VIEWPOINT

Ethics and the occupational physician

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The Editorial of the April issue of *Occupational Medicine* was entitled 'Ethics, Quality and Competition'. The Honorary Editor described some of the concerns facing our discipline, and also placed it in the international context, as the setting of the address was the ICOH conferences held in Glasgow.

Ethical conflict is nothing new in our professional life. Garrick succinctly stated it thus: 'Perhaps the doctor most vulnerable to pressures at variance with his probity and to the consecration of his calling is the company physician who, unless possessed of the agility of a cat, may find himself in conflict with management for seeming to be too sympathetic with employees, or by the latter for seeming to be the mere creature of the establishment'.

Sieghart, in his Lucas Lecture address to the Faculty described our situation as 'Two-Master Ethics' and his comments have influenced re-drafts of our Faculty's Guidance on Ethics for Occupational Physicians, now in its fourth edition.

In this viewpoint article, however, I do not wish to explore whether our ethical code or standards are appropriate, but would like instead to discuss the issue of compliance with and enforcement of such standards.

Aldridge, as Chairman of the Faculty Ethics Committee, listed as one of his three areas of pre-eminent ethical concern 'the freedom of doctors without training or Faculty allegiance to serve industry, acting in ignorance of our own ethical standards'.

ICOH summarize the basic principles of their International Code of Ethics for Occupational Health Professionals in three paragraphs. The third paragraph states: 'Occupational health professionals are experts who must enjoy full professional independence in the execution of their functions. They must acquire and maintain the competence necessary for their duties' (my italics).

In the UK, the Health and Safety Executive have at long last made a stand on the issue of competency, by issuing an Improvement Notice on a company 'because they have employed a General Practitioner who is not competent to deliver an occupational health service'. Many of us hope that this is a landmark case which will give employers a clear message that they have to assess whether their physician has the required expertise and competence to operate in the field of occupational medicine.

Now I would like to illustrate my concerns with two examples from my own experience.

In the first example, I will quote directly from an employer's letter to an occupational health provider service that I work for. The letter states '. . . have been reminded on numerous occasions that they are in effect employed by and NOT the employee and that they should be attempting to return employees to work sooner rather than later.' Would you believe this is happening in the 1990s? This statement is from the head of a large organization, already informed by me of our ethical constraints, namely that 'the status of an occupational physician in an organization must be that of impartial professional adviser, concerned primarily with safeguarding and improving the health of employed persons'. In this instance I felt that the client demands would compromise our ethical obligations, and so advised my organization. The contract was terminated, and we had to endure the financial consequence of our principles. 'Remaining ethical in a competitive environment' never felt closer to home.

The second example I will describe is that of some overseas companies operating in the UK demanding that the original completed medical questionnaires be sent to their Personnel Departments. In the UK, this practice would not only be unethical, but also actionable in law. Gillian Howard, barrister and member of the Faculty Ethics Committee, states that this would be a breach of contract (implied duty of mutual trust and confidence) and possible misrepresentation under the Misrepresentation Act 1976 (Howard G, personal correspondence).
communication). Yet when the occupational health provider refuses to comply with such practice, these companies find physicians 'in ignorance of our ethical standards', to re-quote Aldridge, who are prepared to acquiesce to their demands.

This again means that financial penalties are incurred by those upholding our ethical principles though such breaches of confidentiality should incur a legal, and therefore a financial, deterrent.

My own experience has been with companies from the USA, to such an extent that I initially believed that the US codes of confidentiality were different to ours. I must apologize to my North American colleagues for such a misapprehension. They also experience similar ethical conflicts and have the same requirement for confidentiality of medical information in the workplace, governed by the ACOEM Code of Ethical conduct with requirements very similar to the UK's Faculty Guidance. Clearly, these American companies operating in the UK, just like some of the UK employers, are in ignorance of the ethical constraints on occupational physicians, or choose to bypass these by employing physicians who do not feel constrained to abide by them.

I agree with the Honorary Editor of *Occupational Medicine* when he says that our ethical principles are part and parcel of the quality of service we offer (to paraphrase him) I believe that employers can eventually be convinced of this.

But first I believe that we must bring to task those physicians who purport to be occupational physicians, and who discredit us by not adhering to our ethical standards.

References