

COVID and the Law

with Jonathon Goldring

3rd November 2020

TRANSCRIPT

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Steven Bruce

We had a lot of people talking to us via Facebook or directories or email or otherwise, about the legal implications of various aspects of the lockdown. Not just that, but also the legal implications of various other things that go on in practice. And of course, one of the areas that we so rarely address in our CPD is that business of our professionalism conduct in practice fitness to practice. It's the Section D of the osteopathic practice standards Section B and elsewhere in the chiropractic code. And that's why today I have asked Jonathan Goldring to come back and join us. Jonathan has been on the show, I think three times before certainly once during lockdown. I've described him in my emails as an ace barrister. He has a poster on the wall behind him a prince of a Banksy, which says I fought the law and I won, but I don't think he wants that to be held against him at the Law Society. Jonathan, great to have you with us. How are you?

Jonathon Goldring

Hello, Steve. Oh, well, thank you. Thank you very much.

Steven Bruce

I suppose we will clarify things. First of all, Jonathan, shouldn't we and that you sent to me separately that you know, you don't want people to think that you're an expert in COVID. And a lot of the questions be regarding to relate to COVID.

Jonathon Goldring

Yeah, I mean, I'm more than happy to give any advice that I can. But I think our viewers should bear in mind that as a lawyer, I'm not giving legal advice specifically to them. I can give a general overview as to what's happening at the moment. And as with COVID, things are changing, as you say very rapidly. I'm not an expert on COVID or an expert, obviously a professional discipline in the law. But if I can help and give your viewers some guidance, and of course I will.

Steven Bruce

And your expert expertise is in regulatory law is and in particular, in defending people, the Professional Conduct committees.

Jonathon Goldring

Yes, I generally act for health professionals that are find themselves in trouble before their regulators. I do a lot of work with chiropractors do a lot of work with osteopaths, but also other professions. What GMC acpc, at the moment is predominantly manual therapy. So

Steven Bruce

yeah. Well, starting off with the sort of questions that have been sent in to us. I mean, one of the things which I did mention to you, and I've tried to give you all the questions I can in advance, because obviously, it's not fair to you to say give us a legal opinion, and informal legal opinion on these things without some prior notice. But one of them was one of our members said that they had an issue with a patient who would refuse to wear a face mask and complained to the practice, because the practitioner said, Well, you can't come in if you don't wear a face mask. Where do we stand with that?

Jonathon Goldring

Um, okay. Well, I think the starting point with any of these types of issues is to look at the guidance that's been issued by the government. That tends to direct us as to what we should and shouldn't be doing. But But as I'm sure some of your viewers will know, that that can be ambiguous at times. And what happens is, it's left to the individual or the associations to try to interpret what is meant in terms of face masks. There is, as I'm sure you know, at the moment, legislation in place that requires us when entering public, certain public spaces, like shopping centres, or restaurants and bars, and that sort of thing to wear face masks, certainly when we're walking around in them, and as far as I'm aware, but that applies to doctor surgeries, it applies to chiropractic clinics and osteopathic clinics as well. So there's no particular reason to depart from that practice. My personal view is that if a patient refuses to wear a facemask in your practice, you should refuse to treat them. There is an overriding need to protect the public, your staff, and indeed, other patients in the clinic. So I can't I can't speak obviously for the GCC or for jails. But I can't imagine if a complaint was made to them about this type of situation that it would go particularly far because ultimately your job is to protect the wider public, not just one individual patient. So I think you have to be polite, obviously, and explain why you're not treating them. But certainly if I was advising a client, I think I'd be saying to them that they have to wear masks.

Steven Bruce

Yeah. And if a patient says then well, you know, I'm going to complain about this is unfair treatment because my personal convictions tell me I shouldn't wear a mask. Presumably we would be well advised to say well, this is the route you should go down to complain either complained to the principal in my practice, if that's not me, or tell them how to complain to the general counsel's Do we have to be that open?

