



# Professional Advice for Complementary Practitioners

by David Balen

## **About the Author**

David Balen is an advisor to professional bodies on insurance and practice management issues, and lectures and writes articles for journals regularly. He is a third-generation insurance broker and adviser, whose grandfather ran a successful brokerage in the West End for many years. H&L Balen was started in 1950 by his parents. He joined the family business in 1970; by 1981 he had risen to the proprietorship of the company, one of the very few Brokers and Independent Financial Advisers whose main business revolves around health professionals and their associations, both in mainstream and complementary medicine. He holds the Financial Planning Certificate. He is an NVQ assessor and on the faculty of Oxford Brookes University, teaching practice management on the osteopathy course, and also teaches at other establishments. He is also the Chairman of the Trustees of the College of Healing.

## **Introduction**

Perhaps the only thing we can be sure of in life is the inevitability of change. Certainly, the face of complementary medicine in the past has needed to change, to achieve greater public credibility and move towards a greater co-operation and respect from the mainstream of medical practice. I believe that 'professionalism with heart' needs to be at the core of the complementary health movement, as it interfaces with the worlds of politics, the law and mainstream medicine. GB Shaw once said in the last century, that 'all professions are conspiracies against the laity'. Although this may have been true in the past, there have been signs that various professions are slowly becoming more transparent and accountable. If they can continue to progress with integrity, then maybe some of the public suspicion and cynicism about them can be laid to rest.

### **Peer Group Support - Your Professional Association**

- Advice, ongoing tuition
- Heart and Head centre
- Maintenance and setting of standards
- \* Pooling of experience and continuity of profession, symposium and AGMs
- Reference point for and advocacy of the profession - State Self-Regulation
- Ethics, codes of conduct, disciplinary function
- They look after the profession and watch your back – do you look after the Association?
- Provision of insurance and other practice-related services

Complementary and alternative practitioners are being perceived more and more by the outside world as health professionals. The vast majority of health professionals are caring and well-intentioned individuals. At best, they have learnt how to balance intellectual rigour with honesty and ethically-based action. Many are well grounded, but have not lost a sense of wonder and openness. Some are maybe weary from their endeavours, but have not yet lost their optimism. Complementary medical practitioners can develop for themselves a congruent kind of

professionalism, which they will increasingly need if they are not (as in the past other professionals have) to be accused of: arrogance, motivation by profit, exclusivity, secrecy and the closing of ranks when under scrutiny. Most of these stem from ego and fear. Although we all have our human imperfections, such qualities should have no dominant place in a heart-based professional.

### **The Current Background, Media and Professional Attitudes**

Whilst there is a greater public acceptance, there has been inevitably a greater public scrutiny at what you do. Media articles about medical, political or legal issues seem guaranteed to attract public attention and interest. It is a potent mixture. We only have to think of the recent media items dealing with a variety of subjects such as the Dr Shipman affair, the debate around economics of the NHS, legal judgements about Siamese twins, the facts about 500 patients dying each year due to infection in NI-IS hospitals, the 'Doctors on Trial' programme, the very recent House of Lords Science & Technology Select Committee Report no. 6, Prince Charles' plea for more research into complementary and alternative medicine.. one could go on and on. Medico-legal and ethical matters should concern us more than political ones. The public have voted with their feet and supported complementary medicine in droves, there is bound to be a reactive questioning. There may be a fear that people have jumped on the bandwagon to make money at the expense of others. There may be a belief that some people are attracted into complementary and alternative medicine for all sorts of reasons, some of which may not necessarily be an initial vocation to help others. We all know that there are issues around the soundness and thoroughness of training, competence and standards, the frequent lack of external validation of examinations and inevitably the issue around protection of the public. Although one may have mixed feelings about all this and much more besides, one can understand why the world of politics and the government-backed conventional medical world feel it is their duty to control and intervene in some way.

### **How do you Manage/See the Outside World?**

- Have you sounded your note clearly?
- Have you thought about short-, medium- and long term issues?
- Do you walk one step at a time or many?
- Do you work to other people's demands and agendas? Do you sometimes feel threatened?
- How well do you maintain goodwill?
- Can you respond quickly to difficult issues? Do you avoid avoidance?
- Specialisation without blinkers?
- Conventional medicine? Conventional or fixed attitudes? Authority figures?
- What about borrowing money or building up overdrafts? How well do you contain expenses?

