

## **Reply to testimonial on "Sexual advances: ReMed does not judge"**

*ReMed received a great many enquiries and comments in response to the testimonial on "Sexual advances: ReMed does not judge" by Mirjam Tanner. ReMed is using the opportunity to present a more differentiated and detailed discussion on violations of conduct, particularly those of a sexual nature.*

### **Introduction**

ReMed received a great many enquiries and readers' replies to the testimonial on "Sexual advances: ReMed does not judge" by Mirjam Tanner (published in the SÄZ 42/2014 [1]). In edition 45/2014 of the SÄZ, a reply to a reader's letter announced that ReMed intended to respond to the questions asked. In the following reply, ReMed wishes to take the opportunity to present a more differentiated and detailed discussion on violations of conduct, particularly those of a sexual nature.

ReMed, on whose Management Board the medical area is currently represented by eight colleagues, is a low-threshold point of contact for colleagues who for a variety of reasons find themselves in difficulties or are experiencing a crisis. ReMed can offer persons seeking help two hours of free advice, and we are pleased to report that this free service is becoming increasingly popular. We have noticed that relatively few enquiries are received on the problem of overstepping boundaries/abuse (whether material, emotional or sexual), even though, in the words of Christine Romann [2], this subject is "not a marginal problem".

The aim of the above-mentioned testimonial is to raise awareness of this topic, which remains a taboo, and to make ReMed more widely known as a low-threshold, preventative point of contact. Persons seeking advice can be the affected individuals (e.g. patients) or colleagues who want to change their inappropriate behaviour or find a way out of an already compromising situation. But colleagues of such individuals who are aware of the situation can also contact ReMed, which provides them with a low-threshold means of seeking advice in a confidential context.

### **ReMed's approach**

ReMed's approach is based on ethical guidelines, legal provisions and the Code of Conduct. All of which clearly dictate a zero-tolerance approach to overstepping boundaries.

This clear approach to work and relationships allows ReMed to provide non-judgemental support to persons seeking advice and, given the often complex nature of the situations, not take sides too hastily so as to avoid miscarriages of justice, for example in terms of victim protection or presumption of innocence.

### **What is the actual framework within which ReMed works?**

In principle, anyone seeking advice is accorded patient status by ReMed, and is therefore handled in line with ethical, legal and deontological principles.

This means that the physician-patient privilege that protects all patients is paramount. Normally, ReMed will not take any further steps without the express consent of the affected individuals. A complaint is lodged only if the doctor acting for ReMed has a legal obligation to disclose (unnatural death, child abuse depending on the canton, etc.).

In direct contact with the offenders (the term "offender" is used to clarify that the individual's actions are indictable offences), ReMed endeavours to motivate the affected individuals to take steps on their own, e.g. if necessary reporting themselves to the police. If the violation is severe and the offender is not prepared to take further steps of their own accord (see also Margolis criteria [3]), ReMed can initially consult an independent external advisory ethics commission to determine whether it is prepared to exercise its right to disclosure. This request is made using anonymous data, without breaching the physician-patient privilege.

ReMed cannot impose sanctions.

### **How can ReMed help in other ways?**

#### *For victims*

- ReMed can recommend or arrange psychiatric-psychotherapeutic care/support.
- ReMed can advise or recommend counselling/coaching in order to help the patient find ways of coping with situations where their doctor has abused the relationship of dependency during their treatment.
- ReMed can offer advice on (not in order of priority):
  - o Written report of the incidents, preparation and organisation
  - o Complaint to the Professional Ethics Committee [4] (depending on the canton, an ombudsman procedure is first carried out [5])
  - o Complaint to the supervisory authorities, cantonal medical officer
  - o Prosecution or civil suit
  - o Assistance with police report, which is used in conjunction with the public prosecutor's office to carry out the investigation (see difference between a criminal offence prosecuted upon application by the victim, and an ex officio offence)
  - o Referral to a victim support centre
  - o Involvement of insurance company/companies. A violation/an abuse is essentially recorded as an accident.
  - o For incidents related to child protection: Further referral to the respective child protection group. In such cases ReMed must ensure that the welfare of the child, i.e. also the protection of the child against the consequences of a report, is guaranteed.