Jonathon Goldring

Yeah, I mean, all practitioners should have a complaint procedure. And price in place and that has to be readily available to all patients. And they have to be told about that procedure, the usual thing I mean, most associations will publish a sort of stock complaints procedure. And the usual way is to just explain to the patient that you do have a complaint procedure in place, you would prefer if you can resolve it at a local level first, but they need to know that if they're unhappy with the outcome of the complaint, they can then go to your association and or indeed, the general chiropractic or gemelos gymnastic graphic counsel, as well. So I think there's a need what I think there is a need to be transparent when it comes to complaints, and to explain to patients, what routes are available to them. You said about the patient's particular position as far as their own individual feelings about wearing face masks are concerned, obviously, you've got to be very careful in the circumstances that you don't discriminate against patients for age, race, religious belief, the usual types of areas. And it is a difficult position. I mean, I'm not thinking so much about their religious beliefs, I'm thinking more about the fact they may be exempt from wearing a mask, because they may have an underlying condition that that makes it difficult for them to do that in those circumstances, as

Steven Bruce

opposed to the question which has just come in to ask what about those with asthma and COPD and so on?

Jonathon Goldring

Yeah, I mean, it's a very difficult position, I think, again, as I said, I'm not an expert on COVID as such, but you have to take a commonsensical approach, if you're treating 30 to 40 to 50 patients a week, and you have one who is at a that is refusing to wear a mask because of their underlying condition. I think you need to take a commonsensical approach try and book their appointment for a time when there are no members of staff in the clinic other than perhaps you and make sure that the league is properly sanitised. So I think there are circumstances where you might

be able to do that. But you've got to be very careful. And you've got to look at the wider picture. And you've got to look at the rest of your staff to other patients and the members of the public at large.

Steven Bruce

It strikes me in my sort of uninformed position that we would be, we'd have some justification in saying that we're just not equipped to deal with someone who doesn't wear a mask, and therefore, we can't treat you and we can recommend you go somewhere else for treatment. But you can't insist on coming into my building without a mask.

Jonathon Goldring

Well, as far as I'm aware that there is no lawyers, barristers, particularly have something we call a cab rank rule, which you may have heard of before, which basically means when a member of the public needs your help, you can't turn them away. As with a taxi, when you wait to get a taxi, they can't turn you away because of for their own personal reasons. I'm not aware that exists within your professions. I think you have the right to turn patients down for a number of reasons providing you do it, as I say, not on the basis of any type of race or discriminatory reason. So yeah, I think you can legitimately turn patients away, who is refusing to wear a mask, if you're not equipped to deal with that individual patient. And that's the position. So I can't imagine you'd be criticised for that. When ultimately, you're looking to protect the wider public,

Steven Bruce

which is clearly embedded in both the chiropractic code and the osteopathic practice standards, we have a duty to do that. So

Jonathon Goldring

Exactly. Um, as I said, I think there is a need to be respectful, there is a need to be polite and impossible to find a solution for that individual patient that doesn't compromise the health of other people. And if you do have to refer to another clinic that might be better equipped to deal with it, then then you should do that. So it's not simply a question of saying, you know, the doors are locked, you can't come in, I think you have to engage. And you have to be respectful. But But I, as I said, I can't imagine you're going to be criticised for effectively doing the right thing.

Steven Bruce

And when was ago you said you know, the law is in place saying that we have to wear masks in shops and other enclosed spaces. What is the current state of the law? I think you said that the original act had now been revoked.

Jonathon Goldring

Yeah, I mean that the Coronavirus legislation has been fantastic fluid over the past seven or eight months, when we had the first lockdown back in in February, March time, the relevant legal provision was set out and I'm not going to bore you with the details, but it was what we call si 350 which was a statutory instrument that set out which businesses had to close where people could go where they couldn't go, etc. and chiropractors and osteopaths were specifically provided for in those provisions as places where the public could still visit during lockdown. And indeed, as I'm sure your members will know, members of the public were entitled to travel during lockdown for any medical needs or medical assistance they might need. So that was in place. And on the back of that guidance, the associations for the various bodies gave their advice as to what they thought that meant. But there was clearly a recognition within the government that that you played an important role in the management of people's health. And so dentists and osteopath, I think battery surgeries and other types of institutions were allowed to stay open. Obviously, that lockdown ended. And I think that particular instrument was revoked in July when we came out of lockdown. And