If you are seen to be professional, responsible and accountable, with a healthy and robust professional Association, good code of conduct and ethics, then you will be on much stronger ground if there is any possible future backlash against the complementary and alternative medicine movement. To these establishment forces, trying to maintain the status quo, the objective facts of standards, qualifications and measurability matter more than sincerity and anecdotal evidence, which are subjective. The Lords Report could prove a reference point for such forces, and possibly will be quite influential. I would recommend you get hold of a copy or download it (it is a bulky document!) from the website. It had some strong things to say and conclusions to make about complementary and alternative medicine. Threaded through this multicoloured backcloth are the activities of the media. Many articles and TV and radio programmes have encouraged and even endorsed the growth of complementary medicine. Some have issued warnings. *Which?* Magazine gave generally good public satisfaction with complementary and alternative medicine. Some press articles have been misleading and sensationalist. Some of the writers, as well as certain members of the Church, seem to think that complementary and alternative medicine is 'new age'. I find this mildly amusing, given the age of some of the ancient medicine traditions. Even as I write, *The Times* banner headline says 'Prince's

plea for “new age” medicine! Some headlines are pretty tacky (no pun intended): ‘Lords puncture myths of alternative medicine’ below which presents a photo of a glamorous lady with her head facing upwards and two acupuncture needles on either side of her nostrils! One wonders who inserted them....

#### **How do you Manage/See your patients?**

- What is your attitude to them, do you accept them enough?
- Are your counselling and listening skills good enough? Projectional Transference?
- Do you cope with emotionally needy patients? How can you improve?
- Do you manage to give the patient quality time and a quality relationship?
- Incident management: what do you do if a patient complains?
- Do you need a written policy on lateness or missed Appointments, treatment with procedure in erogenous zones?
- What about Children, Chaperones, etc.?

What we may be witnessing is the birth of modern-day professionalism for complementary and alternative medicine. There are many who can be truly considered professional already. From my perspective there are still strong attitudes and behaviour patterns amongst therapists, which undermine the move towards greater professionalism. Naivety is one, e.g., ‘My therapy is too gentle to cause harm, it is very safe...’ etc. Political infighting is another: one can at times observe inflated egos at work (whether of groups or individuals) through to the ‘victim-consciousness’ style of others. Professionalism is also marred by the ‘poverty consciousness’ approach, where value judgements are based on tangible cost and a strongly felt subjective personal perception of what seems fair (and it usually isn’t!). The problem here is that maintaining the benefits of professionalism and accountability are costly, yet the results are often intangible and cannot be easily translated into profit or value for money. The long-term benefits may be very real, but some practitioners have found this aspect very difficult to grapple with, particularly the part-time therapist, or those in the process of building a practice, and of course the whole thing can easily exclude the person who works for no fee as a volunteer. Apart from greater support and financial assistance from the public, or indeed the private sector, I believe that we also need a healthy serving of common sense, with strong advocacy and representation from both within and outside the movement. Happily, we are seeing much more of the latter, and ever increasing amounts of the former.

A professional attitude can give a firm base to move from and help with intention and style, but it cannot guarantee results. All therapeutic intervention has the potential to carry risk no matter how gentle the treatment is purported to be. The human psyche can be a mystery. There are no guarantees to outcomes.

Regulation has been the buzzword for some time now, and no doubt the buzz will get louder. The recent House of Lords Select Committee on Science and Technology in its report has talked about ‘better regulation, to control the growth of these therapies’. The BMA agrees and both of them talk about the need for more research, to find out scientifically what works and what does not. In my capacity as insurance broker for a number of organizations and individuals that have traversed this challenging bridge (or not), I have seen at close hand some of the difficulties that responsibility to an often impersonal regulatory framework, with its rules, regulations and requirements, has brought. Whereas before many relied on personal recommendation, skill, compassion dedication and many years of experience at the sharp end, conformity to a set standard is perceived as being adequate protection for the public. I have seen many excellent practitioners unable to manage the culture shift who have either given up or changed direction. How can one blend the heart and the head approach? The major challenge of professionalism demands a medicine bag brimming over with a rich therapeutic brew, where ethics, good practice and technique, caring, communication, ongoing personal and professional development, good style and confident skills are all needed in the recipe. Professionalism also demands the blending of all of this with the ability to get to grips with the business side of a practice. This is even more

necessary in the brave new world of a possibly greater acceptance by government, mainstream medicine and the general public. The challenge is for us to put our individual practice 'house' in order, as self-regulation will increasingly demand it.

