

ETHICS IN SPORTS MEDICINE – SOME MEDICO-LEGAL CONSIDERATIONS**P. G. T. FORD, MB, BS, MRCP***Deputy Secretary, Medical Protection Society*

A medical practitioner who is only registered with the General Medical Council is, by virtue of that registration only entitled legally to practise in the United Kingdom. This registration does not entitle him to practise anywhere else in the world unless he has made the necessary arrangements in advance with the appropriate authorities in the host country. This is equally true if he treats United Kingdom nationals who are members of his team. If he is not registered in the country concerned he may be practising illegally and, in theory at least, risks prosecution or problems with the registration authority in that country. I say "in theory" because to the best of my knowledge no such prosecution has ever eventuated, nor would I think it likely to occur, particularly if practise is restricted to members of the sports team. It may not however be as simple as that particularly where there is an international event. There may be hangers-on, camp-followers, and journalists for example who are staying at the same location and who seek the advice of the visiting British doctor or specialist. What about the anxieties that were put to me by a doctor recently, who was travelling to an international meeting and, in advance, had been invited to join in a rota for out-of-hours emergencies with doctors from other national teams in the sports village? Worst of all, from a practical point of view, what if the potential patient is a citizen of the United States, who then sues the doctor in the courts of the United States? In the former example the doctor was advised that in the absence of registration it would be most unwise to join in a rota and in the latter it will be appreciated that benefits of membership of a U.K. defence organisation do not extend to actions started within the jurisdiction of the courts of the United States.

Some registration authorities are becoming increasingly anxious about this matter and concern was expressed a year or two ago by one of the provincial authorities in Canada in respect of the Commonwealth Games. One of the reasons may be pressure from the resident doctors who see the intrusion of foreign doctors as a potential threat to their own private practices.

Registration in a foreign country may be a cumbersome process and not without attendant cost, particularly since the necessary certificate of good standing from the General Medical Council can only be obtained on payment of a fee. Doctors travelling within the EEC countries may readily obtain the necessary authority which legalises adequately the situation for a brief period. Other countries may make easy arrangements as well. It is not possible to deal with these country by country and doctors might be advised to make appropriate enquiries well in advance of the projected trip, possibly in the first instance by approaching their own defence organisation.

On the other hand it could be that this is a question best not asked – let sleeping dogs lie. There is really not likely to be any trouble if practice is restricted to the sportsmen that the doctor accompanies. However what if one of these sportsmen dies, for whatever reason, whilst under the doctor's care and this leads to a medico-legal examination? A court may or may not take the point about registration. You may feel that we have entered the realms of theoretical fantasy and that the chances of such unforeseeable circumstances occurring are akin to being struck by lightning. But lightning does strike as the defence organisations know only too well, hence our innate caution.

One other aspect of practise abroad may be mentioned briefly. Any doctor when stocking his bag may consider the inclusion of morphia or pethidine, but unless the necessary export or import licence has been obtained, which may be impossible, such controlled drugs cannot legally be taken out of the United Kingdom. There is one single exception to this, for it has been specifically made easier for doctors accompanying patients on a pilgrimage to Lourdes to obtain an export and re-import licence for controlled drugs from the Home Office. The Home Office recognises that this facility might properly be extended and have put the case to the United Nations Commission on Controlled Drugs. It is expected that a decision will be reached in 1980 and if a simple authorisation is decided upon, it is to be anticipated that this will enable team doctors to take controlled drugs with them abroad legally and, not as recently happened to a doctor accompanying a car rally team, to have them unceremoniously removed from him at the airport.

Finally if required standards of skill and care are not attained, this could lead to a successful claim for damages by the athlete against the doctor. The basic principles that apply to the practice of sports medicine are no different than those that apply to any other specialty. What makes the situation much more difficult are the enormous pressures that may be put upon the doctor to make a clinical decision which he knows is not professionally ideal but which may be

urged upon him by the individual athlete or team manager, whose immediate interests and overriding concern may be to enable the game to go on without delay or the individual, who has trained for months and travelled thousands of miles, to compete. National success, gold medals and large financial rewards can produce overwhelming professional pressures and force the doctor into a compromise decision against his better judgement. The athlete's insistence on rejecting medical advice in the heat of the moment cannot be guaranteed to absolve the doctor from any liability if he allows his advice to be overridden thus. The archives of the defence societies are littered with successful claims where practitioners have undertaken a particular course of treatment against their better judgement at the persuasion of the patient, for example expensive dentistry and plastic surgery. It is reassuring to know, however, that claims against sports doctors are few and far between.

Instant decisions on clinical grounds alone and without immediate benefit of diagnostic aids have to be made and of course the defence societies will support their members in such circumstances even though the decision later proves to have been wrong and compensation may have to be paid out. The single point to be stressed is that clinical decisions must be made having regard only to what the doctor considers to be in the best interests of the athlete and he may well have to disregard totally what the athlete considers to be in his own best interests. This of course applies with equal force not only in the heat of the moment but also in respect of sportsmen who are ever anxious to cut short the time scales involved in the healing of wounds and injuries.

There may be other examples where the sports doctor is subjected to pressure and conflict, real or imagined, which if yielded to could amount to a lowering of standards. It is important to realise that if a claim in negligence is made, the plaintiff sportsman is almost certain to be supported by an expert witness, as likely as not, from orthopaedics or physical medicine, who will base his opinion on the proper standards that apply in ordinary, routine practise. Little or no allowance can be expected because of the pressures referred to earlier or the peculiarities of the conditions of the practice of sports medicine. This would be the standard accepted by the Judge. While the sportsman accepts the inherent risks of physical injury in pursuit of his chosen sport, he does not accept afterwards that treatment should be in any way of a lesser quality than his less athletic brethren would receive.

Other problems or dilemmas must be considered in this same light, for example the manner in which sportsmen are constantly on the lookout for the opportunity of referral to one or other specialist clinics; anxiety for the welfare of children who are pressurised to improve performance, and conflict with family doctors. The rules that should apply here are exactly the same as those for any other sphere of professional practice.
