

418 – Clinical Support Discussion: **Confidentiality**

With Steven Bruce, Claire Short and Zara Ford

Please note: this is an edited transcript, but might still contain errors. Please let us know if you spot any mistakes so that we can correct them. Timestamps are approximate.

Steven (00:02):

Good afternoon and welcome to one of our regular clinic support discussions.

And as you know, we're going to talk today about confidentiality issues as well as candour and complaints. I've got two guests joining me on the virtual link, Claire Short and Zara Ford. Good afternoon to you ladies.

Zara (01:20):

Good afternoon,

Steven (01:21):

Zara. You were looking very fierce there. Claire, you are the one who said that we should be talking about this today. Confidential confidentiality in particular. What's it that's raised your concerns about it?

Claire (01:40):

What made me want to discuss all of this was partly that somebody on Facebook had raised the question yet again of how much can we charge solicitors for our notes or can we charge solicitors for our notes? Now I know that our friend Zara here has an opinion about that and I think it will surprise everybody what she has to say about it. But in thinking about what we are doing with notes, I started going down that rabbit hole of confidentiality and how do we protect our notes if we're sending them to the solicitor and how do we protect just really simple stuff like if you've got paper notes on your desk and you have to leave the room, say there's an emergency in a different treatment room or whatever, what do you do to protect your patient's notes? So that's kind of where I started off with today's show.

Steven (02:34):

Yes, and actually I was thinking about this earlier on today. I was putting somebody on the IDD machine and the computer was open and I left the room not because I was an emergency, well there was because I needed a pee, but I felt safe in doing that because actually he was tied into the IDD machine, so he wasn't actually going

to get off and look at the computer. Okay. Take us down your, should we start with the business of charging solicitors then? Zara? What is this opinion that you have about charging solicitors that Claire referred to?

Zara (03:06):

Well, I've been doing this for years. Those that don't know, I'm retired now. But yeah, as far as the law goes, we are not allowed to charge the patient for notes. So the patient has access to their notes for free. However, my belief is that their agent, in this case, a solicitor doesn't have access to those notes for free. So they're writing to you with a letter which is cost 50 quid to write with. Hopefully you will object an appropriate release form from the patient to ask for a copy of the notes, read Mrs. Jones. And in that case I think that we should be entitled to charge a reasonable fee to send them to the solicitor. What's you going to send

Steven (03:58):

More terms?

Zara (04:00):

I usually charge about 50 quid. It depends on whether you've got paper notes or digital notes, how long it takes to get those off. But you've still got to, probably the best way of doing it is printing it. If you have some sort of secure email system, you could email it to them, but I would probably print it and then you've got to send it recorded delivery. But if you send it first class post, it's what? 1 65? Now your recorded delivery is going to cost two or three pounds. You've got your receptionist stroke your time to find the notes, coate them, put them through the photocopier. So I don't think 50 pounds is unreasonable. So generally I used to charge 50 pounds unless it was, I did have one patient that had about 300 pages of notes, so I charge more. But yeah, I think that's reasonable.

(04:54):

However, the solicitor will often then write back to you and say the patient's entitled to their notes for free. So I write back and say, yes, the patient is entitled to their notes for free. I have a process, I have a form that they need to fill out to request those notes, which I have. So they have to come in, fill out the form, ask for their notes, and then I prepare the notes and then they come back in to get them for which they must bring photo ID because you may not be the person,

Steven (05:25):

I'm actually with you On this, Zara,

Zara (05:30):

So they've got, and I think most patients don't want to do this and anyway, they're on a no win, no fee. So the solicitor doesn't want to do it because he's actually coughing up money for something that he may not get back. And the patients often don't want the hassle of coming in twice to get photocopies of notes.

Steven (05:53):

As I say I am with you on this, I think the law does say that patient has access, but it doesn't say anybody else does. I'm sure somewhere I've also read that it is okay to charge a reasonable fee for provision of material. It's a difficult question, what is a reasonable fee? But yes, as you say, solicitors are going to be charging quite a lot for an hour for their work, and there's probably a total of 20 minutes, half an hour minimum in getting notes prepared and getting them to the post office and so on. Less if you're Sending them by email?

Zara (06:23):

Yeah, absolutely. And even if you're sending them by Email

Steven (06:27):

When it comes to sending notes by email, Claire, what's your procedure for that?