### **What is a Profession?**

One could say that a profession is a grouping of people with collective experience and skills who have formulated a value system or manifesto of how they view themselves, their aspirations, ethics and boundaries, code of conduct etc. Their profession is what they profess to be; how they wish to present themselves and be viewed by the outside world. Should there be a profession of 'complementary therapist'? Or should the professional name only apply to each therapy attaining statutory protection of title and self-regulation? Each approach has merits and demerits.

However it develops, the complementary and alternative medicine movement certainly needs to be less fragmented and divisive, and more mutually supportive than has hitherto been the case if it is to display the cohesion expected of a group of professionals. Our public image has historically been peppered with fragmentation, arguments, with many different schools and splinter associations involved in power struggles and internal manipulations, not to mention the disagreements over standards and behaviour externally. Whilst differences of opinion and debate can be a healthy sign, in my experience a number of these have been anything but healthy.

### **How Does the World See You as a Therapist?**

- You do your best, but would you go to see yourself for a consultation?
- Would you go to any other members of your Association for a consultation? Why?
- What don't you like about what you do and what would you change?
- What sort of reputation do you have? Recommendations, referrals?

How do you present yourself?

- Good quality relationships and communication?

From a personal point of view, one could say that your profession is what you communicate about yourself based on what you see, know, believe and express in your work life. This may be divorced from how you live your private life outside of the professional arena. Ideally both should be congruent. I-low do you view yourself as a professional therapist? Do you compare and model yourself on other people? Do you discriminate well before taking on board other peoples opinions? Do you have a clear self-image?

Vision and clarity of vision is crucial to SEE the way forward, and move towards grounding professionalism in a very practical way. We all need to see where our stuck attitudes are getting in the way. We need to understand which of these are ours, and which we have consciously or unconsciously absorbed along the way. It is important to achieve greater flexibility and openness without sacrificing the inner strength. Balance and homeostasis are good things to work towards individually and collectively

### **Reflective Practice**

I read somewhere that there are two fundamental motivating forces behind human behaviour: love and fear. Whether you agree with that simplistic statement or not, I find it an interesting idea, and I am sure we could all think of how that applies in life, if we were open to exploring it. I recently came across a definition of love, which was that it means giving someone what they need without asking anything in return. However, as we all know, there is usually a transaction of some Sort taking place. This may not involve money, but it certainly needs to be understood. The motivation and quality of the transaction underpins the quality of the professionalism.

As well as the usual clinical audit approach to performance evaluation, an awareness of motive and underlying themes can be a useful tool in self-development, particularly when observed without Judgement or blame. You could perhaps ask yourself questions like: Is your behaviour in practice with your clients at times stemming from 'love' of your work? 'Love' of the therapy? Love or care towards your client/patient? Or is it from fear of getting it wrong, or being seen to

be anything other than an expert? This latter approach, unfortunately typified in certain health professionals, has, I believe, soured relations with the general public on occasions and led to some of the mistrust, which I believe has contributed towards the compensation and blame culture that is growing in the UK today.

### **Managing Yourself**

- 'Heal thyself' - 'Know thyself!'
  - Do you take care physically, emotionally and mentally?
  - When to rest and avoid burnout? Stress levels?
  - Do you have issues around self-employment?
  - Family issues - how do we all cope with each other?
  - How well do you handle energy? Need to learn skills?
  - Do you take an attitude check from time to time?
  - Do you accept yourself warts and all?
  - Ongoing self-development, both professionally and psychologically?
- What are your strengths and weaknesses?
- Peer group support do you make enough effort?

