lack of skill or any negligence or lack of care in the performance of the practitioner's duties.

The Minister made one such complaint during 1976 and several complaints of this type are at the preliminary inquiry stage at present.

The auditing of Social Security claims from medical practitioners is an onerous department responsibility. The investigation of faulty claims is an even more unpleasant duty, particularly for the Medical Officers of Health. The co-operation they seek and expect from practitioners is not always evident and yet the department is openly criticised by the profession itself if it does not actively investigate complaints. To facilitate this type of inquiry, the department is proposing to extend its check letter system and is also considering the establishment of investigation sections to support district offices with this aspect of their work.

If the present trend continues it is apparent that there will be an increasing number of investigations and disciplinary inquiries. This will at least be seen by the public as clear evidence of the profession disciplining its own members at a time when arguments to the contrary are often heard.

Apart from complaints about general medical services the Minister may also refer to the Medical Practitioners Disciplinary Committee certain complaints under the Social Security (Pharmaceutical Benefits) Regulations 1965. The following are examples of the type of case that can be so referred:

(a) The prescribing of pharmaceutical requirements to persons not at the time in need of treatment.

(b) The prescribing of any pharmaceutical requirements to a patient or class of patient in excessive quantities or for unnecessarily long periods or in unduly expensive quantities.

(c) The prescribing of unnecessarily expensive or excessive quantities of flavouring agents or vehicles for the administration of any medicines.

(d) The issue of prescriptions during any period of 3 months that have, in comparison with the prescriptions issued during the same period by other medical practitioners engaged in similar practice, imposed an undue financial burden upon the department.

(e) Any other practice in relation to the issuing of prescriptions which imposes an undue financial burden upon the department.

The majority of practitioners are clearly well aware of the economic implications of their prescribing and the department is not convinced that many prescribe unnecessarily excessive or expensive quantities of medicines. But at a time when annual expenditure on the pharmaceutical benefits scheme is rising rapidly and is expected to exceed $80 million this year, practitioners are urged to ensure that irregularities of this type do not occur since the department has a responsibility to investigate those brought to its attention.

The legislation and the procedures described in this newsletter are in fact rarely invoked. The department invariably prefers to act informally and seek the co-operation of practitioners. But it is important that the profession realises what legislation does exist and understands why it is necessary for the department to use it on occasions.

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PRACTICE NURSE SUBSIDY SCHEMES

The Minister of Health has announced that amendments to present schemes will be introduced from 1 July 1977. Full details will be included in a subsequent Clinical Services Letter but the main changes are: extension of the 50 percent scheme to urban areas (i.e., general practitioners will now have the choice between the 50 percent and 100 percent schemes), extension of the subsidy schemes to practice nurses in health centres, introduction of a motor vehicle travel allowance in urban areas for practice nurse visiting, and higher rates of benefits for domiciliary visits under the 50 percent scheme.

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