Royal College of
Obstetricians and Gynaecologists

Bringing to life the best in women's health care

Effect of Health Law to the Physicians Personal Rights and Their Studies in UK

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Medico-legal Expert

Assessor of Doctors in Difficulty

Medical Law in UK

Medical Heath Law & ethics

- Legal aspects
  - Criminal (Police and Crown Prosecution Service)
  - Coroners Court (decision on *cause* of death)
  - Regulatory (General Medical Council)
  - Litigation (civil courts)
- Professional codes
  - Standards (Royal Colleges)
- Ethics
  - Patient rights (basic human rights)

Medical Law in UK

- Independent of Government
- Rely on Independent advice
  - Practicing clinicians within their area of expertise
- Advocates and evidence for both sides
  - Experts for all interested parties
  - qualified and independent medical professionals
  - Corroborative medical literature on the subject

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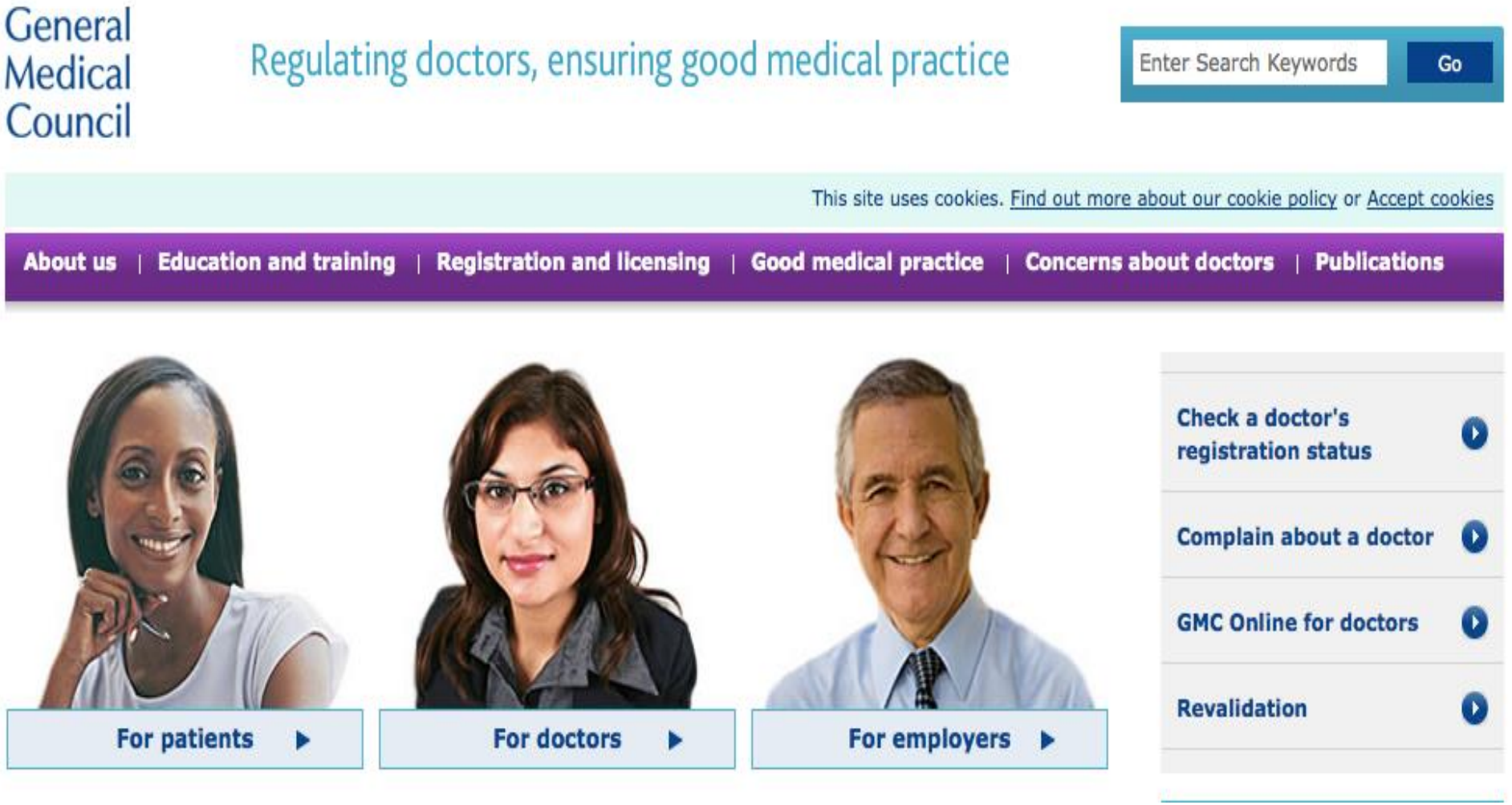
General Medical Council