Claire (06:34):

Mine, we didn't go down the encrypted avenue, which I'll be interested to find out whether Zara did we just sent the document out and then separately by text or by phone call, send out a password.

Steven (07:10):

And Zara, did you send digital notes from your practice?

Zara (07:16):

Yes, we did send digital notes. I talked to a solicitor about this and actually if you put them in a document, it's much harder to get access to them. So password protect the email and put them in A PDF. And obviously the other thing that's not so obvious when you're doing it is it's very easy to put in the subject box patient's name and date of birth so that the secretary knows who they're opening the email about. Well obviously don't do that, but it's sort of logical to do that because you think, oh yeah, they need to know that it's Mrs. Jones, with whatever the date of birth is. And obviously that's very identifying if somebody was to want to get online to find that information. So you want to say just patient information as requested or information as requested, and then you send another email,

Steven (08:19):

They'll usually provided you with a reference number you can use, aren't they? I've often thought we go too far in this anyway because I know that we are taught that we mustn't tell people who has been a patient in our practice, but frankly I can't imagine anyone getting excited about their name being in an email saying, here are the notes you requested about this person. So if we accidentally did it, I don't think it would be an issue. It's not like we are an infertility clinic or a cancer clinic or anything like that. We're just a general practice.

Zara (08:56):

Yeah, I don't think it's accessing, it's the fact that if somebody was looking for information on Mrs. Jones, then actually that is something that could then be flagged up on that system so they could then access potentially more information. So it's not that somebody would be particularly bothered about their name being out there, it's just that their information shouldn't be in the subject line.

Steven (09:19):

But in reality, of course, as long as the Word document or the PDF is password protected and that's sent by different means, then I think we're taking reasonable steps to maintain security.

Zara (09:32):

I agree. I agree. And occasionally things go wrong. We had a case some years ago now where we accidentally handed the wrong patient notes to the wrong patient. It wasn't much information, but it was obviously a serious breach. And we did report ourselves to the ICO and I have to say they were particularly uninterested, but nonetheless, we followed the procedure because we hadn't followed our procedure.

Steven (10:04):

No, and that is a really important point to make. So many people get desperately worried about what will happen if the ICO, the information commissioner's office finds out about these things but crikey, they're interested in mass data breaches from the NHS and things like that. An accidental breach like that is of no concern to them whatsoever.

Zara (10:27):

No concern, but you should report it.

Steven (10:29):

Oh, absolutely, yes. We must follow procedures and everybody should be aware of what those procedures have to be. We've all got to have a data protection policy in our practices and it's probably worth emphasising that we have to address data protection, the better known part of which is GDPR, even if we only have paper

notes because it's still confidential information, it's still sensitive information in GDPR terms. So we've got to be able to address breaches like that.

Zara (10:59):

And in my experience, having had a couple of interactions with the ICO, they are incredibly helpful, incredibly helpful, and incredibly nice. So anybody that thinks that this is going to be awful, I'm going to get a massive fine, I'm going to jail, whatever, actually that they're really kind, they understand that you are a small business, they understand that you don't have an official data controller, that you're doing it either all yourself or one of your receptionist is doing it. So don't worry about that. They're a great one of the few government departments I think that are really helpful and useful to you. So if you are not sure, ring them and ask.

Steven (11:47):

Yeah, and that again is a very valuable point. You can ring them and actually you can still get through to them on the phone. At least I think you can. I mean, when I last tried, I could get through to 'em on the phone, unlike others who've switched to chat lines only or whatever it might be. What about your leaving notes on the table then? Claire, who did you do that for?

Claire (12:06):

I was just going to say that we had lots of communication with the ICO when we were sorting out the GDPR documents and as Zara says, they just could not have been more helpful. They were so reassuring and so friendly. The first guy I spoke to, I thought I really ought to invite him around for dinner with us and a glass of wine. It was that level of friendliness. So yeah, I do think if there are any things that you are concerned about with breaches, it's worth just phoning them.

Steven (12:40):

But I would also say that if anyone's got any concerns about simple procedures to do with GDPR or privacy policies and so on, then just get in touch with us here at APM because we're more than happy to share all the work that we've done.

I've had a couple of comments come in through the website. PV says, this is what lawyers say, "disclosure of these records is requested under Data Protection Act. We will not expect an invoice for this request and this is deemed to be manifestly unfounded or excessive in which we would expect written justification of a fee". That is very interesting.

