

Medical Referees: How fair is the verdict?

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In broader terms, a 'referee' is a judge¹ who is responsible for a fair and unbiased verdict. In medical training, career and appointments, the role of a 'medical referee' is very important. A medical referee is a senior medical consultant, supervisor or administrator responsible to observe the performance of a doctor under a specific jurisdiction. Of late, references have become indispensable and important. The primary purpose of a reference is to verify details of a candidate's education and/or employment experience, previous work performance, competency, relationship with colleagues and patients and comments on the suitability for a particular position, training programme and fellowship.²

Reference writing is an important document required for promotion, career advancement and changing of work positions. A good reference letter can facilitate all these avenues and a bad one can ruin the prospects for the aspiring candidate. In the field of medicine, the 'reference' has acquired a pivotal position and has been a major or rather essential requirement by the employing authorities. Many medical organizations have prepared a structured format for obtaining references asking a number of questions in order to be absolutely sure of taking on board a candidate who is virtually free of all vices. These questions revolve around ethical compliance, knowledge, working spirit, character, personal integrity, stability and relationship with the peers. There is a moral binding on the referees to be honest, free from personal prejudice and bias in order to form an honest opinion about the candidate with whom there is a work related experience. Generally, candidates quote the names of referees who have given permission and which implies that the referee in question has had a satisfactory working relationship with the candidate. The concerned supervisor in such cases would have expressed his/her satisfaction with the candidate on multiple occasions during appraisal or internal review processes. The referee is obliged to draw attention to any issues that could put patients at risk. This may include information relating to unresolved, outstanding or past complaints, where it is relevant to the candidate's suitability. The referees are required to provide only those comments that they are able to substantiate. The comments should be fair, objective and unambiguous and should not be biased by personal views that have no bearing on the candidate's suitability. The current revalidation process that is being adopted by the General Medical Council, UK³

suggests a thorough screening. This process involves a multi-source feedback and references. Though this appears to be an exhaustive and ambitious way to ensure good practice, the potential of personal prejudices by the managers and colleagues can introduce a threatening milieu. Personal information in relation to health should not usually be included in a reference. In some cases where health issues can have a direct bearing on the candidate's suitability, the referee may obtain consent for release of information. The candidate can request for a copy of the reference sent. Generally, the references are confidential and are sent as a formal letter, structured proforma duly filled or an e-mail. In urgent circumstances, a telephonic reference can be requested. Prompt response from the referee is highly desirable in view of time constraints. In some situations, referees are found to exercise their personal biases and may deliberately provide unfavourable references that can jeopardize the career of the candidate. Unfortunately, some organizations insist on obtaining a reference from a 'hostile referee' by virtue of his or her position as candidate's employer, direct supervisor or manager. According to Canadian laws, the referees are given legal immunity in cases where they even turn hostile and subject someone to severe mental torture by spoiling references on illogical grounds.⁴ In the case of *Spring v Guardian Assurance*,⁵ the plaintiff sued his previous employer for supply of a false reference that led to financial losses and future job opportunities. The Court of Appeal unanimously decided that a referee does not owe a duty of care to the subject for harm resulting from inaccuracies in the reference. The plea of 'negligent statement' may hold water in some cases. Prior to the afore-mentioned case, *Lawton v BOC Transshield*⁵ held that the referee does owe a duty of care to the subject. Imposing a duty of care to the subject of reference remained controversial so far as in most of the cases 'negligent misstatement' was hard to prove and even if proven, it probably could affect the production of referees. The imposition of duty of care leaves three options for the referee: 1) refuse to provide a reference 2) reduce the amount of information or include a disclaimer of liability 3) may give any reference, but take care to verify the information in it. In Pakistan, the scenario is quite different in terms of providing references. First of all, the references are open testimonials that would not hold weight in international referencing. The issue of confidentiality is doubtful. There are harrowing tales

narrated by doctors where they were victimized by their employers and supervisors. At times, the candidate is totally at the mercy of personal whims and prejudices. A number of doctors have termed their attachment in a medical programme as a 'bonded-labour' by virtue of which they were supposed to do personal work and were subjected to constant threats, harassment and mental torture. Becoming a 'hostile referee' in Pakistan is not unheard of largely. Unfortunately, there are no guidelines by the Pakistan Medical and Dental Council (PMDC) about this issue and no appropriate forum is available for redressal of such predicaments where the career of a young medical graduate hangs in balance. A type of 'automatic obedience' is expected while undergoing postgraduate training that could be quite a denerving and perpetual stress-laden situation. There are a number of instances where references were provided with prejudice and carried the potential of harm in terms of career prospects. With the current judicial system in Pakistan, it is extremely difficult to get justice in the event of getting a hostile reference. Also, it would be equally difficult to prove 'malice intention' on the part of the referee. Under the circumstances, it is important to devise some guidelines, giving powers to local ethics committees, utilizing a multi-source and

structured reference and develop a mechanism for verifying the authenticity of a particular reference. Should we suggest a total change in requirements for obtaining references that are free from personal biases and faulty judgment? Would this then replace the orthodox Assistant's Personal Record (ACR) provided by the bosses in government employments? How different would the process be in private and public institutions? Can the services of a Medical Ombudsman⁶ be availed in the face of perceived injustice? Let's us take one step further towards improvement in the existing system.

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