

Access to Medical Reports



MPS



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Doctors may, on occasion, receive a request from a patient's employer for a medical report to be delivered directly to the HR department, without the patient seeing it. However, before any medical report can be provided, you must be satisfied that the patient has given valid consent to the release of the information. This factsheet looks at the issues surrounding medical reports for employers and other organisations, and offers advice to doctors who are asked to write reports.

Consent

It is the duty of the person or organisation requesting the report to obtain consent from the patient, and this consent should be in writing. At the same time, if the report is covered by the Access to Medical Reports Act (1988), they should also let the patient know about their rights.

You should see the written consent, or alternatively you may accept an assurance from an officer of a government department or agency that the patient has consented. Exceptions to this include litigation and may include some claims for benefits.

Scope of the report

You should be satisfied that the patient has sufficient information about the scope, purpose and likely consequences of the disclosure, and the fact that relevant information cannot be concealed or withheld. If you are concerned that disclosing certain information may cause problems for the patient, it is a good idea to discuss this with them first.

The GMC states that you should only disclose factual information that you can substantiate, presented in an unbiased manner and relevant to the request. You should not usually disclose the whole record. Exceptions to this include benefit claims and litigation.

Access to Medical Reports Act (1988)

The Access to Medical Reports Act (1988) states that patients should be offered a copy of their medical report and the opportunity to review it prior to submission to an organisation that has requested it, eg, their employer or insurance company.

Under the Act, if a patient expresses a wish to see a report before it is submitted, they must arrange to do this within a 21-day period. You should keep any report for at least six months and patients have the right to see the report during this period.

The GMC extends this guidance to other sorts of reports, such as government departments or agencies assessing clients for welfare benefits. In *Supplementary Guidance – Confidentiality: Disclosing Information for Insurance, Employment and Similar Purposes*, the GMC advises that you should offer to show your patient, or give them a copy of, any report you write about them for employment or insurance purposes before it is sent, unless:

- The patient has already said they do not wish to see it
- Disclosure would be likely to cause serious harm to the patient or anyone else
- Disclosure would reveal information about another person who does not consent.

If patients disagree with the report

Patients have the right to signal any disagreement with the content of the report. For reports covered by the Access to Medical Reports Act, this should be done in writing. Patients can append their disagreement to the report, or withdraw their consent for the release of the information. If you agree that the information is wrong, you can amend the report.

If the patient refuses consent, information can still be disclosed if required by law, or if it is in the public interest.

Treating patients other than your own

Matters may seem less clear cut if you are not the patient's usual doctor. The legal requirements set out in the Access to Medical Reports Act do not directly extend to doctors writing reports on individuals who are not (or have not been) their patients. If you prepare a report for an individual who has not been under your clinical care, the BMA states that, in their view, patients should be entitled to see these reports under data protection legislation. This is compatible with the advice given by the GMC.

Probity

The GMC, in *Good Medical Practice*, states: “You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents.”

You should send the report without unreasonable delay and do your best to ensure that the information contained within it is not false or misleading. Restrict your report to areas in which you have direct experience or relevant knowledge.

MPS advises that you check any instructions carefully before accepting to undertake a report. Raise any concerns formally at the earliest opportunity.

Further information:

- MPS factsheets, *Consent series* – www.medicalprotection.org/uk/resources/factsheets
- MPS factsheet, *Access to Health Records* – www.medicalprotection.org/uk/resources/factsheets
- GMC, *Good Medical Practice* (2013) – www.gmc-uk.org
- GMC, *Confidentiality* (2009) – www.gmc-uk.org/guidance/index.asp
- GMC, *Supplementary Guidance – Confidentiality: Disclosing Information for Insurance, Employment and Similar Purposes* (2009) – www.gmc-uk.org/guidance/index.asp
- BMA, *Access to Medical Reports* (Guidance from the BMA Medical Ethics Department), June (2009) – www.bma.org.uk/practical-support-at-work/ethics/ethics-a-to-z
- GMC, *Making and Using Visual and Audio Recordings of Patients – Guidance for Doctors* (2011) – www.gmc-uk.org/guidance

For medicolegal advice please call us on:

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This factsheet provides only a general overview of the topic and should not be relied upon as definitive guidance. If you are an MPS member, and you are facing an ethical or legal dilemma, call and ask to speak to a medicolegal adviser, who will give you specific advice.

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