Zara (13:16):

And I tend them that when the justification of the fee, the patient is entitled to the notes, not the agent.

Steven (13:22):

And we must bear in mind that solicitors, solicitors will do everything they can to avoid paying money for things and then also do everything they can to charge money for things as well. So I would act robustly in response to that.

Aiden says the "ICO didn't care when I CC'd the Covid closing email rather than BCCing it. But yes, of course I reported it". And that's the key thing is to report it, isn't it?

SOS osteopath says you can also contact the ICO via live chat. I spoke with them today and they were incredibly helpful. Interesting to know. SOS osteopaths what it was you were talking to the ICO about, maybe that's of interest to us here today.

My question to you, Claire, that you were asking about was these notes that you left lying around, what was that all about?

Claire (14:27):

So I was sitting on a treatment couch having my Morton's neuro injected, and you were sitting on the desk of the doctor who was doing the injection. You turned round and he had left up somebody else's medical notes and an x-ray on his screen. And being a true osteopath you of course went and looked at the x-ray and he was really stuck because he obviously knew that we knew that he shouldn't really have left the notes open, but he had a needle going into my foot and was having to concentrate on reassuring me that this wasn't going to be really painful. But also really wanted to say to you, could you step away from the notes please? So I thought it was interesting that we all make the mistake at some point, don't we? And I know that on Jane, you can press shift P to blur out the names of patients. So if you have to leave the treatment room, you can do that in a very simple way. And I imagine all other diary systems have the same kind of procedure, but in the old days when we had paper notes, I dunno about everybody else, but I would have my pile of paper notes for the whole day and they would sit on my desk and if I had to leave the room to help another osteopath,

Steven (15:48):

I had a very simple technique for that. It's called my handwriting.

Claire (15:52):

Yeah, I know.

Steven (15:55):

Even I can't read it. I mean that shift P thing is fine, but I mean if anyone was deliberately looking for something, I suspect that patients could easily find out that they could get around it. But as you say, it stops, particularly on the reception desk, it

stops people who have done that thing where patients walk around behind the receptionist to look at the diary so they can pick their spot. It saves them being able to see patients' names and so on.

Zara (16:20):

But also you can set it in Jane, I think that it will go back to a holding screen. You have to log in again effectively to get to the diary. And obviously if you've got touch or face ID or whatever, then obviously that's very simple to do. But to be honest, most of us use passwords. You can type it really quickly. So actually if you've not typed anything for, I think mine was set for 30 seconds, then it would go blank. So actually they couldn't access it without the password. So

Steven (16:59):

I've Also got something on my computer, I use a Mac, but I imagine it's the same on PCs where if I push the mouse cursor to the top right of the screen, it automatically switches back to my screensaver, which I use quite a lot because it means I don't have to find the thing that says hide the screen, I can just move the mouse and it goes back there automatically. And it does it automatically, even when I don't want it to do it sometimes if I'm searching for something at that part of the screen, but I prefer to put up with the inconvenience of having to log back in again.

Here's a question for you then as are, Louise says, what code encrypted systems do people use for sending notes?

Zara (17:41):

There's probably loads more now. So remember I've not been in the business for a while, but I think egress is one of the big ones. I have to say as a patient having received encrypted emails from private hospitals or whatever, it's a nightmare. Invariably I end up contacting the secretary and saying, I can't actually get into it

Steven (18:08):

The MRI disc could be over here and you'll have lost the password to it. So you end up writing it on the back of the disc anyway.

Zara (18:14):

Yeah, exactly. So there are a variety of systems out there. If you search online, you'll find them. I think for our purposes, I suspect that all of them are more complicated than they need to be. And I think what Claire and I have talked about with the email, putting the information in a document so that it's not just free to read in the email, not putting the name, the search in the contents box and password protecting it, that's available on, sorry, the email system.

Steven (18:47):

Sorry to stop you there, Zara, what you mean is password protect the document and that's all you need to do. And you can do that in pdf and on word very, very Easily

Steven (18:56):

I think a lot of people are thinking how do you password protect the emails? You don't need to do that. It's just the document.

Zara (19:01):

Yeah, Just the document and then you obviously send that password in another email. So it's a bit faffy, but it's not too bad. And I think it is easier for whoever you're sending it to. I have to say, I think the other systems like egress are just far too complicated and unwieldy. But other people who are tech savvy, you guys probably much more tech savvy than me. I found it all just too difficult to manage. So keep it simple.

