



To All Orthopaedic Surgeons
From BOA, BASK and FIPO

28 June 2011

Dear Colleague,

[BUPA Medical Review Process for Knee Arthroscopy](#)

We are writing to you again in order to inform you of developments. We are extremely gratified by the very strong support we are receiving from around the country. We know that some surgeons have felt compelled to sign the BUPA form but we strongly advise against this. We recognise the fact that patients may be diverted and that in some few cases surgeons have been informed by BUPA that if they do not complete the new form, they might be de-listed.

[Why we are against the medical review process](#)

The President of the BOA is currently on official duties in the USA and attending the American Orthopaedic Association meeting in Boston. Our American colleagues are completely supportive of our stance and tell us that this is EXACTLY how the Managed Care agenda was promoted in the USA many years ago. A gradual but inexorable introduction of pre-authorisation, a divided medical profession (with many unable to foresee the long term consequences), and then the complete loss of clinical independence with clinical decisions all down the line being subject to 'reviews' by third party assessors (even within an ITU setting) and the growth of commercial firms to provide these third party assessments. (By 'third party', we mean an individual other than the patient and his/her consultant.) In fact some of you will have already been contacted by an American firm who wish to recruit assessors to provide second opinions on knee arthroscopy "for an unnamed UK client".

So we would ask you to pause and reflect on this as those who do not learn from history will live to repeat it.

[Variation in the Rates of Knee Arthroscopy](#)

BUPA have stated that the rate of knee arthroscopy in BUPA subscribers is more than double that in NHS patients. The variation in rates of arthroscopy within different areas in the NHS is more than twofold (and this comes from the Wennberg reference which BUPA sent in an earlier letter). Thus, any comparisons will depend on the figures chosen and we would contend that treatment in the NHS is being rationed and our consultant survey confirms that over 50% of surgeons feel that PCTs are interfering in the process of care. There is no reason to lower the standards in the private sector: we should argue, and we have argued, for the improvement of standards and access in the NHS and we are protesting about any undue interference by the PCTs in every way we can.

[Clinical Guidelines for Knee Arthroscopy](#)

We gather that BUPA may have commissioned a commercial company to review the literature. We too have carried out a review of the literature which we will release later and several of our senior BOA and BASK members, including some of the signatories to this letter, have been responsible for writing the official guidelines on many orthopaedic problems including certain knee procedures such as ACL reconstruction.

We have looked carefully at the references/guidelines given by BUPA in their initial letter of 19th April and, in our view, these are generic, non-specific and have no validity on a scientific basis to any arthroscopic surgical procedure apart from the debatable role of arthroscopy in osteoarthritis. Further, in our view, the inclusion of W7490 (postero-lateral corner

reconstruction which is an entirely open procedure) in the BUPA list demonstrates an apparent lack of clinical understanding in this exercise.

We will not now be drawn in to a debate over clinical guidelines with any commercial enterprise but in order to maintain a focus on this current situation we would say that the only arthroscopic procedure in which there is doubtful benefit is in simple osteoarthritis of the knee. All other procedures under the BUPA pre-authorisation review are self evident and obviously required. We see absolutely no reason why BUPA should challenge the probity of any surgeon who is recommending a therapeutic operation to a damaged knee.

We have offered to work with BUPA, to identify any consultant whose practice was unusual in terms of volume and to audit their practice. This offer was conditional on BUPA stopping their blanket approach to all surgeons and for all knee arthroscopic procedures. However, to date, BUPA have failed to take up our offer.

Allegations of Misrepresentation

We very much regret that BUPA is alleging misrepresentation by the professional bodies in this matter. This was never our intention and, indeed, this is not the case. We are content that the consultant community will see through the various allegations that are being circulated. We will not be party to any false allegations but unfortunately there is a degree of spin which, it appears to us, is being accepted by external groups such as brokers or patients. As a simple example, in one press article BUPA have stated that they have been to the BOA, BASK and the RCS to obtain the names of suitable consultants to act as 'independent peer' assessors. To quote from Hi-Mag, an insurance journal, *"She (Dr Annabel Bentley) confirmed that the expert clinical advisers (were) consultant knee surgeons who Bupa contacted after approaching BASK, BOA and the Royal College of Surgeons for recommendations.*

It is simply wrong to suggest that any names were given as suggestions for 'independent peer' assessors and the implication, therefore, that these organisations complied in this process is misleading. We would wish to assure all colleagues who have contacted us on this point that NO names of any consultants have been furnished to BUPA as suggestions for 'independent peer' assessors, as we fundamentally disagree with this process. On the contrary, the President of the BOA provided names of influential knee surgeons whom BUPA might consult on their intended strategy, i.e. in order that such surgeons might persuade BUPA to alter their course, but certainly not with a view to such surgeons acting as 'independent peer' assessors for BUPA.