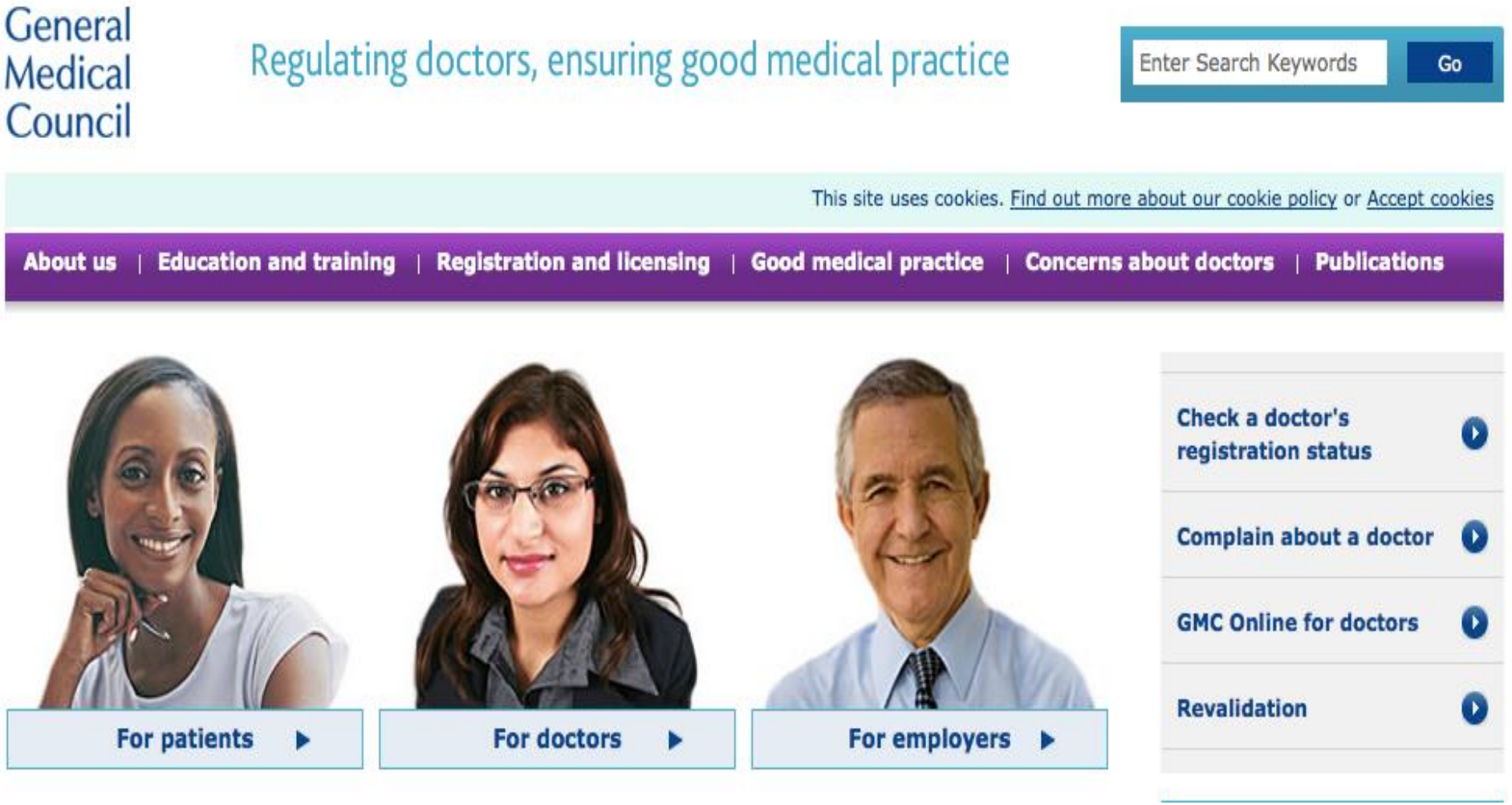
General Medical Council

- first established under the Medical Act 1858
- has been updated by Parliament since
- ensures that medical regulation changes to reflect the changing needs of the society
- The current Act is the Medical Act 1983.
- amended on a number of occasions since it first came into force, most recently in 2010.

