The Royal Australian and New Zealand College of Radiologists®

The Faculty of Clinical Radiology

Ethical Referrals in Clinical Radiology

Faculty of Clinical Radiology

Discussion Paper

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TABLE OF CONTENTS

1. Introduction 4
2. Patient and funder expectations 4
3. Referrals for clinical radiology examinations 5
4. Consequences of conflicts of interest in referrals 5
5. Regulatory Framework and professional guidance 6
6. Professional Guidance on Ethical Referrals 9
7. Conclusion 9
8. Related documents 9
9. References 9

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About the College

The Royal Australian and New Zealand College of Radiologists (RANZCR) is committed to improving health outcomes for all, by educating and supporting clinical radiologists and radiation oncologists. RANZCR is dedicated to setting standards, professional training, assessment and accreditation, and advocating access to quality care in both professions to create healthier communities.

RANZCR creates a positive impact by driving change, focusing on the professional development of its members and advancing best practice health policy and advocacy, to enable better patient outcomes.

RANZCR members are critical to health services: radiation oncology is a vital component in the treatment of cancer; clinical radiology is central to the diagnosis and treatment of disease and injury.

For more information, go to www.ranzcr.com and follow us on LinkedIn, Twitter and Facebook.

Our Values

Commitment to Best Practice

Exemplified through an evidence-based culture, a focus on patient outcomes and equity of access to high quality care; an attitude of compassion and empathy.

Acting with Integrity

Exemplified through an ethical approach: doing what is right, not what is expedient; a forward thinking and collaborative attitude and patient-centric focus.

Accountability

Exemplified through strong leadership that is accountable to members; patient engagement at professional and organisational levels.

Leadership

Exemplified through a culture of leadership where we demonstrate outcomes.

Definitions

- ***Self-referral*** is when a medical practitioner refers their patients for a service which they provide themselves.
- ***Arm's length referral*** is where a diagnostic imaging is performed by a radiological service entirely independent from the referrer.
- ***College*** means The Royal Australian and New Zealand College of Radiologists.
- ***Member*** means a member of the College.
- ***Referrer*** means a person who sends or directs a patient to a specialist.

1. INTRODUCTION

RANZCR believes that, in the vast majority of cases, medical practitioners and health providers act ethically and in the best interest of patients. However, as the models for delivery of health care become more complex, conflicts of interest may arise and impact clinical decision making. This paper is intended to encourage all those involved in patient care to join the conversation with RANZCR in support of ethical practice and to demonstrate the medical community's support for arm's-length referrals.

Ethical principles in medicine, particularly as they relate to referrals, ensure the patient's best interests are at the heart of decision making unconstrained by any conflict of interest. Clinical decisions should be based on evidence-based principles and the patient's best interests and should avoid unnecessary risks and costs. Clinical decision making based on any other consideration risks altering the nature of referrals and has consequences to patients, the healthcare system and the profession. This is a fundamental pillar of the patient doctor relationship and can affect the high trust and regard that the public have in doctors.

RANZCR supports arm's-length referral to clinical radiology as the most appropriate and ethical relationship between referrer, provider and patient. An arm's-length referral is where diagnostic imaging is performed by a radiological service entirely independent (physically and financially) from the referrer or the referrers employer thus avoiding conflicts of interest.

2. PATIENT AND FUNDER EXPECTATIONS

The relationship between doctor and patient involves a great deal of trust. This is true in both a clinical and financial context. Patients seek and expect to be provided with comprehensive information and to be actively involved in the decision-making process to determine their treatment pathway, as well as being given the choice of their medical provider. Patients expect that the care they are offered does not include any unnecessary medical investigations and treatment.

Patient expectation is that those providing their medical care will conduct themselves with honesty and integrity, which includes disclosing competing and conflicting interests.[1] This transparency ensures there is clear, open communication between the patient, referrer and provider, with all decisions open to scrutiny. Informed consent and informed financial consent are important principles which should be a key aspect of this communication.

In both Australia and New Zealand, the cost of health care is ever-increasing and must be delivered sustainably and equitably. Governments and other funders have a natural expectation that all services they fund are based on evidence-based principles and the patient's best interests and represent good value allocation of limited resources.