Steven (19:35):

Sorry, I'm having trouble hearing you Zara, because when you said that I'm tech savvy, the boys in the gallery were laughing so much, they drowned you out. I have people to do the tech for me, thank goodness.

So what about privacy policies then? What do you do about that?

Zara (20:00):

So initially, God, I wrote mine a very long time ago. I think you need somebody who's going to control the data. You need to decide what your processes are going to be. And then I think there's, if you go onto the ICO website, there's a framework that you can use, and I'm sure you don't even need to do this. You can just go to APM and they'll effectively do it for you. They'll give you a framework to work to and then you have to say what you are going to do. Obviously it depends on whether you have digital notes, whether you have paper notes where you keep them, where your digital notes are stored, do you have it with a system? So everything varies somewhat, but at the end of the day you need the person responsible for it, whoever that's going to be your data controller to be mentioned in the privacy document.

(20:54):

And then you need to say what you are going to do in certain circumstances. So for instance, if what we were talking about, if somebody wants their notes, this is the procedure, we have a form that you need to fill out, you will need to bring photo ID to access those notes. Whatever it is that you want to impart to them about how you handle their data, you can put in that privacy document. However, I would encourage you to make it and the ICO say this make it relatively short and relatively readable. So it shouldn't be more than two sheets of A4

Steven (21:30):

When GDPR was a big thing all those years ago, I got quite cross with the extent to which we were all being bullied into doing masses of work to meet our GDPR requirements. So I came up with our own privacy policy, which is going to go up on the screen here in a moment, and Justin might even put it up full screen for the audience. And if we just gently scroll down through that, you can see that it is probably unlike anybody else's GDPR policy in that just below the fold on this screen, there is a naked man. And a little bit further down on this screen, there's a puppy as well.

(22:18):

I've written this in the sort of language that I would use for some of my more lighthearted emails and it covers pretty much all of the things that the GDPR requires. In fact, what I've said, I read this for the first time in years earlier on today, there's a line down here about sharing of your information and it says, "anything we hold locally is on password protected computers apart from a small amount of nonsensitive stuff in filing cabinets and out of hours, the building is secured by locked doors and roller shutters. And when that puppy grows up, he's going to be one mean slaving guard dog, A genuine son of a bitch". I dunno if you've actually met Chester, he's not exactly a slaving guard dog, but I deliberately made this readable and nobody has ever commented on it, which to me suggests that nobody's ever read it, which is I guess what you have to bear in mind when it comes to your privacy policy. Keep it short, keep it factual. You can put in some fun stuff if you really, really want to, but nobody is ever going to look at your privacy policy anyway.

Zara, how did you tell people where to find your privacy policy?

Zara (23:25):

Well, you got a website and there's a box that just says how we look after your data. So most people don't know what a privacy policy is, remember, so there's no point in putting privacy policy because your patient won't understand what that means.

Steven (23:40):

But it's perfectly okay to do that.

Zara (23:43):

Yes, it's perfectly okay to do that, but I think most of us want to be as accessible as possible, and I think if you just say, this is how we look after your data or how we look after your data means that people are going to think, okay, they're looking after my data and they won't read it. You're absolutely right. I'm sure that 99.9% of people don't read it. And of course until something goes wrong,

Steven (24:08):

And we've gone around this buoy on previous broadcasts, but there'll be people watching today who may not have seen those. And I still see it on so many websites that you have to tick to say that you agree with the privacy policy. Nobody has to tick or sign anything to say that they have read or understood your privacy policy. It's perfectly adequate that you've told them where it is. And it's just another annoying tick box that people basically have been bullied into thinking that they have to have. There's no requirement for people to actually read it.

Zara (24:41):

It's a process for us as well. I think it is quite useful as a process for us to think about the things we're talking about today. How do we actually manage this? Data needs to be secure, it is important. Health data is the second most important data for anybody next to financial data, isn't it? Interesting. It's that way round. But the onus is upon us to look after it. And I think this stimulates that thought process. When you are running your business, whether big or small, who has access to it? How do we look after it? Where do we put it to keep it safe? Absolutely. And I think that that's good for all of us to think about what we are doing with that data and how we manage it.