Is the drive to be more professional and structured stemming from a fear of the European/UK bureaucratic legal machine, or from 'love' of your profession, caring more for your patients? We do need to see our motives, qualities, symptoms, and what is healthy as well as what is unhealthy in ourselves, as well as our patients. It remains to be seen whether this machine can prevail against the weight of public opinion and common sense, and become more humane and human. Consistent professional integrity and good advocacy from a united movement will make it very difficult for complementary and alternative medicine to drown in the sea of red tape that threatens to engulf us all. We need a balance of approaches. We could say in philosophical terms that orthodox, or better-said, conventional forms of medicine have taken a masculine yang route to knowledge; by being very focused and specific, specialization has yielded spectacular results in very specific areas. By learning from moving from one reality and to another a foundation of knowledge is constructed. We could say that the yang approach builds up a pattern, which can be a moveable feast, added to or subtracted by debate, or information from other sources. Many complementary or more traditional forms of medicine can be less specific, more intuitive and see the whole picture first, moving on to the specific from that more expanded viewpoint - essentially a more 'yin' approach. The friction between these two is archetypally mirrored in the tension and ebb/flow between the sexes, typified in their often inability to understand or communicate/relate well to each other. Both operate differently, and will need to find ways of moving forward together. A balanced professionalism needs both approaches.

### **How Can We Be More Professional?**

As some of you may know, I am an insurance broker and financial advisor. I see a variety of course curricula, codes of ethics and conduct, and speak to hundreds of therapists, teachers and administrators in the course of my profession (which is heavily regulated). I also have observed various types of claims and incidents reported in the day-to-day operations of our many schemes. In my capacity as a lecturer on practice management and insurance issues for therapists, I see various students and qualified therapists and have to answer their many questions and listen to their concerns. From all of these observations and experiences I would like to distil a few basic ideas and suggestions as worthy of your further consideration or reassessment:

1. Develop a professional ethos and standards, so that it is part of your everyday culture. Your patients deserve the best advice, information and care that you can provide. They need to have confidence in you, to trust you and have peace of mind that they are in good hands.
2. Somehow you have to find a way of combining professional rigour, plus a strong and well-grounded knowledge base, with the more intangible, intuitive, and caring qualities that often distinguish much of what is best in complementary and alternative medicine delivery.

There is an energetic exchange that is definitely therapeutic, but indefinable this must not be lost or substituted by too much intellectualism or remoteness in approaching the therapeutic relationship.

3. Maintain good boundaries combined with appropriate TLC. It is better not to get too intimate or familiar as a general rule with your patients. It may not be helpful to them.
4. Be polite; treat patients with respect, kindness and consideration. Acceptance and compassion are ideals to strive towards.
5. Ensure that if they come to you for one type of therapy, that you explain and get their permission to employ another therapy that you practise. Record this in your notes.
6. Have good, clear information leaflets to give extra useful communication to patients, and reinforce your message. Record details of written information supplied to patients in your notes.
7. Records.
  - a. Keep legible, copious and clear patient notes for at least ten years or more; or, in case of treating children, a minimum of 21 years. For seriously injured or disabled patients who come to you for treatment, maintain indefinitely;
  - b. Use black ink as other colours do not copy as well. If you make an error, cross it out, write the word 'error', and initial and date it. Make sure that a complete stranger could pick up your notes and be able to understand what you did or said, and why you did or said it, so that there is an audit trail of the therapeutic encounter and process;
  - c. Avoid subjective statements or opinions, and make your observations factual (the patient stated..., not the patient seemed..., etc). Obviously you will need to record your conclusions, diagnoses and prognoses;
  - d. Make sure you get informed consent about procedures, particularly examination of the body and especially for erogenous zones note these on the patient record. Best not to blame anyone or anything in the notes. Could be embarrassing if made public. Good notes = good defence in Court; inadequate notes = inadequate defence; no notes...?
8. Try not to allow your financial situation and need for patients or income impinge on the relationship or advice you give;
9. Learn, develop or use listening and observing skills take time to come to your opinion if you need it; don't be afraid of admitting you don't know something;
10. Let patients know that they have been heard; give them time (a frequent complaint against mainstream professionals);
11. Be prepared to refer to/work with other disciplines, therapists or specialists for the benefit of the patient with respect. Be humble enough to know and accept your current limitations;
12. Hello!!! Be aware of first impressions, and how you come across;
13. Understand and read up on ethical practice, and complementary medicine and law. Remember you have a common law duty of care in the practice of your profession. This is externally assessed according to guidelines of what could be reasonably expected, given your training, experience and professional standing;
14. Your practice needs to be a reflective space for people to deal with physical, emotional, mental and possibly spiritual issues — they need to be able to trust the relationship and the space it takes place in;
15. Consider confidentiality: Communication styles: listening (active) or hearing (passive)?
16. Consider risk management — how to increase quality and reduce risk. Clinical audit. Reflective practice;
17. Understanding and matching reasonable expectations of patient with outcomes. Dealing with the expectations.
18. Continuing professional development. To be viewed as a positive way of improving delivery of care to patient/clients rather than an onerous and costly burden;
19. If a patient is unhappy with the treatment or advice and complains, a careless or thoughtless remark previously made, even in a half-joking manner, may carry an emotional charge, which sticks in their memory. This may have more impact on them than the many helpful treatments you may have given. Consider how you use silence either positively or negatively, as well as inappropriate communication.