since then, there has been a general freedom to go and we open your practice as normal, providing you're putting certain measures in place. There's been a lot of subsequent legislation that deals with the travel system that deals with travel corridors and that sort of thing and the wearing of masks. But there hasn't been a specific piece of legislation. And as far as I'm aware, there's no specific legislation in force today. That applies to chiropractors and osteopaths, I suspect come Thursday, if Boris gets his way, and everything is locked down and Parliament approved that if indeed they're required to. I suspect there will be another piece of legislation similar to that which we had in March. That sets out the rules again. Certainly the Welsh Government who I think they imposed a lockdown a couple of weeks ago, they adopted a similar model to that in March, which again, includes specifically chiropractors, osteopaths, Pathak clinics, and allows them to stay open. So I don't see any reason why that's going to change. Now, but as it currently stands today, there are no restrictions in place or indeed exemptions in place. But so I'm guessing that we will get a similar piece of legislation and if anyone wants to look at it, as I said, it's its statutory is 350. The Health Protection Coronavirus, restrictions regulations 2020.

Steven Bruce

Which is hard to remember this far back, but I think we actually made it public to people from here last time around so yeah, yeah. Interestingly, here I've had messaging from John, who may have been the origin of this discussion. He says he's got a case of the moment before the GCC investigating committee, not the PCC about a patient refusing to wear a mask. So John, if it actually gets to the PCC, I think I can recommend a very good barrister who will do his best to get you off the hook on that one. I'll seek advice from Jonathan on who the good barrister should be. Dawn says she's heard that anyone can go on Etsy and get a card claiming that they're exempt for six quid you heard about that?

Jonathon Goldring

Is that the card saying you're exempt? Are they a legal document theoretically, or I have no idea. I haven't heard about that. And my understanding was that the purpose of saying you're exempt was to stop other members of the public from frowning at you. And we've got on and off public transport. I'm not aware of any specific piece of legislation that says you have to wear a badge, or that a badge counts.

Steven Bruce

Based on what you said just now it doesn't really matter. Because if we if our practices are not equipped to deal with maskless people, then we still have that discussion to be had don't we

Jonathon Goldring

be one of the things I think is important to recognise in this this climate is that both chiropractors and osteopaths, as I said, are recognised not as, obviously frontline workers, but they're being recognised as an important tool in in managing public expectations. And one an example of that, is the fact that even individuals who have been positively diagnosed with COVID-19, as I'm sure you know, and I've been told that they have a positive diagnosis or been in contact with someone there will require to self isolate for between 10 and 14 days. But here's the crucial bit for you guys. They can leave to seek urgent medical assistance, which includes chiropractors and osteopaths. So even patients who are currently have COVID-19 are allowed to see you and I think that that's a recognition again, the importance of your role throughout this pandemic.

Steven Bruce

Marissa has asked about similar questions to John they've had a patient that they turned away because they didn't have a mask on and was wondering your thoughts hope Marissa hope we've answered that question in the part of the

discussion so far. Don't think it will if a patient wishes Say that they had contracted COVID-19. And they believed it was because they contracted it our practices, is there any way we could be held liable?

Jonathon Goldring

I'm not a personal injury lawyer as such. So I can't give you any definitive advice on that. Well, what I can say is that you have a duty of care to every patient that walks through the door. And in order for them to prove that it was contracted at your clinic, they have to show a causative link. I just again, as a matter of common sense, I can't imagine that would be particularly easy to do. Because it's impossible really to say where they contracted it unless they can say that they isolated and the only place they visited in that 14-day period, the authentic therefore, that's the only place it could have possibly been picked up from and nowhere else. Again, I think it's unlikely that anyone is going to be able to prove that but again, as I say, caveat, I'm afraid I'm not a pie liar.

Steven Bruce

Perhaps the more likely Avenue would have been to say, I've got COVID-19 I don't know where I got it. But when I went to see the osteopath or the chiropractor, they definitely did not do this, this or this.

Jonathon Goldring

Yeah, I think I think that's that that's a different position. And I think that's something that we are going to see unfortunately, coming through the Professional Conduct committees in due course, there will be complaints that the clinicians effectively haven't sanitised weren't wearing masks themselves, were putting into place the correct procedures. And I think that is going to be something that the regulators will consider to be unprofessional conduct. Ultimately, it putting patients at risk unnecessarily. So I do unfortunately see a potential surgeon complaints in relation to that side of things sanitation and PPA.

Steven Bruce

The thing about PP though, surely, is that we are told that so much of it is down to a risk assessment. So for example, we might risk assess our own risk assessment might be that we don't need to wear gloves, because actually, they didn't provide us any protection from Coronavirus, COVID-19. Is it likely that the council's might take a different view and say we're wrong? Or they say when are you entitled to make that judgement?

