Introduction
As authorised prescribers, doctors have the power of the prescribing pen, with access to all schedules of medicine. Doctors are not infallible and can be easily drawn into a situation in which they may abuse their prescribing powers, either to feed their own addiction, prescribe outside of their scope of practice, inappropriately treat family members or perpetuate the addictive habits of close friends.

Consider the scene
Consider the following scenarios, on which I have been consulted in recent months:

• A doctor who keeps on ordering morphine ampoules from a community pharmacy “for practice use”. He claims that it is more convenient to obtain them from the pharmacy than from the wholesaler, who won’t supply him because his account is too small.

• Similarly, a locum doctor, wants to order morphine “for his bag” from a community pharmacy, although he works at a nearby private hospital.

• A gynaecologist who regularly prescribes buprenorphine for his wife, claiming it is to treat her migraines.

• A retired doctor, still on the register, who continuously prescribes benzodiazepines for his elderly wife who shows clear symptoms of depression.

For the purposes of this article, let us consider the following example.

A pharmacist was faced with a challenge when he discovered that a young doctor (a registrar at a local teaching hospital) was presenting numerous prescriptions in the names of his children to obtain methylphenidate to feed his own addictive habits. The young doctor visited various pharmacies in the area to accumulate sufficient quantities of the drug to satisfy his addiction.

The pharmacist realised that he could not legally continue to dispense these prescriptions and needed to confront the young doctor about the problem. He was conscious of his ethical obligations to take some action, but was not sure of all the legal facts or exactly how he should address the situation.

What does the law say?
The control of the supply of medicines and scheduled substances is governed by Section 22A of the Medicines and Related Substances Act 101 of 1965, which specifies: “No person shall sell, have in his or her possession or manufacture any medicine or scheduled substance, except in accordance with the prescribed conditions”.

Section 22A (16) (b) states: “Any person may possess a Schedule 3, Schedule 4, Schedule 5 or Schedule 6 substance if he or she is in possession of a prescription issued by an authorised prescriber.”

The term “authorised prescriber” is then defined in Section 22A (17) (a) as follows: “Authorised prescriber’ means a medical practitioner, dentist, veterinarian, practitioner, nurse or other person registered under the Health Professions Act, 1974.”

Clearly, the doctor, as an authorised prescriber, is legally entitled to prescribe methylphenidate.

However, knowing that the young doctor is abusing his legal right to prescribe in order to obtain the product to satisfy his own addiction, the pharmacist would be justified in refusing to fill the prescription.
prescription based on the following requirement of the Medicines and Related Substances Control Act 101 of 1965: “Section 22A (10)... no person shall sell or administer any scheduled substance or medicine for other than medicinal purposes,” where, as defined in Section 22A (17b), ‘medicinal purpose’ means for the purposes of the treatment or prevention of a disease or some other definite curative or therapeutic purpose, but does not include the satisfaction or relief of a habit or craving for the substance used or for any other such substance.”

The pharmacist must also dispense in accordance with the Good Pharmacy Practice (GPP) rules. Section 2.7.3.2 of the GPP rules requires that: “A pharmacist must be aware of the probable methods of prescription forgery and exercise reasonable care to satisfy himself that prescriptions are genuine.”

In this case, we are dealing with a registered doctor writing supposedly legal prescriptions, but clearly abusing his rights as an authorised prescriber to obtain the medication for himself by using the names of the children. Under such circumstances, these prescriptions cannot be regarded as “genuine”.

Section 2.7.1.1 of the GPP rules deals with “interpretation and evaluation of the prescription”, and specifies that each prescription must be professionally assessed by a pharmacist with respect to “appropriateness for the individual and the indication for which the medication is prescribed”.

In this case, the prescription cannot be regarded as either “genuine” or “appropriate”, and the pharmacist is legally obliged not to continue to dispense such prescriptions.

What about the Code of Conduct?

The pharmacist has a duty to act in the best interests of the patient, in this case the doctor, and the public to exercise proper control over the supply of medicines and not to engage in any activity which may bring the profession into disrepute.

This is clearly specified in the rules relating to the Code of Conduct: “A pharmacist’s prime concern in the performance of his/her professional duties must be for the well-being of both the patient and other members of the public;” and “A pharmacist must exercise professional judgment to prevent the supply of unnecessary and excessive quantities of medicines and other products, particularly those that are liable to be misused or abused;” and “A pharmacist should be alert to the possibility of medicine dependency in healthcare professionals and patients and should make enquiries to ensure that such medicines are to be used responsibly and should refuse to dispense these medicines when circumstances warrant such refusal.”

Most importantly, by perpetuating the problem through continuing to fill these prescriptions, the pharmacist is also jeopardising the welfare of the patients served by the doctor.

