Consultation on Medical Council's Guide to Professional Conduct and Ethics for Registered Medical Practitioners

The following table summarises the PSI comments:

Section	Principle in Guide to Professional Conduct and Ethics	PSI Comments
11.2	If you believe or have reasonable grounds for suspecting that a child is being harmed, has been harmed, or is at risk of harm through sexual, physical emotional abuse or neglect, you must report this to the appropriate authorities and / or the relevant agency without delay. You should inform the child's parents or guardians of your intention to report your concerns taking into account that this may endanger you or the patient. Giving relevant information to appropriate authorities or statutory body for the protection of a child is a justifiable breach of confidentiality, provided that you follow the guidance in paragraph 27.2.	It may be useful to consider more substantive guidance for doctors regarding the area of confidentiality and the appropriateness of justified breaches.
21.2	If you prescribe medication to control behaviour, you must ensure it is appropriate, in the patient's best interests, and is used for the minimum amount of time necessary. You must follow the prescribing guidance in paragraph 36.	Suggest also including reference to the use of the lowest dose necessary.
24.3	Before sharing or disclosing any identifiable information about patients you must take into account the Caldicott principles (see Appendix A). You must be clear about the purpose of the disclosure and that you have the patient's consent or other legal basis for disclosing information. You must also be satisfied that: • anonymised information will not fulfil the purpose, • that you are disclosing the minimum information necessary	Suggest the insertion of a bullet point to the effect that the disclosure should be made to the minimum number of people necessary to achieve the purpose of the disclosure.

	for the purpose, and • the person or people to whom you are making the disclosure are aware that the information is confidential and understand their own duty of confidentiality.	
25	Section 25 Medical Records	It may be useful to state that medical records which are retrospective should be clearly marked as such and should be made as soon as possible after the treatment has been provided. It is suggested that it is noted in this point that the relevant Medical Council registration number should be included on all records made, to readily identify doctors if required at a later stage for any necessary follow up. This is included at 39.2 but should perhaps be included here too.
29.2	If you take images of patients on your personal mobile device they must be non-identifiable, kept for a minimum period of time and deleted as soon as possible. You are responsible for data protection in this regard.	Any image taken and/or shared should only be done so with the purpose of improving patient care and safety.
34.5	If you are asked to conduct examinations where results are to be communicated to third parties such as insurance companies, employers or legal representatives, you should explain to the patient that you have a duty to the third party as well as to the patient, and that relevant information cannot be concealed or withheld from the report. You should be satisfied that the patient understands the scope and purpose of the examination, and has given their consent to the examination and the preparation of the report. You should apply the same standard of professionalism to conducting these examinations and preparing the reports as you apply to the care and treatment of patients.	It could be noted that the duty of a doctor providing an independent expert report for the purposes of litigation is to the Court primarily, not the patient, notwithstanding that this is a very specific situation and it may be useful to consider a general reference to the need for doctors to seek legal advice in certain circumstances.
35.1	In issuing certificates, reports, prescriptions, and other formal documents, you must be accurate and make sure the document is legible. You must also include your Medical Council registration number. You should only sign a certificate or other such prescription, report or document for a patient following review	Detail regarding the information to be included in the various types of certificates may be useful, although it is acknowledged that this may be outside the scope of this guide. Suggest amending last point at the end of this paragraph to state “It is

	of the patient's condition.	not appropriate to sign a certificate or other such prescription, report or document for a patient unless the doctor has reviewed the patient's condition."
36.1	The prescriptions you issue must be legible, dated, signed and must state your Medical Council registration number. You should ensure prescription pads and prescription-generating software are kept securely.	Suggest splitting into two separate points: 1. Details and content of prescription 2. Safe custody of prescriptions Suggest amending "should" to "must" in relation to the security of prescription pads and prescription-generating software. Suggest that prescription pads and prescription generating software should only be accessible to person authorised to prescribe medication, i.e. registered medical practitioners (and registered nurse prescribers, where applicable).
36.2 'Prescribing'	When prescribing medications, you must comply with the Misuse of Drugs legislation and other relevant regulations and / or guidelines.	It is suggested that more detail is included about legislative requirements for schedule 2 and 3 Controlled Drug prescriptions, as this arises as an area of concern in both PSI Inspection, and Fitness to Practise processes. Perhaps the prescription writing requirements or a mock-prescription could be included if not here as part of support resources developed in the future.
36.3 'Prescribing'	If a telephone prescription is necessary, it should be provided in accordance with the 'Exemptions for Emergency Supply' provisions set out in national regulations[13]. You should make a note of the call in the patient's notes and records and send a written prescription to the pharmacist within 72 hours.	Having regard to points contained in sections 1.1 – 1.3 of this guide, it is suggested that the word 'must' is used in relation to the provision of the prescription. It might be useful to clarify that a direction provided over the phone is not recognised in legislation other than as a means to facilitate a supply under the emergency supply provisions as cited. Requirement to provide the written prescription to the pharmacist within 72 hours is a legislative requirement (Reg 8 of S.I. 540 /2003, as amended). It should also be clarified that an emergency supply of a controlled drug, listed in Schedules 2,3 or 4 of the Misuse of Drugs Regs, is not