Jonathon Goldring

Well, I mean, there's a degree of autonomy for every practitioner to make their own decisions, of course, but we are all living in a world at the moment where a lot of this information is new is normal. And we are bound to be guided somewhat by our associations, we're bound to be guided by Professional Regulation bodies. As far as I'm aware, I think certainly the GCC have published specific guidance on PPA, and I haven't read deals may have done the same, where they have looked at different categories of patients, whether they're vulnerable, the type of treatment that's being offered. And I think there was specific guidance on things like eye masks and aprons and single use gloves, etc, etc. So in short answer to your question, if you want to make sure that you don't get what not necessarily a complaint, but that you don't get into trouble with your regulator follow their guidance. And their guidance says this is what you've got to do. And you haven't done it. There's an argument to say that you have acted irresponsibly.

Steven Bruce

I'm guessing that I mean, the associations, the IO, the VCA, the MCA and the others. They offer periodic guidance about what we should be doing, I guess that if we didn't follow, they have no legal way to imagine. Yeah, but I guess we'd have to work quite hard to justify why we didn't follow their advice.

Jonathon Goldring

I think I think that's exactly the point that they don't decide what the regulations are, as I said, the starting point is probably always going to be the statutory instrument or the guidance that we get from government. The individual organisations and we saw this on the last occasion, there's not always coherent approach between them, they have different device depending on which organisation they're in, I think the BCAA. On the last occasion, the Royal College of chiropractors as an example, gave certain advice about whether clinics should or shouldn't be open. Yet the UCI MCA SCA is a combined group gave different advice. And ultimately, there is no right or wrong. But I think yes, an obvious question to any practitioner faced with one of these complaints or hearings in the future is going to be Did you look at your associations guidance? And did you follow it? And if you didn't, why not? Ultimately, it's going to be expert evidence that decides what was right and what wasn't right. But But there has to be a reasonable amount of latitude built into that, because we're all sort of finding our way around in the dark at the moment, and I think the I think the regulator's recognise that and there is a degree of latitude, but you've just got to be sensible.

Steven Bruce

Yeah. I suppose also, but because we are required to have Medical indemnity insurance, we need to check that. Actually, if we don't follow somebody guidance, are we still insured to treat because I think last time round, some of the insurers said, you have to be following the guidance of your professional association.

Jonathon Goldring

Well, again, I mean, that makes sense. I can't speak for the insurance companies. But But I can imagine that that is the advice that they would give an obviously as it is a legal requirement to have effective insurance in place. If that is a requirement that they have stipulated you're not following it. And effectively, you're acting uninsured, which in itself is a fairly serious breach in codes.

Steven Bruce

Yeah, yeah. So just been picked up on the thing I said about gloves. Claire tells me that we've been told that gloves are Yes, risk assessment, but under track and trace, we will have to self isolate if we're not wearing them when we have contact with a positive patient. So that's a probably quite a risk to one's income if you have to shut down for two weeks.

Jonathon Goldring

Yes. Again, I'm not sure what the guidance specifically from your for me institutions is on that. But my understanding is that, that when a patient does have a positive diagnosis of COVID-19 they're entitled to travel, as I said, to see a chiropractor osteopath, how that sits with what happens to that osteopathic chiropractor after they've seen them. I don't know the answer, but we seem a little odd that you're entitled to treat them that they have to close down for two weeks.

Steven Bruce

Well, I think it was only if you're not wearing gloves because obviously gloves are the final barrier in the protection against Coronavirus. He says somewhat ironically, just beating the us out of that particular question, Jen says she's a type one diabetic, she's 60. Can she legitimately refuse to treat a patient not wearing a mask for her own safety? And I think going back to what you said earlier on? Yeah, you can risk assess that one quite quickly. Yeah.

Jonathon Goldring

And equally, each clinician will have their own specific set of circumstances. And there's nothing more at all. I mean, if you're putting yourself at risk or other people that rescue you are entitled to say no. But as I said, just bear in mind that patients will be desperate in some circumstances they've been, they've been a want to refer elsewhere. So there's nothing wrong with that.