[1] For example, you should ask yourself what a reasonable patient would expect to be told, and what type of information they would not expect you to withhold from them. In instances where you own the equipment or the facility in which the radiology examination is being conducted, it could be reasonable to disclose that information to the patient.

3. REFERRALS FOR CLINICAL RADIOLOGY EXAMINATIONS

Patients are required to have a referral from a recognised health practitioner for any radiology examination. Referrers and providers share a responsibility to ensure referrals are appropriate for the patient. As part of their due diligence, clinical radiologists should question referrers if a referral appears inappropriate, does not contain sufficient information to justify the investigation or is potentially unnecessary. *RANZCR's Standards of Practice in Clinical Radiology* require that a diagnostic imaging procedure be undertaken upon receipt of a clinically appropriate request.[1] This ensures that the clinical advice being sought by the referrer, to inform ongoing clinical decision making, is provided in the most efficient and economical manner and is in the best interests of the patient and funder.

Appropriate referrals require unbiased clinical judgement to ensure that the benefit of the examination outweighs any risk associated with the procedure to the patient. Unnecessary or inappropriate referrals for examinations expose patients and funders to greater costs as additional examinations may be required. Additional examinations using ionising radiation exposes the patient to unnecessary radiation. Inappropriate referrals also impact on the effective allocation of resources.[2] In addition, over-imaging can have significant impacts in terms of incidental findings that may cause patient inconvenience and unnecessary costs to the funder.

The referral process must be transparent and open to scrutiny. The referrer and provider are responsible for the process and accountable for their actions and decisions, as individuals. Their judgement and decisions are to be widely accepted by their professional peers as relevant and fair, and open to independent verification and revision.

The format of the referral is also important. As technology advances, and patient data and referrals are available digitally, it is important for the medical profession to ensure that electronic methods of transferring information do not remove patient choice, particularly as utilisation of eReferrals increases. The College supports the adoption of eReferral in radiology. In prioritising patient choice, the College strongly prefers the exchange repository model (a cloud-based system) for eReferral.[3]

4. CONSEQUENCES OF CONFLICTS OF INTEREST IN REFERRALS

There are potential risks to patients and funders when referrals are influenced by financial or other conflicts of interest such as research or academic interests, reciprocal arrangement between medical practitioners, or business entities delivering health care. There are also potential risks involved if an employer, or other arrangement such as with landlords, corporate entities (with external contractors who are not employees) or referrals for family members were to put undue pressure on either a referrer or provider to consider revenue generation in addition to providing appropriate medical care.

One of the more common referral types that risks being influenced by a financial conflict of interest is self-referral. Self-referral is when a medical practitioner refers a patient for a service which the referrer either provides or in which the practitioner has a financial interest.

There has been considerable research into the impact of self-referral on referral patterns and the risks this poses. Self-referral or self-determined referral is when a medical practitioner refers their patients for a service which they (or anyone they are related to) provide themselves.[4] Self-referral is not always inappropriate, such as in some cases of interventional radiology or interventional neuroradiology. However, conflicts of interest and incentives to refer services that are not in the patient's best interest are a risk. The research provides evidence that self-referral is potentially damaging to the healthcare system as it often results in an inflated growth rate of imaging services, lack of quality assurance, increased out of pocket costs for patients and low value imaging.[5] Every test, treatment or procedure carries some risk including the possibility of errors or complications, no matter how carefully they are conducted.

Specific examples of research into the impact of self-referral include:

- Studies have shown that referrers who referred patients to themselves or through the integrated practice referrals, requested significantly more diagnostic imaging examinations than referrers who referred patients at arm's-length to radiology practice.[6]
- When self-referral consists of referral to a practice in which the referrer has a financial interest, imaging is increased by as much as 54%, depending on the modality.[7]
- Studies have found that self-referring referrers were between 1.7 and 7.7 times as likely to use imaging compared to referrers who referred their patients at arm's-length to radiologists, when imaging was needed.[8] [9]
- A study by Gazelle et al found that physicians self-referring were almost twice as likely request imaging compared to those referring to a third party.[10]