General Medical Council

- By regulating doctors
  - Primary registration (licensing to practice)
  - Assessing fitness to practise
  - By regulating training
  - Yearly appraisal
  - Five yearly revalidation
- Employers know who is a good doctor
- Patients know who is a good doctor

General Medical Council



General Medical Council

- Fitness to practise.
  - Powers and responsibilities for taking action when questions arise about doctors' fitness to practise.
  - The detailed arrangements for how these matters are investigated and adjudicated upon are set out in rules.
  - These rules have the force of law.

General Medical Council

- Fitness to practise.
  - On receiving an allegation
  - Initially be considered by the Registrar.
  - Referral to Interim Orders Panel
    - Special measures
  - Investigation of allegations
    - Write to the doctor notifying them and asking for a response within 28 days
  - Consideration by Case Examiners
  - Consideration by the Committee

General Medical Council

- Fitness to practise.
  - Reject allegation
  - Warning
  - Decision to proceed
- Appointment of specialist advisers
- Fitness to practise panel
  - “court of law”
  - Reject
  - Suspension
  - Removal

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Medical Law in UK

- All deaths reported to the Coroner
  - Coroner may be a doctor/lawyer/both
- He decides if case needs to investigated
  - Suspicious death
  - Unexpected
  - Could be medical death
- Coroners Court
  - decision on *cause* of death
  - Does not apportion blame

Medical Law in UK

- Coroners court
  - Relies on expert evidence
    - Expert for court
    - Expert for family
    - Expert for doctor
    - Expert for Hospital
  - Lawyers
    - for family
    - For Doctor
    - For Hospital
  - Calls witnesses who must attend

Medical Law in UK

- Coroners court
  - Possible verdicts include:
    - natural causes;
    - accident or misadventure;
    - unlawful killing;
    - lawful killing;
    - open verdict (where there is insufficient evidence for any other verdict).
  - Alternatively, a narrative verdict which sets out the facts surrounding the death in more detail and explains the reasons for the decision

Medical Law in UK

- Coroners court
  - If gross negligence – police
  - Major professional misconduct- GMC
  - If unsafe practice – Rule 43 Report
    - anyone receiving such a report must send the coroner a written response.
    - All reports, and responses are copied to all interested persons and to the Lord Chancellor.
    - A summary of the reports is published twice a year, by the Ministry of Justice.

Medical Law in UK

- Police Action
  - Damage or death caused by gross negligence
    - Medical manslaughter
  - Prosecution must prove (beyond reasonable doubt)
    - Existence of duty
      - medically qualified individuals are performing acts within the terms of their duty of care, when the act or omission occurs.
    - Breach of duty causing death
    - Gross negligence to justify a criminal conviction
    - It is for a jury to decide

Gross Negligence

- Jury's decision
- They may think them responsible but they cannot find them guilty unless
  - the defendant's conduct was so bad, in all the circumstances, as to amount to a criminal act or omission.
  - Reckless
  - Goes beyond medical error

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Professional Negligence

- Negligence

"*We must take reasonable care to avoid acts and omissions which you can reasonably foresee would be likely to injure your neighbour ...*"

Lord Atkin in *Donoghue v Stevenson* (1932)

Professional Negligence

- English Law
- The duty of a health care professional is to exercise reasonable care and skill.
  - What is reasonable?
- Bolam v Friern Hospital Committee 1957
- *"A person is not negligent if they acted in accordance with accepted practice at the time as decided by a responsible body of competent professional opinion."*

Professional Negligence

Requirements for proving negligence:

- *Duty*
- *Breach*
- *Causation*
- *Damage*

- Balance of proof 51% (probability)

Professional Negligence

Trail in two parts (can be run separately)

- Causation
  - *Duty*
  - *Breach*
  - *Causation*
  - *Damage*
- Quantum
  - Cost of damage, corrective treatment or care
  - Not suffering