Steven Bruce

It is worth bearing in mind, too. I think, you know, there's lots of evidence that says that the masks don't protect the wearer, they protect everyone else, because they don't stop particles getting in, but they minimise the particles getting out, which is obviously in John's case is very significant. Yeah, do we do we need to take special measures about valid consent getting valid consent during this particular epidemic? Um,

Jonathon Goldring

I think there's some things you can do. Consent is obviously a very important part of any any process. And the legal position on consent changed in 2015, you probably have heard the name before, it's the Montgomery case. That changed the position. And very basically, what it did is it ensured that it always shifted the focus away from the practitioner, and put the focus on the patient. And the consent now requires you to ensure that you are happy that the patient understands the risks, and you have to be you have to take into account the patient's subjective position. If you have a patient coming into the clinic that you know, for example, is in a vulnerable group. And, you know, if they contracted COVID-19, would be at a much higher risk of harm, then you will have a duty to ensure that that patient is aware that the risk of coming to your clinic is probably higher than the risk of a person that didn't have those underlying conditions. So yeah, there is an elevated requirement, I think, on any practitioner at the moment to ensure that patients are aware that putting themselves before he was practitioners may and it but I mean, ultimately, as I'm getting one of us, it's going to possibly increase the risks but but because you're treating people in close contact day in day out, and although you're doing your best to sanitise and although you're doing your best to make sure that you do put all types of protection in place. Ultimately, you are potentially spreaders of the virus and your patients have to know that.

Steven Bruce

And also the bus driver isn't regulated by an Act of Parliament and liable to be held by the PCC to be faltering.

Jonathon Goldring

I don't know if they have their own regulation. But but but but no, certainly not before the chiropractic or osteopathic Council. So I think when you have, I think it would be as a matter of prudence at the moment. It might be worth in your consent forms, for example, just adding a sentence so that you can send you're aware of the fact that during this pandemic, there was an increased risk of contracting gold. If you come to our clinic, you're aware of this, etc, etc. It's not necessary. I think that's probably using a sledgehammer to crack a nut. But as I said, if you have a very vulnerable patient that you know, might be a high risk, I think you have to treat them differently.

Steven Bruce

Yeah, okay. I think most practices now I've got a specific COVID consent. form which is incorporated. So have you done any of these risky things been in contact with COVID positive patients, other people or and so on and incorporate that in their consent? I think, Dawn, you've asked a question about track and trace, which I again, I suspect is not Jonathan's area of expertise. Dawn, so she knows if, if a patient subsequently contracts COVID-19 after

treatment as we are in a healthcare setting, we're not required to self isolate. If we as practitioners test positive for COVID. Obviously, we would not go to work for 14 days, do we need to notify all those we've seen in the clinic?

Jonathon Goldring

Again, legally, I'm afraid I don't know the position as far as the legal requirement as a matter of common sense. Yeah, it makes sense. Because not all patients will have the track and trace app or necessarily have given their details across to that application. So yeah, I personally would contact all patients that you've seen in the previous 14 days. I don't know what the regulations are on that, I'm afraid but that would be a common sensical thing to do.

Steven Bruce

Okay. Let's move on to something else for a little bit of variety. We had this question from one of our members who recalls an incident where a female patient called their male osteopath cute, and says that being treated turns her on. The practitioner says that the relation says to the patient, the relationship has to stay professional. The question is, should that exchange be written up in the notes? Or could it be recorded elsewhere? What can the practitioner do to protect themselves, especially from a patient who now feels rejected or humiliated? And maybe that's inclined to complain? Okay, no complaint has been made in this case. It's just a hypothetical possibility.

Jonathon Goldring

Yeah, I mean, it does happen. I certainly represented a number of chiropractors and osteopaths that have been charged with breaching sexual boundaries between them and patients and former patients. So it's not an unusual scenario. In reality, these things do happen. And the guidance is pretty clear. In terms of certainly current patients. The guidance says you cannot cross sectional boundaries with current patients, you can't have relationships with current patients. The guidance in relation to former patients is also relatively clear. And certainly the GCC have published their own specific separate guidance for breaching sexual boundaries, I think jails can be incorporated into their codes. Um, you've got to be very, very careful. If you have a patient who is showing signs of attraction towards you, obviously, number one, don't act on it, and don't cross the boundaries. If you have said to the patient, that you don't think that is appropriate, and you don't think it's appropriate for you to treat them anymore, that needs to be documented somewhere. But you can't you can't leave a patient high and dry. And you have to refer them perhaps to another practitioner in the clinic, or to another clinical together, documenting exchanges between you and the patient will always be helpful, whatever circumstances are because you can, it can be used to corroborate that this is what advice you gave. It's a tricky one. Because as you say, the patient might be upset that you haven't necessarily reacted in the way they might have wanted you to. And that can in due course lead to complaints from patients that maybe are upset that you haven't engaged with them. And I think in those circumstances, there's not much you can do about it. You have to be as polite as you can. You have to be as courteous as you can document everything that happens between you and the patient, but most importantly, don't cross those professional or sexual boundaries. Because ultimately, you know, that's a serious allegation, it quite often results in being raised more from the not from the register.