Steven (25:27):

No, and the first line in our privacy policy on the APM website is we think GDPR is a really, really good thing because it is. And people should have control over their data and maybe some businesses have gone too far and frankly, those irritating boxes that come up and say, do you agree with cookies really piss me off because I'll be in the middle of reading something and I get a box that pops up in front of me and I have to click something. I'm a very lazy person.

But no, GDPR is a very good thing, but it does allow us to use data. It does allow us to send emails to people. And the legitimate interest category of how you use data is actually very flexible. You can't abuse it, but people have asked us in the past, can I send emails to my patients with my newsletter in it? Well, yes, if it relates to something that they might've come in for. And that pretty much covers everything they've come in to see you for healthcare. So if you've got stuff about healthcare in there, then it's a useful thing to do. They can always unsubscribe from these things and very few people will ever complain to the ICO, they'll just hit the unsubscribe button if they don't like what you send.

Zara (26:42):

And in your privacy policy, you can say, I will be sending a newsletter once a month.

Steven (26:48):

Well, you don't have to do that

Zara (26:48):

Well, you are using your email for promotional material. So actually I'm not sure, maybe I'm wrong,

Steven (27:03):

But I was quite clear if it is not promotional material, if it relates to their healthcare, and that's legitimate interest because that's what they came to you to ask about. And you're not selling double glazing here, you are giving them health tips. Go do 10,000 steps a day or eat five green things a day or whatever it might be.

(27:21):

And all that stuff is useful in keeping them healthy, which is what our job is.

I've had a comment from someone known as 005.6 who says, how does one reconcile the needs of insurers with the duty of candour? I think 005.6. If you could elaborate on that, I'd be grateful. I think what you're asking is insurers require us to notify them if there's a claim, but we're also required to tell patients of anything that might've gone wrong in the treatment. I'm not sure, but if you can elaborate perhaps we can go down that route.

Claire (27:59):

Just going back to the GDPR document, I know you were saying that you haven't read ours for a long time. I read it last year and discovered that since we wrote it, we have moved from paper notes to using Jane and there was a whole load of stuff that was actually incorrect. So even though it's a document that nobody will ever read, we all know it's a document people will go to if something goes wrong. So it is worth every now and then just read through it and make sure that as Zara says the things that you say you are doing, you are actually doing, and you haven't completely changed your system and forgotten about that document and to update it.

Steven (28:38):

And it should have been uppermost in our mind, if we went from one data handling process to another, we should have thought about it. But there are, as a small business owner, there are so many things to think about, aren't there, Zara, you were saying this earlier on and the ICO understands,

Zara (28:50):

Yeah, we wear so many hats, but I actually think all of those documents, whether it's fire safety, GDPR, whatever it is, your waste management system, if you use needles, those sorts of documents actually probably need revisiting once a year. Open 'em up, have a quick read, decide am I still doing it like this? Is this still the waste management company I'm using? Am I happy with the service? Does it all work well? Do I have a box with the appropriate receipts in? Can I prove that what I do is what I've said I'm doing? And I think if you just revisit that once a year, it might

take an hour because 99% of the things you won't have changed. So actually it's probably really worth putting in your calendar of things to do maybe at the beginning of January, a quiet time of year often for people, to check your documents once a year and just make sure that they're all in place.

Steven (29:53):

And as you say, it's not that onerous. The difficulty is in just thinking about it when there's so much else going on that business, I still haven't had anything back from 005.6 about the duty of candour. What do you understand about the duty of candour then Zara?

Zara (30:13):

Well, do they possibly mean that we're effectively giving medical information to the insurance company?

Steven (30:20):

He's just this second come back into me and he says yes. He was referring to the conflict between candour and the insurers requiring that you never self-incriminate.

Zara (30:35):

It's very difficult, isn't it? Because as soon as you tell the insurance company anything, eg I'm claiming because I've taken my toenail off, then you've had an injury which then is going to affect not only your premium but your future claims because if you take it off again, they may not cover you for it. Do you know what I mean? So actually you are right, but the patient is aware through the document that they sign with the insurance company that if they're going to pay out, they need medical information from the provider. So you then need to either as part of your privacy policy, perhaps specifically for patients with private health insurance, that you will be providing information to their health insurance companies as requested, and that may be something you signed. No, I think we've moved

Steven (31:29):

We're onto a slightly different topic there. We're not talking about handing information over. We're talking about the duty of candour and the GOsC and the GCC both require us to be open and honest with patients and upfront with patients when something goes wrong in our treatment room, but 005.6 is concerned with not incriminating ourselves.