5. REGULATORY FRAMEWORK AND PROFESSIONAL GUIDANCE

Arm's-length referrals are best able to meet the guidelines and regulations of authorities in New Zealand and Australia. Various authorities and organisations in Australia and New Zealand specify the legal and ethical requirements for the medical profession. This discussion paper is largely reiterating what is already in the regulatory frameworks and professional guidance of both jurisdictions. All doctors are expected to be familiar with the medio-legal documents relevant to the jurisdiction(s) in which they work:

- Health Insurance Act 1973 (Australia)
- Medical Board of Australia Codes, Guidelines and Policies[11]
- Australian Medical Association (AMA) Code of Ethics[12]
- Australian Ethical Health Alliance, Australian Consensus Framework for Ethical Collaboration in the Healthcare Sector [13]
- Health Practitioners Competence Assurance Act 2003[14] (New Zealand)
- Code of Health and Disability Services Consumers' Rights[15] (New Zealand)
- Medical Council of New Zealand (MCNZ) publications: *Good Medical Practice* and the Statements and Standards published by the Medical Council.[16]
- New Zealand Medical Association Code of Ethics[17]
- Accident and Compensation Commission's Operational Guidelines[18]
- International Accreditation New Zealand Accreditation Criteria[19]

5.1 Australia

Of particular note within the Australian regulatory frameworks are the following:

Health Insurance Act 1973

The Department of Human Services states that '*patients should also be given the choice of where to present the referral, including where the referral is submitted electronically*.'[20] This is underpinned by the *Prohibited Practices Legislation* in the *Health Insurance Act 1973 and the Health Insurance Regulations 1975.*[21] The *Prohibited Practices Legislation*

'prohibits requesters or providers from asking for, accepting, offering or providing "prohibited benefits", that is, a benefit that:

a) would be reasonably likely to induce a requester to request any of those kinds of services from a provider…'

Australian Department of Health Red Book[22]

The Department of Health sets out that the Prohibited Practices Provisions can also apply to "connected" people of the physician such as relatives, companies, trusts and the medical centre where the physician practice.

Part of a healthcare practitioner's responsibility to his or her patient is to recommend other healthcare providers, including pathology and diagnostic imaging providers, based on the patient's clinical needs and best interests. Allowing this recommendation to be influenced by commercial arrangements between the practitioner and the provider may be illegal and/or unethical. It can also compromise patient outcomes and lead to over servicing.

Good medical practice: a code of conduct for doctors in Australia[23] states the following:

10.12 Conflicts of interest

Patients rely on the independence and trustworthiness of doctors for any advice or treatment. A conflict of interest in medical practice arises when a doctor, entrusted with acting in the interests of a patient, also has financial, professional or personal interests, or relationships with third parties, which may affect their care of the patient. Multiple interests are common. They require identification, careful consideration, appropriate disclosure and accountability. When these interests compromise, or might reasonably be perceived by an independent observer to compromise, the doctor's primary duty to the patient, doctors must recognise and resolve this conflict in the best interests of the patient. If in doubt, seek advice from colleagues, your employer, professional organisation or professional indemnity insurer.

Australian Consensus Framework for Ethical Collaboration in the Healthcare Sector[24]

As a member organisation of the Australian Ethical Health Alliance, RANZCR believes in the substantive principles of (a) acting in ways to benefit and welfare of patients and consumers, communities, populations, healthcare systems and healthcare sector and to avoid or minimise harm, (b) justice, fairness in distribution of resources, (c) respect for humans, (d) collective commitment in equitable sharing of costs and benefits, (e) continuous commitment to improving effectiveness, efficiency, safety and sustainability of outcomes. The following procedural principles are particularly pertinent to this discussion.

Integrity*: Those engaged in collaborations are alert to competing and conflicting personal, professional and organisational interests and to the management of bias.*

Transparency*: The processes of collaboration, and the values, principles and evidence upon which decisions are made, are open to scrutiny.*

5.2 New Zealand

Of particular note within the New Zealand regulatory frameworks are the following:

Code of Health and Disability Services Consumers' Rights[25] asserts the following pertinent rights:

the right to have services that comply with legal, professional, ethical and other relevant standards

the right to make an informed choice and give informed consent

every consumer has the right to express a preference as to who will provide services and have that preference met where practicable.