Steven Bruce

And you made the point, I think, probably one of our previous broadcast that if it's not in the notes, and it will be assumed that it didn't happen. So

Jonathon Goldring

yeah, I think it's important to make as good a note as you can, it doesn't have to be verbatim, but you have to show that you have done something to try to discourage that patient. I mean, the bottom line is if a patient feels attracted

towards you, you've got to sit back into why is that? Is it because I've done something? Is it because I've shared information perhaps it's personal or intimate, I shouldn't have done it and might be to pally with the patient. And there is very clear guidance on what amounts to crossing sexual boundaries. And it doesn't mean you know, it's not limited to physical interaction. It can be as simple as telling someone that you have a particular interest in something outside of the professional environment and being too friendly with that patient and I think If a patient does display those types of failures towards you, the first thing you need to do is ask yourself, why is that? Is there something I can do to improve my baby to make sure that they don't feel that this is a pally relationship? It's got to stay professional.

Steven Bruce

Somebody has just sent in an observation or a question about that. So and it starts row. So you'd pass a boundary breaking patient to another practitioner, even if you think they're making inappropriate comments.

Jonathon Goldring

Yeah, you actually have a duty, certainly in some of the codes of practice to consider that the guidance is pretty clear. If a patient is attracted towards you, and or if you're attracted towards a patient, you have a duty effectively to end that professional relationship. And the duty doesn't stop there. You have to try to find that patient alternative treatment. It might be that yes, I mean, ultimately, you have to pass and potentially to another practitioner. But the guidance is pretty clear on that, that you can't leave the mind dry. You've got to try to remember that the way that the regulator's look at this is that is never the patient's fault. And you've got to do your best to try to accommodate them. And you've got to think in those terms. So yes, unfortunately, if that does happen, you haven't you can't just say I'm not gonna treat you Goodbye, you have to try to find an alternative for them.

Steven Bruce

Yeah, and of course, having written this up in your notes, any practitioner, you suggest has the right to refuse to treat anyway, if they want to do so.

Jonathon Goldring

Yeah. Yeah, ultimately. I mean, obviously, you know, if you're going to pass it on to another colleague in your clinic, the chances are, you may have discussed that patient with them before you do that. And they say, Well, I'm happy to do it or not. But if you're passing it to another clinic and yours, I don't know if you're sending your notes with you. I don't think that happens very often. Then, yes, it's up to the individual clinician whether or not they want to take the patient.

Steven Bruce

Again, possibly outside your area of expertise. Jonathan Vanessa says mask and or visor, she says a spectacles forgot when she's wearing a mask? Can she just wear a visor instead?

Jonathon Goldring

I don't know, I'm afraid.

Steven Bruce

guidelines on what are the rules for how many people are allowed in the clinic if there are two practitioners and two patients in the same building at the same time in separate rooms. But using common parts? That means for people not in a bubble Is that allowed?

Jonathon Goldring

As far as I'm aware, there is no magic number on the limit as to how many patients need to be in a clinic at any one time. I don't think there's any guidance in place that says that the rule of six applies to

Steven Bruce

clinics,

Jonathon Goldring

or that the bubbles only apply to clinics as I understand it, you simply have to practice good safeguarding measures, I would imagine two metres apart, two square metres above for your seating arrangements. But I don't think there's any limit on the number of patients in the practice at any given time. Certainly, as far as sharks are concerned, I think they take their own square footage and work out how many people they want to let in at any one time. So I think you need to demonstrate that you've considered that I think you need to demonstrate that you have proper safeguarding in place. But I don't think there's a specific number 30 at the moment.