### **What if your Skill or Professionalism is Challenged?**

Most patient complaints tend to come from poor communication, the inability of the patient to understand what is said, unrealistic expectations about the outcome of the treatment, concerns about charging, the condition of the premises, attitude of the staff, misinterpretation of the diagnosis given, demand for repayment of fees, particularly if they suffer side effects or do not get a swift cure to their problems.

### **How Do You View Yourself?**

How do you view yourself as a professional therapist?

- Do you have a vision? Is it clear? Can you SEE the way forward?
- What do you say about yourself based on what you see?
- Do you see yourself relative to other people, or do you have a clear self-image?'
- What is your relationship with money?
- What is your relationship with power?'
- Are your standards of practice those imposed from outside, self-imposed, or both?

A practice-based complaints procedure may be a useful thing to consider, especially if you are involved in a group practice, but do consult your insurers about this first, before implementation. Some may welcome it, some may be wary, particularly if they consider you may be put into a situation of admitting liability. A study undertaken within the National Health Service in 1994 showed that the majority of complainants wanted a system for complaints which:

- removed anxiety and fear from expressing concerns;
- took matters seriously;
- offered genuine sensitive communication:
- included careful listening to ensure concerns were understood;
- guaranteed impartiality;
- offered clear and concise answers;
- was open and honest;
- ensured action to improve services.

Consumers are becoming more aware of their legal rights and how to exercise them in the Courts should the need arise. This situation is being aggravated by a new breed of legal firms who advertise 'no win, no fee' services, and encourage people that they might be able to collect thousands of pounds in compensation. This heightened awareness means that there has never been a greater need for you and your practice to maintain an adequate level of professional indemnity and medical malpractice insurance protection, and to be aware of the small print in your policy. There have been landmark awards against conventional medical establishments in recent years: £3.9 million has been awarded in damages as happened a couple of years ago, and £5.1 million very recently for a ten-year-old boy paralysed in a road accident. Whilst complementary medicine claims to date have got nowhere near to these sorts of figures, one cannot be complacent. We see many attempts by members of the general public at claiming against practitioners. In our experience, these attempts, whether unfounded or not, are definitely on the increase, as are allegations of sexual impropriety/assault.

### **Precautions**

(a) Do not display your insurance certificate on the wall. For some people, it may be an open invitation to claim, and you could be prejudicing your insurers. Some practitioners think that an official insurance document such as this confers the impression of a more professional practitioner, but I do not believe this is so;

(b) Many policy conditions state you should make patient records and keep for seven years. We would suggest that you keep them longer than that, particularly in respect of children patients, where the Statute of Limitation states that a claim could be brought against you for injury cases up to three years after reaching the age of majority. This is another reason why we have always considered that 'claims made' wordings are preferable to 'claims occurring' wordings. Your patient notes are a main source of defence, make sure that they are intelligible to others and

always keep them in a safe place, preferably locked. Confidentiality and data protection issues should always be considered;

(c) You must notify your brokers immediately of any circumstance which may give rise to any claim and always declare previous incidents on any forms you have to complete when starting or renewing cover, even though you think the underwriter may already know about them. Failure to do so could lead insurers to decline a claim for indemnity arising from such circumstances. With the recent reforms to the law, there is less time to respond to a solicitor's letter, so do not delay;

(d) Take care when advertising, and in conversation, that no claims for cure are made. Even anecdotal conversations about your previous successes may be interpreted wrongly, so it is important to mention in these situations that every case is different;

(e) Refer when appropriate, particularly if a condition or situation is beyond the scope of what you have been trained to do, or where you may feel out of your depth;

(f) Extra care needs to be taken with children patients, particularly where they may be experiencing headaches or high temperatures;

(g) If you are a multi-therapist, and you decide to employ a different therapy from the one that your patient came for, involve the patient in that decision and ensure that your patient is in agreement. Make sure that the patient notes reflect this process and can be followed;

(h) For techniques involving contact in erogenous zones, make sure that you have explained this and obtained the patient's permission, preferably written, and/or offer a chaperone.

