

Dear Lady Mar,

I've just noticed your question in the minutes of your recent Forward ME meeting, regarding the legal status of the NICE guidance. I have actually been trying to get people to take notice of the 'guidance on the guidance', for some time, because it spells out that it is a physician's duty to do what he thinks is best for his patients, and that the guidance is not meant to substitute for the physician's expertise. There could, indeed, be an interpretation that this is meant to remind the GP that *he* is the responsible person, and this is something of a 'get out clause', should anything go wrong, and the finger be pointed at NICE. The physician is free to decide what is best for his patients:

"However, NICE guidance does not override the individual responsibility of health professionals to make appropriate decisions according to the circumstances of the individual patient in consultation with the patient and/or their guardian/carer."

"Any health professional who is considering departing from NICE guidance may wish to discuss the issue fully with the patient and/or their guardian or carers and should keep a record of his/her reasons for taking such a decision in the patient's notes."

"The MDU advise their members that health professionals have a legal, contractual and ethical duty to act in the best interests of the patient."

I could give you more quotes, but you will get the gist. I have to say, that having read this document, and tried to point it out to various campaigning people, whenever the dreaded guidelines are discussed, I am rather disappointed that so much time has been spent arguing about the guideline, and so little (ie. None), spent pointing out the real responsibilities of physicians, and that they must not use these guidelines as a way to avoid thinking for themselves and *really* determining what is best for their patients. As Prof Baker said NICE Guidance has been given rather more force than was originally intended, and it has made our Gps lazy, as they can just claim their hands are tied by the guidance, when, in fact, the guidance, clearly, intended to leave the ball in their court.

Now, it may be that Prof Baker, knows of a more recent version of this legal status statement, but, if there is one, I can't find it. I was rather taken aback, when I went to use my bookmark to the document, to find that my link no longer worked, because the NICE site is being redesigned. Searching the new 'public face' of NICE, I could no longer find the document. Luckily, there is--at least for now--an accessible admin. version of their site which still contains the document. I would recommend that you download a copy before it disappears altogether:

http://admin.nice.org.uk/media/8BD/2B/Legal_context_nice_guidance.pdf

Kind regards,

Steve Hawkins