Steven Bruce

Abby's asked about difficult patients returning that theme early on, I think, she says it's common to have a difficult patient but when that patient is rude to the point that you no longer to treat them, how do you end the consultation while protecting yourself from ending up in front of a PCC

Jonathon Goldring

M. Again, you have a duty to be respectful towards your patients and you have a duty to treat them. Respectfully. If you have a patient that is rude to you, you don't have to carry on drinking them. You obviously want to try to resolve any issues that you may have between yourself and the patient. But if you can't, you can't. Ultimately you know, you're not you don't have to sit there and sufferance and take abuse from a patient no professional does. So how do you stop yourself getting a complaint? I'm afraid you can't. If you end that relationship with the patient, and they won't complain about you they will obviously the the more diplomatic you are in the way that you end that relationship is likely to affect things but if a patient wants to complain, they will I think I said this before there's there's very few ways of stopping patients for complaining if that's what they want to do. And in fact, it could be considered unprofessional to try to stop a Beijing from complaining if they have a legitimate reason to.

Steven Bruce

Yeah, I would rather optimistic. Yeah, I think what about a patient who gives you a bottle of wine or some other present for Christmas is that that's an acceptable procedure within a code of conduct.

Jonathon Goldring

yeah, as long as you're not breaching your professional bounds I mean, my own view is that I would be tempted to decline those types of gifts because you have an ongoing relationship with that patient, certainly as lawyers, when a case and then sometimes the client might send a bottle of wine or a bottle of whiskey to us, but we don't have a continuing relationship with them. as practitioners, if that's continuing, I think you've got to be a little bit a little bit careful, I don't get Christmas cards gonna be a problem, thanks for your help this year or sending one back. But you've got, you've got to maintain that space and that distance, things have to remain professional. So, as draconian as it might sound, if a patient wants to give you a gift, my advice would be say thanks very much, but but I really shouldn't accept this, and give it back to them that just maintains that barrier of friendship.

Steven Bruce

That's a tough one to do, isn't it because they say kinda like a gift, they usually say that he won't Happy Christmas.

Jonathon Goldring

Exactly. It is tough. And, you know, I don't want to be the, you know, the bearer of bad news. And I know that people, practitioners have friendships, sometimes with their patients, they get to know them over the course of the years, they get to know their families. But but at all times the practitioner regardless of what the patient wants to volunteer to you, you have to maintain your professionalism. And one easy way to do that is to make sure that you don't divulge any information about yourself outside of the professional relationship and to make sure that you don't appear to be too friendly with them. I know that's a very difficult thing to advise. But but if you want to avoid the risk of complaints, that that's a good way to do it. So yeah, I'm afraid. Personally, I would, I would reject the gift, gracefully.

Steven Bruce

Just on that subject of disclosing information, I can't remember whether it's the the osteopathic practice standards or the chiropractic code, but certainly one of them says it is okay to disclose information under certain circumstances. And I can't remember what those are. But Jonathan will probably know the detail of that. But yeah, I can disclose information about. So firstly, it says there's a degree to which you can you can reveal personal information in a in terms of expressing empathy with a patient and things like that, in order to be average. You have to be cautious. We've had some people, some really good osteopaths on the show recently who've been talking about interpreting MRIs and we've been doing it by looking at MRIs which have been misdiagnosed by the radiologist, or I think misdiagnosed, the radiologist has missed some important diagnoses. Now, the question that arises from that is that the temptation when talking to a patient would be to say, Oh, yeah, this blokes done this before. He's always missing these things. Whatever it is, I suggest, I suppose that we've got to be a little bit more professional than I'm making up there in dealing with our professional colleagues.

Jonathon Goldring

Yeah, I mean, you're not to denigrate and disparage your colleagues, or other health professionals. It's not professional to do that, particularly in a profession that encourages integration with those other professions. So yeah, you could get in trouble. If you start disparaging or be rude about other health professionals. I think that's, again, pretty common sensical. I know it happens. But however, you may or may not feel about a particular piece of information that you've seen that another health professional has dealt with, keep it to yourself, if you have particular concerns that something's been missed, or you have concerns that they haven't done their job correctly, then of course, there's nothing to stop you referring the patient back to them with questions, or back to the GP with questions. But yeah, I don't think it's professional to disparage them.