Danger signs include:

- a verbal complaint from a dissatisfied patient or client, with a threat of taking things further;
- a letter of complaint alleging dissatisfaction, neglect, error or omission;
- A patient not showing up for a subsequent treatment without explanation or further contact;
- a client or patient refusing to settle or delaying settlement of your account for an unreasonable period;
- a request for a refund of fees because the treatment has not worked or met with expectations, or is stated as having caused harm in some way.

### **Ground Rules**

Try not to panic or get defensive, maintain goodwill and, above all, do not admit liability or indicate that you are insured. Your position will get weakened and it will make it more difficult for the insurers to defend you successfully. Remember you must notify your insurers once you become aware of any situation that may possibly result in a claim being made against you.

These are difficult times, and you may feel vulnerable and angry. After many years of study and successful practice, you may feel that your professional life will be jeopardized by adverse publicity or possible financial consequences. It is helpful to talk things over with sympathetic peers and also with your broker, and to try not to worry or let the situation affect your work. We have found over the years that these situations do take on many twists and turns, and many attempts to claim do peter out if the

in.

practitioner works the process through over a period of time with correct advice and compliance with the terms and conditions of the policy.

- Do not make any offers, but contact your broker or insurer (and the helpline if appropriate);
- They should give initial and ongoing advice and support. A claims handler or solicitor may investigate on your behalf;
- Pass on any correspondence received unanswered. Send patient notes and your response to the allegations;
- Try not to make any judgements as to whether the circumstances are valid or not; leave that to the insurers or their representatives;
- If in doubt notify!

### **Essential Business Elements of Professional Competence**

To demonstrate this to the outside world it is suggested that you should:

- be able to choose wisely the space and location, appearance, facilities, running costs;

- maintain financial records well, recording, providing an audit trail of income versus expenditure;
- plan and run an effective operation, thinking ahead and avoiding crisis management;
- be able to handle capital raising, necessary purchases and maintenance issues well;
- record accurately, demonstrate confidentiality with overall mindfulness of the ethical issues involved;
- cope with issues concerning staff: finding, training and managing employees;
- be aware of the importance of your initial choice of co-workers;
- communicate well with and absorb information from the outside world; develop business relationships and alliances;
- know about medical insurers and learn a little of the language of insurance policies;
- be able to prepare patient Reports for relevant agencies;
- be competent in organizing and managing a practice; this competence is necessary because a part of your role is to plan, organize, implement and manage the delivery of effective and efficient therapy;
- demonstrate good organization and management, forward planning and financial control;
- know about teamwork, roles, responsibilities, contracts, defined boundaries;
- show good communication, decision-taking;
- cope adequately with issues around authority, relationships;
- manifest ethical standards.

In addition, take a fresh look at the following — are these in harmony with your ethos, conveying your message or supporting your professionalism?

- The appearance and atmosphere of your place of work;
- Your business cards;
- Your telephone manner;
- Your attitudes to the setting of fees, free treatments, reducing fees, cancellations;
- Your hygiene and appearance;
- Your peer groups or the lack of them.

Also, how do you choose and value the support and advice of other professionals in your work? For instance:

- your accountant (hopefully one who understands therapists' needs, and specializes in small businesses);
- your independent financial adviser;
- your insurance broker;
- your lawyer (especially needed if you get involved in contracts or lease/rent agreements).

### **Conclusion**

It would be nice to dream of a day when the words 'complementary' or 'alternative' no longer need to be used — no doubt one day someone will come up with another name or title which will become universally used. This article has incorporated a number of questions for you to ignore or to consider and ask yourselves. I do think a healthy practice is a reflective one, and I hope that some of the questions will be ones you will have already asked yourself or continue to ask yourselves, although some may be new. They are not meant to be judgmental or critical, but if they are helpful or thought provoking then they will have served their purpose!

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