

practitioner (other than in the circumstances set out in paragraph 2.11 below) he must observe the guidance set out in paragraphs 2.7 and 2.8 above.

2.11 A doctor in consultant or specialist practice should not accept a patient without reference from a general practitioner except in the following circumstances:

- (a) In an emergency.
- (b) If he is asked for a confirmatory opinion or specialist opinion on a different aspect of the case by the specialist to whom the patient has been properly referred.
- (c) If reference back to the general practitioner would produce delay seriously detrimental to the patient. The specialist should inform the general practitioner as soon as possible of the action he has taken and the reasons for it.
- (d) If referred by doctors in the school or other community child services—but only after the general practitioner has been given the opportunity to refer the child himself.
- (e) If it is for a consultation in venereology.
- (f) If inquiry indicates that the consultation is for a refraction examination only.
- (g) If a patient is formally referred by a physician from outside the United Kingdom.
- (h) If the patient is seeking contraceptive advice and treatment and is unwilling to consult her own general practitioner about contraception, or she states that her own general practitioner does not provide contraceptive services. At the time the advice and treatment is sought it should be explained to the patient that it is in her own best interests that her general practitioner be informed that contraception has been prescribed and of any medical condition discovered which requires investigation or treatment. Every attempt should be made to obtain permission to contact the general practitioner prior to prescription or fitting of a contraceptive device. This is particularly important if the patient is at the same time under the active clinical care of her own general practitioner or that of another doctor.
- (i) If the patient is seeking therapeutic abortion and is unwilling to consult her own general practitioner or, having done so, is unable to secure his agreement to refer her to another doctor. It should be explained to the patient that it is in her own best interest that her general practitioner be informed of the treatment or advice given. Every attempt should be made to obtain the permission of the patient for this.

Consent to treatment

2.12 The patient's trust that his consent to treatment will not be misused is an essential part of his relationship with his doctor. For a doctor even to touch a patient without consent may constitute an assault.

2.13 Consent is only valid when freely given by a patient who understands the nature and consequences of what is proposed.

2.14 Assumed consent or consent obtained by undue influence is valueless (see also 4.9). It is particularly important that consent should be free of any form of pressure or coercion, and especially where treatment is offered to patients such as those serving in the Armed Forces or other type of employment which limit freedom of action of the individual. No influence should be exerted through any special relationship between a doctor and the person whose consent is sought.

2.15 Doctors offer advice but it is the patient who decides whether or not to accept the advice. The necessary degree of understanding of what is proposed depends on the patient's education and intelligence and the seriousness and urgency of the condition being investigated or treated. The onus is always on the doctor carrying out the procedure to see that an adequate explanation is given.

Minors

2.16 Section 8(1) of the *Family Law Reform Act 1969* states that "the consent of a minor who has attained the age of sixteen years to any surgical, medical or dental treatment which, in the absence of consent, would constitute a trespass to his person shall be as effective as it would be if he were of full age: and where a minor has by virtue of this section given an effective consent to any treatment, it shall not be necessary to obtain any consent for it from his parent or guardian". Section 8(3) says "nothing in this section shall be construed as making ineffective any consent which would have been effective if this section had not been enacted". This sub-section arises from uncertainty as to the common law position before the passing of the Act.

2.17 A common problem is that of a patient under the age of 16 who requires treatment when no parent or guardian is available. Emergencies should not wait for consent and there can be little doubt that a court, having regard to parents' duty to provide medical care for their child, will uphold the doctor's action in