Steven Bruce

Yeah. And Robin Darren Lee, the guys who were doing the MRI interpretations, they made it very clear that in in those cases, they'd always revert it to the radiologist and said, well, would you have another look? And what do you think about this and come up with a, you know, a satisfactory solution? I probably said asked this on behalf of one of our members, and it's something which rings a bell from my memory long ago, just after I graduated. I think not I must emphasise it, it affected me. I'm convinced that I was told that if under the requirement to be financially appropriate, and also, if you become bankrupt, you have to tell the GS grsc or GCC that you have become bankrupt. Is that the case?

Jonathon Goldring

Okay, I'm not one I've come across before. Certainly, if you have a criminal conviction, or you have a caution, you have a duty to tell them. There's nothing in the code specifically, that I'm aware of that says that you have to disclose that information and a failure to do so would amount to a breach of the codes. But there is a general obviously duty to ensure that you act with integrity. And there is a duty to be sure that you act professionally so it's out of an abundance of caution. I think it's probably a good idea to disclose that sort of information. I can't think of any case that I've come across where they then proceeded against the individual as a result of that, but but I personally, I would disclose it, I would be as open as you can. But as I said, I don't think there's any specific duty to do that. One of the tests, whenever a regulator was looking at the conduct of an individual is to ask themselves, what would their colleagues think? How would they consider this type of behaviour? Would it be considered deplorable is one of the tests and if you find yourself in a position where, you know, you look at yourself and think, Well, you know, if that was me in that position, and I had a bankruptcy, I would have definitely disclosed it to my regulator, and failing to do so lacks integrity, then, you know, that gives you an answer. Nine out of 10 times, asked you colleagues, what what do they think? But yeah, I don't think there's a specific provision but but I would,

Steven Bruce

I suppose people would be worried that by disclosing something like that the the the general counsel might take some action, which they themselves will feel is inappropriate with regard to practice. No one wants to be suspended or struck off because I have a financial events have happened outside their control, but they won't be worried that it would happen.

Jonathon Goldring

Well, ultimately, the job of the council is to protect the public, and also the reputation of the profession, and confidence in the profession. Whether or not you would choose to stop going to see your chiropractor or osteopath, because you knew that they had a bankruptcy order in relation to a separate company, I no doubt that necessarily going to dissuade someone from from getting treatment. I as I said, I can't speak for the council, I've never come across a case. I've been doing this for a fair amount of time now where the counsellor proceeded to get someone for financial irregularities outside of their practice. Sorry, I was gonna say you have to act with integrity. But you don't have to be a paragon of virtue in every single sphere of your life that things happen, things go wrong from time to time. It is connected to the practice that may be different. But I think if it's a separate company, I still would disclose it. I couldn't imagine that they would necessarily be proceeding. So

Steven Bruce

one of your colleagues, Jonathan, and I think this may be the John I referred to earlier on, who's also watching us by Vimeo. I'm told that the people watching us on Vimeo being very well behaved at the moment as a result. He says that you guys are seeing more cases where the GCC experts I'd have put that in inverted commas are critical of not giving patients a copy of the complaints procedure when they complain, so I presume a physical copy of it.

Jonathon Goldring

Yeah, that happens. I think, John, you're referring to John Bankside law. I do a lot of work with him with patients. Yes. Again, the he's absolutely right. We do get that as part of the allegations quite regularly. Now. My advice is you don't have to have it on show. But make sure you've got a copy of your complaint procedure. And also make sure that the patient is aware of the fact that there is a complex procedure in place, all you have to do is stick a line somewhere on your intake form on your consent form, explaining what that procedure is and where the policy is. If they want to ask for it. They can have it but you've got to have one in place.

Steven Bruce

One very quick question before we finished off and creature have asked about testing, would it be seen as disparaging if a patient asks about the covid antibody tests which holistic therapists are offering, and you offer an opinion on the validity of those tests?

Jonathon Goldring

You've got to act within your own skill and expertise. And that's something that regularly comes up before both the osteopathic and chiropractic Council. I personally would advise any clients, I had to refrain from giving advice on epidemiology matters, unless they have specific training in that field and can prove they've got specific training in that field.

Steven Bruce

Okay, Jonathan, that's taken us right up to the end. Thank you very much indeed for your time. As always, I seriously hope that none of us have to have any dealings with you professionally in the future, but I'm sure we'll be on the on the show again, at some point. Thank you.