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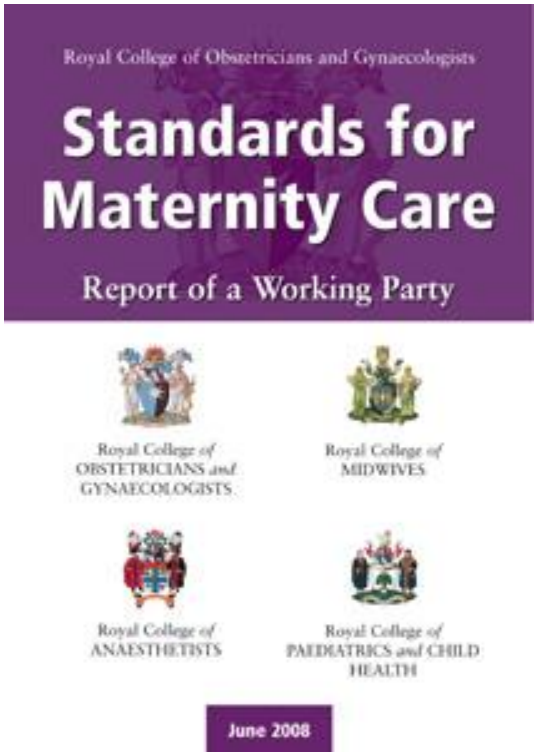
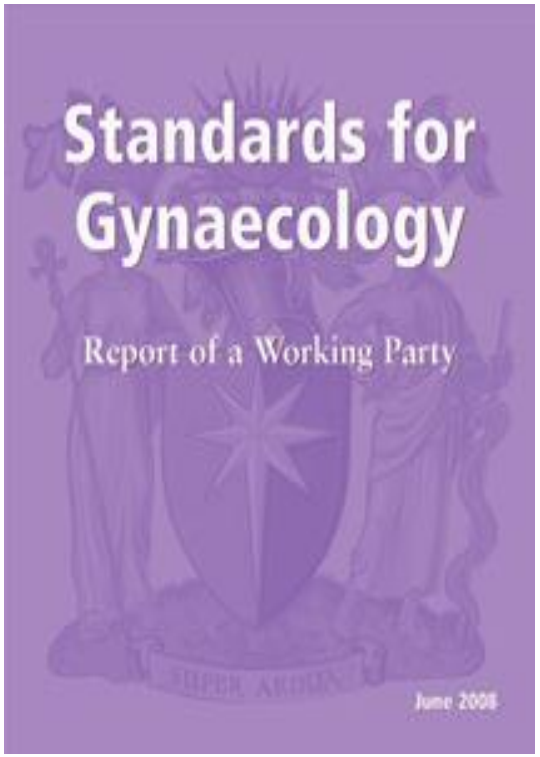
Standards and Guidelines





Royal College of Obstetricians and Gynaecologists

Setting standards to improve women's health

Guideline No. 21

May 2004

Reviewed 2010

THE MANAGEMENT OF TUBAL PREGNANCY

This guideline replaces *The management of tubal pregnancies*, produced in October 1999.

YMET -Drills

- PPH
  - Train as a team
- Think of everything
  - How to set up
  - Who to involve
  - Follow a checklist
  - Have a note taker

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Code of ethics

- Codes of Ethics
- Professional responsibilities
    - duties and obligations
- Professional relationships
    - professional behaviour
    - good communication
- Accountability

Patient Consent

- Consent guidance
  - patients and doctors making decisions together
- Informed consent
  - Open and honest
- Part of the duty of care
  - Knowing that consent has been given

Duty of Candour

- “The volunteering of all relevant information to persons who have or may have been harmed whether or not the information has been requested and whether or not a complaint or a report about that provision has been made.”
- Statutory obligation of candour
- Not of itself be evidence or an admission of civil or criminal liability

Confidentiality

- Professional obligation – moral duty
  - Hippocratic oath
    - *Whatever I see or hear, professionally or privately, which ought not to be divulged, I will keep secret and tell no one.*
  - Geneva Declaration
    - *I WILL RESPECT the secrets which are confided in me, even after the patient has died*
  - Professional guidelines
    - Codes of Ethics & Practice

Effect of Health Law to the Physicians Personal Rights and Their Studies in UK

- Train well
- Keep up to date
- Follow the standards and guidelines
- Know the patient’s rights
- Be candid, open and honest
- Learn for mistakes
- Share mistakes

The patient is the centre of the care