		permitted under this legislation.
36.4	You must ensure as far as possible that any treatment, medication or therapy prescribed for a patient is safe, evidence-based and in the patient's best interests. You should, where possible, use the non-proprietary (rather than brand) name of drugs when prescribing[14]. You should be particularly careful when prescribing multiple medications in case the combination might cause adverse reactions and you should liaise with the pharmacy to clarify any issues or concerns you may have. You should also take particular care when prescribing for patients who may have an impaired ability to metabolise the medication prescribed. You should weigh up the potential benefits with the risks of drug adverse effects and interactions when deciding what to prescribe. Patients' treatment regimes should be reviewed periodically.	Footnote 14 is incorrect: This requirement comes from the Health (Pricing and Supply of Medical Goods) Act 2013, not the Health Identifiers Act 2014. It is suggested that this section is expanded to include liaising with the pharmacist in relation to any queries/questions etc. regarding patients' medication, and also other relevant healthcare professionals. Suggest highlighting need to take account of clinical guidelines / best practice / drug information when prescribing medication. This section contains a lot of information regarding drug therapy and prescribing. To provide clarity, it is suggest splitting this section into discrete points/subpoints: 1. Overarching obligation to "ensure as far as possible that any treatment, medication or therapy prescribed for a patient is safe, evidence-based and in the patient's best interests" 2. Use of non-proprietary names of medicines when prescribing 3. Precautions that should be taken when prescribing multiple medications 4. Precautions that should be taken when prescribing for patients with impaired ability to metabolise medication prescribed 5. Obligation to balance potential benefits vs risks of drug adverse effects. 6. Periodic review of patients' treatment regimes
36.6	You must be aware of the dangers of drug dependency when prescribing benzodiazepines, opiates and other drugs with addictive potential. You should refer patients with drug dependency to the appropriate drug treatment services and supports unless you have appropriate training, facilities and support yourself. You should not undertake treatment of opiate dependency unless you have been approved under the	Suggest include a requirement to adhere to national and international guidance on the prescribing of benzodiazepines. Suggest requiring that if benzodiazepines, opiates or other drugs with addictive potential are prescribed that: – They are prescribed for the minimum amount of time necessary

	Methadone Treatment Protocol. You should safeguard patients with drug dependency by taking reasonable steps to ensure that they are not inappropriately obtaining drugs from multiple sources, for example, by liasing with drug treatment services, other doctors and pharmacists.	– They are prescribed at the lowest dose necessary
37.4 'Telemedicine'	You must be satisfied that services you provide through telemedicine are safe and appropriate for patients. You should explain to patients that there are aspects of telemedicine that are different to traditional medical practice, for example a consultation involving physical examination, and any additional risks that may arise as a result.	Perhaps reference could be made to the fact that a fax of a prescription is not a legally valid prescription for the dispensing of medicines. The issuance of a faxed prescription should only occur in situations to support an 'Emergency Supply' of a medicine (as defined by the legislation), in which case the original prescription must be sent to the pharmacist within 72 hours. Alternatively, suggest including a reference to the guidance provided in Section 36. Suggest addition of the following points: 1. Requirement for the prescriber to satisfy himself/herself that they can make an adequate assessment of the patient's health prior to prescribing. 2. Requirement for the prescriber to consider limitations of the medium through which they are communicating with the patient 3. The need for physical examination or other assessments 4. Access to the patient's medical records
43	You must have adequate professional indemnity cover for all healthcare services you provide.	Perhaps doctors should be advised to have professional indemnity cover to extend to any complaints made against them to the Council. It is our understanding that for doctors working in public hospitals indemnity is provided by the Clinical Indemnity Scheme (CIS), but this does not extend to complaints made to regulators and they should be advised to have supplemental private cover. Suggest also advising that prescribers may need additional indemnity cover if they prescribe for indemnity cover for patients who are