Well, my answer to that is that our obligations under the Chiropractic Act and the Osteopaths Act override what the insurers want, but at the same time, we shouldn't be incriminating ourselves. I'm trying to think of examples of things going wrong in a treatment room and maybe, well, there may be a needle shock reaction to

acupuncture needles or something like that. It's not necessarily something going wrong, but it might be unexpected. You need to be open with patients about that. The insurers, you're not admitting liabilities or anything that you shouldn't

Zara (32:29):

I think you can have an adverse event, you can have an adverse event, patient might faint or something like that, feel unwell, and I don't see that that's a conflict.

Steven (32:42):

I Think the bigger issue would be if we felt or the patient felt that we had caused that adverse event rather than it was one of those adverse events that just can happen - if it was a result of negligence or error on our part. But again, our duty of candour overrides the insurers considerations. Having said that, we've moved on from GDPR, but Vlad has said, please, could we elaborate on how much GDPR applies to us? He thought it was just for marketers selling double glazing and we're governed by specific confidentiality guidelines. I'll let you run on this, Zara.

Zara (33:18):

No, that's a straight no, it definitely applies to us. I mean, it probably applies to us even more than double glazing salesman because we hold very sensitive health data. So it absolutely applies to us and we need to be sure that that data is safe and that we've told the patient everything we can do with that data or we are going to do with that data and where we've put it to keep it safe.

Steven (33:48):

Yeah, I think the GDPR got a lot of press about the fact that it was trying to limit the amount of marketing information which was sent to people unsolicited, but actually it was a much broader, it is a much broader piece of legislation than that. And it's about how your data, particularly your sensitive data, which is defined in the act, is handled. And therefore it applies to anybody who is handling any data about other people. That means personally identifiable information. And yes, it does affect double-glazing salesmen just as it affects us. If we are sending out, "I've got a three for one offer" going on in my clinic or something like that, that's marketing. If you're sending out, "this is a good way to keep yourself healthy when you've got low back pain" or something that's not marketing, that's healthcare tips, advice, whatever you might call it, advice. So it's easier to get away with under legitimate interest. Sorry, Vlad, if those terms are unfamiliar to you because they're all in the Act. But yes, it does apply to us, but it shouldn't really bother us as long as we're following sensible data protection procedures.

Zara (34:55):

There are annoying things within the guidelines. Like for example, husband comes in and says, I've come to pick up my wife. Is she still here now? Luckily because we use Jane, we're able to have a box on the front desk for the receptionist to have a look at to say so-and-so can have access to information. Now in theory, of course, you should not be even telling that person that their potential wife is in the clinic, has an appointment or has ever been. So those things are a little bit frustrating, particularly if you work in a relatively small village, well actually quite a big town, but it feels like a small village, where you feel like you know everybody. But of course it secures the safety of the patient in those rare occasions where somebody's stalking them and they're trying to get hold of them or whatever it might be. So you can't give that information out unless you have permission to do so. But you can record that. It doesn't help you recording it on the notes if you've got paper notes and they're in with you and the receptionist are outside. But this is where the digital systems like Jane come into their own, because that can be flashed on the front Of That patient's notes. You can quickly look up that patient's notes and go, yes, Mr. Jones is allowed that information, she'll be out in 10 minutes.

Steven (36:17):

And of course, particularly in a small village or a small town, you've probably got a good feel for what is a legitimate inquiry in that regard, haven't you? And your gut feeling, your instinct will be fine. The problem occurs, and we had a discussion about this some time ago, and I forget the context now, but a relationship had broken down and husband or male partner and female partner had to be seen by different practitioners at different times, so they couldn't be in the building together. And if you hit on one of those relationships at that time, and as you say, one or the other was trying to stalk the other than you are in a difficult position, but it's going to be very, very rare. And I don't think it's ever going to get you into serious difficulty if you make a legitimate error about that.

Zara (37:03):

I think you are right. But also for me, it's not just about getting into trouble, it's also about if you make a mistake, you've put that person in danger. So the rule is there for a reason to protect the patient. And therefore, as annoying as it is, I think most people understand it and we try and follow it because you just, like you say, you just never know. Patient hasn't given you that information and you didn't realise and you've put them in danger. So I think it's a good thing to follow. It's good to follow the practice. It was put there for a reason.

