

Understanding SUPERSESSION

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Introduction

- Defining concepts
- The Law
- Ethical Rules
- Principles
- Scenarios



Definitions

Merriam –Webster Dictionary

“Supersession”

Noun

the act of superseding : the state of being superseded



Definitions

Collins Dictionary

“Supersede”

verb (transitive)

- 1.to take the place of (something old-fashioned or less appropriate); supplant
- 2.to replace in function, office, etc; succeed
- 3.to discard or set aside or cause to be set aside as obsolete or inferior



Definitions

“Supersession refers to the practice of taking over the patient of another doctor without informing the other practitioner in situations where the patient has not terminated the other healthcare provider’s services”

David McQuoid-Mason, Mahomed Iada
The A-Z of Medical Law



Ethical Rules

10. Supersession

A practitioner shall not supersede or take over a patient from another practitioner if he or she is aware that such patient is in active treatment of another practitioner, unless he or she -

- (a) takes reasonable steps to inform the other practitioner that he or she has taken over the patient at such patient's request; and
- (b) establishes from the other practitioner what treatment such patient previously received, especially what medication, if any, was prescribed to such patient and in such case the other practitioner shall be obliged to provide such required information.



Patient Autonomy

Constitution of the Republic of South Africa

- ☐ The Right to freedom and security of person, which includes the right to bodily and psychological integrity and consequently the right to make decisions about intervention or refusal thereof [Section 12(2)]
- ☐ The Right to privacy which includes the right to confidentiality of communication [Section 14(d)]
- ☐ The Right to freedom of religion, belief and opinion which requires the practitioner to respect such practices and consequent choices [Section 15(1)]
- ☐ The Right to access to health care services, which also implies the right not to utilise such services, as well as having such services reasonably available [Section 27(1)]
- ☐ The Right of children to an identity, basic nutrition, care, protection and respect for their rights [Section 28(1)]
- ☐ The Right to access of information held by another person (eg, health practitioner) that is required for the exercise or protection of any rights [Section 32(1)(b)].



Patient Autonomy

- National Health Act
 - Sec 6 – full knowledge
 - Sec 7 – User's consent
 - Sec 8 – participation in any decisions



Patient Autonomy

- Case Law
 - Castell v De Greef
 - The case dealt with the issue of consent to medical treatment and the question of whether emphasis should be placed on the autonomy and right of self-determination of the patient on the one hand, or on the right of the medical profession to determine the meaning of reasonable disclosure on the other.



Ethical Rules

11. Impeding a patient

A practitioner shall not impede a patient, or in the case of a minor, the parent or guardian of such minor, from obtaining the opinion of another practitioner or from being treated by another practitioner.



Ethical Rules

12. Professional reputation of colleagues

A practitioner shall not cast reflections on the probity, professional reputation or skill of another person registered under the Act or any other Health Act.



Ethical Rules

27A. Main responsibilities of health practitioners

A practitioner shall at all times -

- (a) act in the best interests of his or her patients;
- (b) respect patient confidentiality, privacy, choices and dignity;
- (c) maintain the highest standards of personal conduct and integrity;



Principles

- Collegiate relationships with fellow healthcare professionals.
- Ethical conduct and compliance with Ethical Rules
- Patient autonomy - the right to choose



Applying the Principles

Examples of possible supersession:

1. Referrals to Specialists
2. Occupational Health
3. Medical Schemes Advisors
4. Colleagues in a Groups Practice



Specialist Referrals

- Referral by GP to specialist
 - By definition supersession.
 - Referral system and sharing of patient progress should be in place
- Self-referral by patient
 - Often unknown to patient's GP
 - Onus on specialist to inform patient's GP and obtain relevant medical information on patient



Occupational Health

- Consultation – onsite occupational health practitioner
 - Convenience / cost effectiveness for patient
 - Has the patient been “taken over”?
 - Consultation or contact worker’s general practitioner advisable.
 - Not necessarily supersession



Medical Scheme Advisors

- Refusal to grant authorisation for treatment/medication.
 - Medical Advisers apply the scheme rules.
 - Refusal = refusal to fund treatment/medication
 - Interference with clinical independence?
 - Does not qualify as supersession



Group Practices

- Allocation of patients by reception staff
 - Possible that supersession will occur
 - Probable contravention of ethical rules relating to canvassing/touting



Group Practices: Scenario

- In a Group Practice, the receptionist who "offers" an appointment with the new doctor. If the patient decides to see that doctor then the onus is on the "new" doctor to adhere to the requirements laid out in Ethical Rule 10. Failure to do so is unethical conduct.
- The employees are not bound by or subject to the Ethical Rules. The Employing practitioner is, however vicariously liable for conduct of the employees.
- There may be another breach of the Ethical Rules in this scenario. In terms of those rules it is impermissible to "tout" for patients, or have someone tout on your behalf. If the reception staff are directing patients towards a particular doctor (and away from others), it may be that the reception staff are acting as touts for the "new" doctor. This would place the new doctor in breach of the ethical rule.



Test Cases

What do you do if...

1. A patient specifically requests that you don't inform their current practitioner that they've sought a second opinion from you.
2. That patient now wishes you to take over their care.



Test Cases

Suggested answers

1. Patient's wishes should be respected, but advise the patient that at some point their current practitioner will need to be informed.

2. Advise the patient that compliance with Rule 10 is required and that their clinical information (medications etc) must be obtained to ensure proper continuity of care and minimize the risk of adverse outcomes



Summary

- Supersession or the taking over of a patient is not automatically unethical conduct.
- If requirements (Rule 10) are met - “ethical supersession”



Concluding Remarks

- Patient's right to choose is paramount.
- Communication is key
- Risks in non-compliance with ethical rules
 - Disciplinary action – HPCSA
 - Potential medical negligence claim



Questions



Thank You

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