		overseas.
48.1 'Managing Conflicts of Interest'	48.1. You must not let any financial considerations influence or be seen to influence your management of patients. You must inform patients about any financial interest you or a close family member have in a private clinic, hospital, pharmacy or other institution to which you propose to refer them for investigation or treatment.	This section states that doctors must inform patients about financial interests that they or a close family member may have in a private clinic, hospital, pharmacy or other institution. It is suggested that it should state that it is deemed misconduct for a medical practitioner to have a financial interest in a pharmacy as per Section 63(3) of the Pharmacy Act 2007: *"(3) For the purposes of section 45 of the Medical Practitioners Act 1978 and so much of Part V of that Act as relates to that section or any enactments re-enacting those provisions, it is professional misconduct by a registered medical practitioner if—* *(a) he or she, or* *(b) to the knowledge of the registered medical practitioner, his or her partner or employee,* *has a beneficial interest in a registered retail pharmacy business."*
48.3 'Managing Conflicts of Interest	48.3. You should not accept gifts (including hospitality) from pharmaceutical, medical devices or other commercial enterprises. This does not preclude the attendance at educational meetings or payment of reasonable fees if you provide professional services to commercial enterprises. You should be aware that even low value promotional materials can influence prescribing and treatment decisions.	The explanation given in the Guide doesn't indicate the potential illegality of accepting certain gifts. It is suggested that this should be highlighted or separate guidelines issued on the matter. Regulation 21 (1) – (4) of Medicinal Products (Control of Advertising) Regulations 2007: ***"Inducements and hospitality.*** *21.(1) A person shall not, in the course of promoting medicinal products to persons qualified to prescribe or supply such products, supply, offer or promise to such persons any gift, pecuniary advantage or benefit in kind, unless it is inexpensive and relevant to the practice of medicine or pharmacy.*

		(2) Notwithstanding the provisions of paragraph (1), a person may offer hospitality at sales promotion events or at other events for purely professional and scientific purposes, provided such hospitality— *(a) is reasonable in level,* *(b) is strictly limited to the main purpose or scientific objective of the event, and* *(c) is not extended to persons other than health professionals.* *(3) A person qualified to prescribe or supply medicinal products shall not solicit or accept any gift, pecuniary advantage, benefit in kind, hospitality, sponsorship, or any other inducement, where the provision of such is prohibited by paragraphs (1) and (2) of this Regulation.* *(4) The provisions of this Regulation shall not prejudice the negotiation of prices, margins and discounts in the ordinary course of business provided such prices, margins and discounts are incorporated in the sales invoice as a consequence of such negotiation."*
50.5	If an adult patient lacks capacity to make a healthcare decision, you must take reasonable steps to find out whether any other person has legal authority to make decisions on the patient's behalf. If so, you should seek that person's consent to the proposed treatment.	With regard to consent, should it be made clear that a next of kin does not legally have authority to provide consent on behalf of a patient, neither does someone with power of attorney, it is acknowledged that this is a specific legal point and it may be useful to direct doctors to legal advice if such situations arise.
63.2 'Healthcare Resources'	You have a duty to assist in the efficient and effective use of healthcare resources and to give advice on their appropriate allocation. You should balance your duty to do your best for each the individual patient with the wider need to use finite healthcare resources efficiently and responsibly. Such awareness should inform decision making in your clinical practice. For example, you are encouraged to prescribe bio-equivalent generic medicines where they are safe and effective and only commission	It is suggested that this point references the Health (Pricing and Supply of Medical Goods) Act 2013, regarding professional misconduct if this legislation is not followed regarding generic prescribing. It is suggested that this section also makes reference to regularly reviewing a patient's medication history to ensure medicines are stopped when no longer clinically needed.

	investigations if they are clinically indicated.	
64.6	You must not claim authorship of work you have not written or contributed to.	It is suggested that in addition, this point states that doctors must ensure that co-authors names appear on all papers that they have co-authored. If a co-author works for, or is paid by, a commercial entity, the doctor must ensure that is published also.

Pharmaceutical Society of Ireland

August 2015