GMC Issues

The GMC have been clear about the question of distant 'reviews' of clinical decisions. This does happen in certain situations (insurance or benefit claims) but when reviewing another consultant's considered opinion and in a proactive clinical situation any medically-trained person who counteracts that decision will need to have a very full knowledge of the case. Any doctor providing pre-authorisation denials of treatment must ensure their report is based on all necessary information and if this is not available, he/she ought to decline to comment. In addition, their report would need to distinguish between meeting the funding criteria and clinical indications for arthroscopy, as the two will not always be the same.

What is happening around the UK?

Who is signing?

Only BUPA knows exactly how many surgeons are signing the forms and how many cases are being rejected for funding. Certainly many consultants have felt compelled to sign but we know from meetings and other feedback that the majority of surgeons do NOT want to sign the form and they recognise the full long term implications of this matter.

We wish to make it clear that senior surgeons in the UK are against this procedure and by "senior surgeons" we mean the current Presidents of the BOA and BASK, together with

immediate Past Presidents of BASK over several years, together with the Council of BASK, plus many, many others who are NOT signing.

What are the Specialist Hospitals doing?

We understand that, at this time, NO SURGEON at the RNOH, Stanmore is signing and we believe that this also applies to the other tertiary referral hospitals in Manchester and Oxford. In terms of the RNOH at Stanmore, it is true to say that some surgeons did sign forms at the beginning of this process: some may have signed because of the clinical or social urgency of a particular patient.

It seems to us that BUPA must now explain to its subscribers why they may not have any knee arthroscopy by a specialist in these world renowned centres of excellence. We do not believe that BUPA's claim to be supporting best practice can be sustained if their subscribers are being denied access to these hospitals and their consultants.

The Northern Ireland Experience

The Northern Ireland experience may serve as a useful way forward for surgeons in other areas. In Northern Ireland, we understand that NONE of the surgeons are signing the BUPA form. This has meant that patients could not be treated in the private sector. BUPA has offered some patients £ 500 to go to the NHS; they have also offered several patients travel and accommodation to have surgery with "another surgeon in London" and in one case have offered to fly the patient (with her husband and three children) to London for her ACL reconstructive procedure which she refused. We understand that patients, corporate clients and brokers were disappointed; some have contacted their solicitors for advice.

We understand that BUPA have now amended their scheme in Northern Ireland and patients there are now being accepted without the pre-authorisation form. In some cases BUPA have asked for extensive clinical details.

What do the patients say?

At a meeting of the BOA Patient Liaison Group on the 20th June 2011 the Group discussed the BUPA initiative on arthroscopy and expressed the opinion that :

“BUPA is putting at risk the integrity of the doctor/patient relationship by proposing a 'distant' review scheme. The Group further feels that a system of reviewing a course of treatment recommended by a qualified surgeon on the basis of the patient's medical needs by someone who has no knowledge of the patient and his/her particular situation is not in line with best clinical practice.”

What should Orthopaedic Surgeons do now?

1. The Northern Ireland experience serves as a useful model for all surgeons in different localities. If surgeons do not sign that is the end of the matter. We suggest that you do talk with your colleagues in your knee unit or in your locality, private hospital or your town. You should recognise that it is not in the long term interests of your patients to have your clinical decisions externally reviewed and that if you each decide independently not to comply with BUPA's new scheme and you have your colleagues' backing, then you will effectively be feeding your concerns back to BUPA.

2. We must stress that in any individual case when there is a pressing clinical problem then you must consider that patient first and, if necessary for clinical reasons, sign the form. It is regrettable that other patients will be inconvenienced but this problem has arisen because of the actions of their insurer. Please use our Patient Information Sheet to help explain the issue to your patients. You should also refer to the BOA Patient Liaison Group statement above. We

should encourage patient feedback to BUPA and we may say that complaints by patients towards BUPA are occurring throughout the UK and that the vast majority appreciate that this problem is not caused by their consultant.

3. We need to know how you are reacting and if you and/or your group are declining to follow the BUPA preauthorisation procedure then please let us know at the BOA. In any event please keep us informed of your views and those of your patients.

Finally, you should know that the profession is perfectly happy to discuss all these matters with BUPA provided they stop this pre-authorisation strategy.

Yours sincerely

Peter Kay, President of the BOA

Tim Wilton, President of BASK

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