Steven (37:43):

And it's also important that you make sure that your reception staff are aware of these rules because we are talking about these things now, and you and I and Claire, we'll have a good idea of what's going on possibly in a patient's relationship, but the receptionist might not know that and the receptionist might say, oh, right,

yeah, you are the husband, I can tell you this sort of stuff. And they won't know the ins and outs that are going on in the treatment rooms are the same depth.

Claire (38:13):

I wonder if it's worth also discussing the phoney receipts that we have mentioned them before that is possibly worth discussing.

Steven (38:27):

Can I just turn to Michelle, who sent in this observation earlier on, Michelle says, on sending a GP letter via email, the surgery asked us to email direct for speed, no encryption or password, otherwise they don't open or bother with it. And she's finished that with a question mark and I think what she's saying, instead of sending a letter encrypted in an email, they just wanted open text in the email for speed. And her question is, should she do that? My answer is absolutely not, because however much we trust our GP surgery, yeah, it would be a breach of GDPR, I think to do that.

Zara (39:12):

They wouldn't do it from their office. So why should we be expected to do it from ours?

Steven (39:18):

Yeah. So Claire, do you want to talk about those receipts that you mentioned a minute ago? Do you want me to do it?

Claire (39:24):

You know the story better than I do. You go ahead.

Steven (39:27):

Well, this was a situation with an osteopath who had been treating a friend and the friend had Bupa healthcare insurance and had asked for receipts and then sent the receipts to Bupa as you would expect. Bupa then sent copies to the osteopath to confirm that those receipts were genuine, and the osteopath saw that they'd been inflated, they'd been edited by the patient, and actually instead of (and I'm making this up) nine appointments, he'd claimed for 12 or 15 appointments. And Bupa said, is this legitimate? And because it was a friend and he spoke to the friend and the friend said, oh God, it's just Bupa, it doesn't matter. He'd sent back, yes, that's fine. Bupa said, well, this is odd because we've called your practice and your receptionist says that your follow-up fees are this, which is not what you've put on the receipts. These are higher.

(40:32):

We've looked on your website and your follow-up fees are this and these receipts say higher, please, can we have a copy of the patient's notes, which he then legally had to provide, which showed that there hadn't been 15 appointments, there had been nine. And I'm making those figures up, as I say. But of course Bupa quite rightly have raised this as an issue with the general osteopathic council. And since we had that brought to us on this show, we've had a number of osteopaths say yes, they've been asked to falsify the receipts, change the name of the person getting the treatment so that they could be claimed on healthcare insurance or inflate it slightly so that the patient didn't have to pay their share of the bill. And I guess you wanted to make a point about this, Claire.

Claire (41:19):

I think we've had people ask us, I would say six a year wouldn't surprise me. Now it's one every two months of people asking us to falsify information on a receipt. And I'm sure Zara will agree with me on this. It's one of joys of having an electronic system because you can just clearly say, we can't do this. It's on the system. The system records the details. Here are the details. In the old days when we gave manual receipts, it was harder to justify not doing it. So yeah, I assume you've had the same situations. Zara,

Zara (41:57):

Yes. I think even easier is that healthcare is a very legalised profession and providing receipts is hugely protected by law for the healthcare provided. So whether you hand write receipts or whether you give them in the digital system, you say, it's impossible for me to do that because this is a very regulated profession and every visit that you've had with me has been recorded in a legal document, which I have to sign - the notes, which then can be accessed through the courts or by the health insurance company, and therefore you or I wouldn't want for that system to be compromised. So yeah, you've just got to be so careful. Never ever do it for a mate or for anybody. Unfortunately, this person got caught out and it's fraud would probably be struck off. The evidence is there. I would be surprised that they weren't struck off.

Steven (43:03):

This osteopath and I have had long conversations because obviously we do whatever we can to help anyone who's in that sort of situation, but I've had to be upfront and say that the chances there are only two possible outcomes, one is suspension and one is removal from the register. And it's very likely to be the latter because it's hard to come up with a defence when you've done something which is so blatant.

Zara (43:28):

Yeah, so fraudulent. It might Only be a hundred quid.