#### *For offenders*

- ReMed can act as a point of contact for colleagues who have overstepped boundaries, who have committed a violation or who are concerned or unsure about their conduct and want to reflect on it preventatively, before a violation is committed.
- ReMed can arrange psychiatric-psychotherapeutic support.
- If violations have been committed, ReMed can help offenders, depending on the individual situation, to launch rational and arbitrating measures for the victim.

- ReMed can motivate offenders to report themselves to the police.
- In the case of severe or repeated violations where no steps have been taken to improve the situation, ReMed can consult the Ethics Committee to ask whether ReMed should exercise its right to report the offender or not. Always abiding by the physician-patient privilege.

#### *For doctors privy to the facts*

- In Switzerland there is no law that stipulates a duty to disclose for doctors privy to the facts who have not found out about their colleague's offences in an official capacity.
- ReMed can advise or seek advice on the next steps to be taken by the doctor privy to the facts (talk to the offending colleague, offer psychiatric-psychotherapeutic help, identify ways for report oneself to the police).
- ReMed can, if necessary, organise additional support for those affected (see section "For victims").
- ReMed can provide information on the legal options (notify cantonal medical officer, cantonal medical organisation, health directorate, professional organisation).

#### **Summary**

ReMed is committed to its tasks related to violations and takes its responsibility seriously as an anonymous point of contact. It advises offending colleagues, recommends and arranges further steps depending on a case-by-case basis; supports and advises victims, and accords them a key role; supports colleagues who are privy to the facts in their particularly delicate situation.

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#### **References**

- 1) Tanner M. "Sexual advances: ReMed does not judge". Swiss Medical Bulletin 2014;95(42):1561–2.
- 2) See also Swiss Medical Bulletin 19/2012. Dr. med. Christine Romann (Member of the SMA Central Committee, responsible for the Health Promotion and Prevention Section): Sexual advances in medical treatment - act! She writes "... it is not a marginal problem. What strikes one particularly is that around 80% of offenders are repeat offenders whose activities apparently neither the professional organisations nor the supervisory authorities can curb. Even though our Code of Conduct is clear on the subject: Article 4 unequivocally requires SMA members to honour the principle of human dignity and the rights of the individual, the will and rights of the patients when carrying out any medical treatment. The formulation is clear: <Doctors must not abuse the relationship of dependency arising from their medical actions; in particular the relationship must not be exploited either emotionally sexually or materially.> "

- 3) Margolis M. Analyst-Patient Sexual Involvement: Clinical Experiences and Institutional Responses. *Psychoanal. Inq.* 1997. 17:349–370. German translation S. Cueni and M. Schuppli-Delphy. Detailed overview at [www.seminare-ps.net/RSMAT/RS07\\_SX/01\\_Schuppli\\_Sexuelle\\_Grenzueberschreitungen.pdf](http://www.seminare-ps.net/RSMAT/RS07_SX/01_Schuppli_Sexuelle_Grenzueberschreitungen.pdf)
- 4) In addition, besides the amendments to the Code of Conduct (Art. 4, 45, 49), further efforts are being spearheaded by the SMA Public Health Section to drive forward developments in the area of violations/abuse and human dignity. Professionalisation of the cantonal Ethics Committees, establishment of a strong supervisory authority and awareness-raising among cantonal doctors and the Swiss Conference of Cantonal Health Directors (DGK), inclusion of "violation of boundaries" in postgraduate education: What is a violation of boundaries? How can I protect myself (and my patients) against it? How can I deal with critical situations (akin to the British boundary training)? Quoted from comments by Barbara Weil, Head of the SMA Public Health Section.
- 5) Breaches of the Code of Conduct can be reported by members and third parties.
  - "Parties" are defined as any individual who has a protectable interest in the outcome of the proceedings and has declared themselves a party in writing to the Ethics Committee ruling at first instance:
    - a. SMA members
    - b. Patients involved in complaints on the grounds of violation of human dignity or abuse of a dependency relationship arising from a medical action. (Art. 4.2 Code of Conduct).
  - If a suit concerning the same facts is pending with a state authority or a state court, the ethics procedure can be suspended or cancelled.
  - If the facts relate to a violation of human dignity or abuse of a patient's dependency, the Ethics Committee holds an initial hearing with the individuals involved in the ethics procedure as soon as possible after being notified of the other proceedings.