Furthermore, the second principle of the Code of Conduct specifies: “A pharmacist must uphold the honour and dignity of the profession and may not engage in any activity which could bring the profession into disrepute.”

The pharmacist could be in breach of the law if he continues to supply the doctor, knowing full well that the medicine is being abused. The Code of Conduct goes on to say: “Any breach of the law, whether or not directly related to a pharmacist’s professional practice, may be regarded as bringing the profession into disrepute and may be considered to be misconduct, for which the council may take disciplinary steps.”

This would include rule no 23 of the Regulations in respect of which the Council may take disciplinary steps: “The sale or promotion of the sale of medicines in any manner that has as its aim or may be interpreted or regarded as having as its aim, the promotion of the misuse or abuse or the detrimental or injudicious or unsafe use of medicines.”

What about the doctor?

As an authorised prescriber, the doctor has the right to prescribe methylphenidate, but must do so legally according to the Medicines and Related Substances Act 101 of 1965 (as described above).

In terms of the Ethical Rules of Conduct for Practitioners Registered under the Health Professions Act, 1974, Section 27A (c), the doctor must “maintain the highest standards of personal conduct and integrity.”

The general ethical guidelines for the Health Care Professions issued by the Health Professions Council of South Africa (HPCSA), also require that doctors “refrain from engaging in activities that may affect their health and lead to impairment.”

In terms of Ethical Rule 25(1) (b) of Ethical Rules of Conduct for Practitioners Registered under the Health Professions Act, 1974, a practitioner shall “report his or her own impairment or suspected impairment to the board concerned if he or she is aware of his or her own impairment or has been publicly informed, or has been seriously advised by a colleague to act appropriately to obtain help in view of an alleged or established impairment.”

The HPCSA directive on prescribing for self or family advises against doctors prescribing higher scheduled medicine for psychotic or anxiety conditions or pain killers for family members or themselves. The HPCSA guidelines and other international references advise that a doctor is likely to lose perspective when prescribing for immediate family members or himself. Therefore, prescribing should be restricted to emergencies or acute short-term conditions.

If the doctor fails to address his addictive behaviour, he would be acting illegally in writing prescriptions under false pretences. He would be endangering his own health, but more importantly, he would be compromising the welfare of the patients that he serves.

What to do about it?

From the information provided above, obviously the pharmacist has a legal and ethical obligation to take some action, including the following:

• While observing strict confidentiality, confront the doctor...
constructively but firmly with the problems that his behaviour is causing.

- Show empathy and offer to refer him for treatment for his addiction and offer to support him in any effort which he may make to solve his problems.
- In doing so, the pharmacist may remind the doctor of the facts about prescribing for himself or family members as set out in the guideline from the HPCSA and the ethical rule concerning subjecting himself to treatment and to the authority of the Health Committee of the HPCSA.
- Should the doctor fail to respond positively, the pharmacist should not become part of the problem by enabling him to repeat his abusive behaviour through continuing to supply him with the medicine.
- The pharmacist may even have to resort to reporting the doctor to the Health Committee of the HPCSA without his cooperation. While the pharmacist’s first concern may be for the doctor as the patient and to assist him to overcome his problem, he must also consider the consequences for the wider public community that the doctor serves, should he continue to practice while he has an addiction problem. The approach of the Health Committee is to investigate thoroughly, get the co-operation of the doctor and assist in his rehabilitation. (Details about the Health Committee of the HPCSA are available on their website at www.hpcsa.co.za).

Conclusion

As authorised prescribers, doctors have the right to prescribe medicine. However, they must do so in accordance with the legal requirements of the Medicines and Related Substances Act 101 of 1965 and the ethical rules of the HPCSA. Doctors who develop a dependency on medicine or who are otherwise impaired also have a moral and ethical obligation not to endanger the lives of their patients by continuing to practice with such an impairment or to coerce pharmacists into feeding their addiction.

Pharmacists have an ethical obligation to exercise control over the supply of medicines and should not be expected to compromise their ethics by doctors who abuse their rights as authorised prescribers. Pharmacists should be firm in their resolve not to become part of the problem, but rather to act decisively in the best interest of the abuser and the community that they serve. In these circumstances, the pharmacist would do well to adopt the old adage: “Face reality and deal with it!”

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Disclaimer: This document is a guideline and does not necessarily reflect the official policy of the Pharmaceutical Society of South Africa. Any member who wishes to implement proposals made in this document must do so in accordance with the requirements of the Pharmacy Act 53 of 1974, Medicines and Related Substances Act 101 of 1965 and all other relevant legislation, and if necessary, should seek legal advice to ensure compliance.

References

5. Rules Relating to Good Pharmacy Practice. Refer to PSSA Pharmacy Law Compendium, page PRE-209.
12. HPCSA. General Ethical Guidelines for the Health Care Professions.
14. Medical and Dental Professions Board Health Professions Council of South Africa.