The MCNZ provides further detail. According to *Good Medical Practice*[26], doctors must act '*ethically and with integrity… never abusing patients' trust in you or the public's trust of the profession.'* The MCNZ's Statement *Doctor's and health related commercial organisations*[27] reminds doctors that commercially motivated conflicts of interest can result in inappropriate care and patient harm. At minimum, the MCNZ expects doctors:

To prioritise the patient and provide evidence-based care refraining from all unnecessary care

To declare financial interest to any relevant parties, including patients, and offer alterative services to the patient.

In addition, MCNZ's statement on *Safe practice in an environment of resource limitation*[28] cautions doctors against allowing their own self-interests or that of their employer or funding agency to override their ethical responsibility to their patients. It also reminds doctors to exercise stewardship given that every clinical decision is also a resource decision which impacts the care a patient receives and others in the wider community.

Accident Compensation Commission (ACC), Standard Terms and Conditions for Health Contracts[29] Clause 18, the general rule on conflicts of interest is:

Avoiding conflicts of interest

18.1. You confirm that, as at the start date, you have no conflict of interest in providing the Services or entering into this Contract. You must do your best to avoid situations that may lead to a conflict of interest.

18.2. If a conflict of interest arises, you must tell us immediately in writing. You and ACC must discuss, agree and record in writing whether the conflict of interest can be managed and, if so, how it will be managed. Each Party must pay its own costs for managing a conflict of interest.

ACC have further issued High Tech Imaging Services-Operational Guideline[30], which specifically comments on Ethical Referrals:

Note: Ethical Referrals

We insist that investigations, treatments, procedures should only be conducted when necessary and appropriate. If it is not in the best interest of the client, it should not be undertaken. Where there may be perceived conflicts of interest either through business ownership or similar relationships, you as supplier are required under our Standard Terms and Conditions (Clause 18) to explain to us in writing how you will manage that conflict of interest in the best interests of our client. A common example is where a referrer holds an ownership position in a radiology supplier. We consider it unethical and in breach of the Standard Terms and Conditions (Clause 18, especially 18.3) for a radiology supplier to provide benefits of any kind to a referrer (whether in cash or kind, gifts or subsidies) as a direct or indirect effect of a referral. Appropriate and verifiable 'arm's-length' referral procedures are required, and ACC will actively seek reassurance on this issue as we become aware of it.

6. PROFESSIONAL GUIDANCE ON ETHICAL REFERRALS

The main principles that underpin the ethical framework of appropriate referrals are trust, open communication between the referrer and the patient, patient choice, patient-centred care, shared decision making and informed consent. Medical practitioners have a duty to make the care of patients their first concern, to practise medicine safely and effectively, and to weigh risks against anticipated health benefits.[31] [32]

Practitioners have an obligation to be certain that economic gain or desire to satisfy referral sources does not influence the types and volumes of service provided. Commercial activities that are not aligned with evidence-based care could have a negative impact on patient care and on the reputation of the medical profession.

The Red Book[22] stipulates caution where, in a financial proposed arrangement,

> *it is implied, proposed or expected that requesters who are, or are connected to, investors will switch their pathology or diagnostic imaging requests to a provider associated with the arrangement*

RANZCR's *Code of Ethics* assists members with decision making and critical reflection, providing a framework to preserve the high standards required in professional practice. Other medical colleges provide their members with similar guidance, including those groups that frequently refer patients for radiology services. For example, the Royal Australasian College of Surgeons has a *Code of Conduct*[33] and The Royal Australasian College of Physicians has *Ethical Guidelines*[34]. Together with regulators, the Colleges are in agreement about prioritising the safety and needs of patients and eliminating the impact of conflicts of interest.

7. CONCLUSION

Ethical behaviour is a core requirement for medical professionals. RANZCR expects its members to abide by its Code of Ethics and meet the expected standard, avoiding conflicts of interest and providing evidence-based care. We invite others to engage in the conversation and collaborate on a joint position paper to demonstrate the medical community's support for arm's-length referrals.

As outlined in this paper RANZCR believes that there are grounds to show that arm's-length referral is the most appropriate referral model. RANZCR supports practitioners engaging in arm's-length referral as it is ethical, appropriate and in the best interests of the patient.

8. RELATED DOCUMENTS

RANZCR Code of Ethics
RANZCR Standards of Practice for Clinical Radiology
RANZCR eReferrals paper
RANZCR Medical Imaging Consent Guidelines

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