Doctors should be allowed to advertise

I disagree with Dr Pandya that our website (www.DrMalpani.com) represents an advertisement. We have put up our website to educate infertile patients about what can be done to help them, and the full text of our book, *Getting Pregnant – A Guide for the Infertile Couple* (over 400 pages), is online on our website. This is an educational service, and we receive over 10 emails from infertile patients from all over world daily, which we answer (free of charge) to educate them about their problem and its solutions. The internet represents a potent medium by which doctors can educate their patients (1), and many authorities are now exhorting doctors to put up their own websites (2), so that their patients can have access to reliable and accurate information which they can trust.

Even though our website is not an advertisement, I feel that doctors should, in fact, be allowed to advertise, and I would like to take this opportunity to elaborate my views, which may be considered to be unconventional. There is no doubt that for most doctors, advertising is a dirty word, but I feel this is a hangover from the past.

How are doctors who have just started practice going to get patients ? How will patients know of their skills and their expertise ? Many young professionals, who have spent long years to qualify and taken loans to start practice, simply cannot afford to sit back and starve till patients arrive on their doorstep. This is why new doctors have to resort to unethical practices like cuts and kick-backs today – many of which have been institutionalised by their seniors. I think it is far more honest to allow them to inform patients of their skills by allowing them to advertise – at least this is open and transparent.

The fact is that the status quo is in favour of senior doctors – those who have an established reputation, with many hospital attachments and lots of patients. These same doctors are the " medical establishment", which sets the rules for all doctors. They will do their best to maintain the status quo and prohibit advertising – not to protect patients, as they claim, but simply to protect their practice, by putting new doctors at a major disadvantage, and protecting their own interests.

Dr Pandya states that "Most codes on ethics in medicine prohibit advertising by doctors." Unfortunately, Dr Pandya has not kept himself up to date. The original codes were developed centuries ago, and they need to be updated, as required by the demands of changing times. The US Supreme Court has ruled that professional advertising, as commercial speech, is entitled to First Amendment protection (the guarantee of the right of free speech). The Court held that not allowing doctors to advertise was unfair to them – and also unfair to patients, who need access to information on doctors, so they can select the best for themselves. Today, the AMA has promulgated guidelines for ethical advertising by physicians, and these guidelines permit physician advertising provided it is not false, deceptive or fraudulent.

To keep readers abreast of new medical guidelines worldwide, here is what the Council of the College of Physicians and Surgeons of Alberta has to say about physician advertising in its Code of Ethics (3). " The Council…believes that clear and accurate information about physician services benefits all parties in the health care system. "Advertising falls within the definition of "freedom of expression", and any constraints to this freedom should be minimal and reasonable. " They clearly specify what is acceptable, and state that "Advertising is just one of the professional activities subject to the *Code of Ethics.*".

It is true that advertising has a downside. For one, advertising may cause doctors to start treating their patients as clients or customers, rather than as patients – and this is a shame. For another, some ads will be dishonest, but at least they will be in black and white, where they can be refuted and debated – and a doctor making false claims taken to task. This is far better than making tall claims within the four walls of a clinic and taking the patient for a ride.

Dr Pandya writes, "Were physicians to advertise, patients run the risk of being lured to the one with the fanciest media coverage rather than to the most competent and experienced." Dr Pandya has conveniently assumed that the most experienced physicians are the most competent. This is obviously unfair – and untrue. Most senior physicians expect that patients should come to them because of their "experience" – but they are often the ones with the most outdated knowledge and technical skills. Younger doctors who have trained overseas at centres of excellence and developed specialised areas of expertise may often be able to do a far better job than senior doctors, and especially since medical technology changes so rapidly, it's hard for senior doctors to keep abreast of all sub-specialities. However, how many will actually refer a patient to their junior colleague who may have specialised in that field?