Steven (43:32):

No, no, it was much more than that. And it turned out, Bupa admitted in their email that this same patient had claimed for I think 20 psychiatric appointments at a cost of 200 pounds each, and he'd had one at a cost of 150. He was claiming £20,000 on one of these things. And I think possibly the psychiatric appointments were quite important in that patient's case because how he thought he was going to get away with that, I have no idea.

But do you remember when Bupa, they put a cap on how much they would pay patients for their osteopathic and presumably chiropractic treatments. And I remember everybody getting very anti about how they were trying to limit the amount that we could charge, and I think with good reason that we were getting anti about that. But also you can see their point of view. If we can inflate our fees just because they're insurers or patients claim excessive amounts because it's insurers, they can't run their businesses. So we have to be open. And I know that the conventional medical fraternity have the same problems in terms of being honest with the healthcare providers because there are so many of those who charge a different rate if it's going off on insurance.

Steven (44:42):

Aiden says, Aiden says he was often asked to tweak the receipt, always refused and pointed out that, well, technically that would be insurance fraud. Patients tend not to think of it that way. Actually, one of the points I made to the osteopath concerned about this was if Bupa chose to pursue this, obviously they can get no financial redress through the General Osteopathic Council, but they could very easily take this to a criminal court and that would result in a criminal record not just being struck off the osteopath register because. And they will want to deter people from doing this, so they could still go down that route, but they'll wait until it's gone through the GOsC process first.

CS has sent in a very interesting lengthy comment here. CS says, my episode where I use candour also related to GDPR, was when I treated a daughter of a longstanding patient as well as her mum and sister, et cetera.

(45:34):

And when it came to family medical history, I jokingly said, I probably know more about your family's medical history than you do, and I for some reason blurted out, I've got your father's bowel cancer diagnosis and numerous spinal ops due to multiple disc injuries. And the daughter said, "oh, my father had bowel cancer!" And Michelle's reaction was, oh my God, I've messed up, panicked big time and just held my hands up and said, look, I've made a mistake. I'm so sorry. Pointed her to the GOSC website to make a complaint and later called her father to explain and did the same about telling him about the GOSC website. He said, well, to be honest, it was so long ago we just didn't want to worry the family. And so kept it quiet, and I'm glad

it's out in the open now. And actually it's really important for them to know their family.

But yeah, it harks back to just what we were saying earlier, doesn't it? It's so easy to talk to family members about their other family members because we feel that we are friends in the treatment room.

Zara (46:28):

I Think it's one of the big risks of working in a small town or village. Where I am, the General Osteopathic council talks about having friends that are patients. I wouldn't have many patients if they weren't friends. I cycle with 'em, I run with 'em, I swim with them. Of course, they're my friends because we live in a small place. Everybody knows everybody else. And I think if you live maybe in Manchester London, somewhere like that, it's hardly ever going to be an issue. But certainly I treat generations of people, I've treated three and four generations of people. And actually, yeah, you do know everything about, you have to be so careful not to say things that you found out in confidence in the treatment room that the patient may not have said, oh, please don't tell Stuart about this. It is just, of course you

Steven (47:21):

Can't, but it's not their responsibility to do that. They shouldn't have to say

Zara (47:25):

No, absolutely. You have to remember what you can't say as well as what you can say.

Steven (47:33):

But it is a major problem, not just that we're in small communities, but that in the intimate relationship we have with patients,

(47:38):

We do feel that we are their friends, they think we are their friends, we talk about their families in a general way, and it's very easy to overstep that boundary. I was going to, just going back to what Michelle said about the complaints procedure, we're probably not going to have time to go through this today. There are draft complaints procedures for people to download from our website. They're free of charge. Just go onto the business support section on the website. So there is a procedure that all your patients must be aware of what the procedure is, and we are obliged to tell them that if they're not happy with our solution, that they can go to the general council's website and complain formally through there

Claire (48:24):

Is it worth mentioning, we found, I can't remember who had suggested it to us, but there was somebody recommended that when writing about the complaints procedure that you say compliments something and complaints, was it you?

Steven (48:40):

Actually, I said that because from the GOSC website, they talk about compliments, comments, and complaints rather than it just being a complaints procedure. And it's a great way to use the terminology.

We've had 504 people watching us today, so a jolly good number for a lunchtime show and clearly a topic which is really important. It covers those often unaddressed areas of the chiropractic code and the osteopath practice standards. If you need more than contact us at APM, we can share all the documents, templates, and things that you might need.