I respect Dr Pandya, and do not expect him to agree with all my views, but he should allow me the liberty of having my own viewpoint. He says we "pander to patients who want to have boys". All infertility specialists pander to patients who want to have babies. You might argue that infertility treatment itself should be banned because of overpopulation. I have explained my views at great length in a previous issue of *Issues in Medical Ethics* (4), as to why I feel pre-conceptional sex selection is ethically acceptable, and this view has been endorsed by others as well. (5) I do understand that my stance may not be "politically correct" and will not win me any friends – but at least I have the courage of my convictions, and am willing to stand by them in public. Isn't this far better than the majority of doctors who will denounce sex determination in public – and then perform it in private for their own patients, on the sly?

Dr Aniruddha Malpani,

I am still not clear as to what Dr Pandya finds objectionable about the press reports which we have reproduced on our website. All he has done is merely quote them, but has not stated what is wrong with them. Are these false? Incorrect ? Wrong ? What is the point he is trying to make ?

Dr Pandya talks pejoratively of doctors who would like to "attract such tourists and their lucre." Why should he object to doctors treating rich patients from overseas? They can pay for their treatment – and this is additional foreign exchange earned for the country. Isn't this far better than Indian doctors who contribute to the brain drain by settling abroad because of the attractive salary and "lucre" offered by foreign hospitals? And isn't it better than Indian patients flying to the US to take medical treatment there?

Dr Pandya is worried about the "scores of charlatans and quacks" who will advertise. The fact is that these quacks do advertise daily in the media in any case – as evidenced by the numerous ads by weight loss clinics and homeopaths, to say nothing of the sexologists in the classifieds. Allowing reputed and reliable doctors to advertise will help to enlighten and educate patients – and an excellent example of such educational advertisements are the ads placed by the Cleveland Clinic, USA in *The Times of India*.

How do patients select doctors in India today? Usually either by reputation or referral, and I am sure Dr Pandya himself with agree with me that neither of these are reliable criteria. Dr Pandya is worried that the Indian patient is naïve and simple – but this is exactly what we are trying to change with our efforts at patient education through our free public health library, HELP – the Health Education Library for People, and our website, so that patients can be empowered with the information they need to get the best possible medical care, in partnership with their doctor.

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Issues in Medical Ethics' fund collection policy

The basic criteria for fund-raising : The intentions for and the outcome of fund raising should be ethically justifiable, and the process of fund collection ought to be ethically acceptable and transparent.

Sustenance of any journal through subscriptions is the most desired means because this is through voluntary choice by subscribers. This may prove difficult in the field of medical ethics which is not a high priority with many potential readers. Even if *IME* manages to eventually sustain itself on subscriptions, it needs to survive until this happy state is reached. At present, we must., perforce, explore other avenues for revenue. Our policy stipulates that as soon as the subscription reaches a state where it assures survival and development of the journal, we shall stop seeking other avenues for funds.

Subscriptions

Subscribers pay voluntarily. One may argue that once the dished out material is merit- worthy, the contract with the subscribers is ethically complete. We believe, though, that readers of journals devoted to ethics — in particular those reading our journal — must be co-participants in the endeavour to improve medical practice. We consider it only fair to let our co- participants know how the revenue from their subscriptions is spent. From 1997 we shall publish on these pages a statement of income and expense also detailing the number of subscribers and the number of those receiving the journal free of cost with reasons for the latter form of distribution.

We reiterate that funds obtained from life-subscriptions are placed in recognised savings schemes. We utilise merely the proceeds in the form of interest. This is why we have made the commitment that in the event of demise of this journal within six years of payment of the life-subscription, the full sum will be returned

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We will not accept any advertisements from organisations, which have been boycotted due to subversion of ethics.

We shall publish a list of advertisers on these pages once a year so that if we have unwittingly transgressed our code, we can make amends and avoid repetition.

We welcome comments, criticism and suggestions on our fund-collection policy.

(This is an edited version of a longer statement on finances and IME*, published in a previous issue of the journal.)*