Response to draft revised *Good medical practice: A code of conduct for doctors in Australia.*

Section 2.1, revision of current section 1.4 *Professional values and qualities of doctors*

The following section has been added as paragraph 4.

> Community trust in the medical profession is essential. Every doctor has a responsibility to behave ethically to justify this trust. The boundary between a doctor's personal and public profile can be blurred. As a doctor, you need to acknowledge and consider the effect of your comments and actions outside work, including online, on your professional standing and on the reputation of the profession. If making public comment, you should acknowledge the profession's generally accepted views and indicate when your personal opinion differs. Behaviour which could undermine community trust in the profession is at odds with good medical practice and may be considered unprofessional.

This paragraph has the potential to remove a medical practitioner's right to free speech, freedom of religion and scientific freedom. It also has the potential to silence *any* critique of the profession by the profession.

Freedom of religion is particularly pertinent to me as a registered minister of religion as well as a registered medical practitioner.

My religious views, and the views of the religious community to which I belong (Queensland Baptists) may conflict with generally accepted community views in areas such as abortion, euthanasia and gender reassignment.

Whether or not this is the intention of this paragraph (and I hope it is not) this 'deviance' from generally accepted community views could potentially lead to my deregistration and so my right to freedom of religion.

As a minister of religion I preach. This is a public activity. If, for example, I oppose late term abortion in a sermon. will this be taken to undermine community trust? Late term abortion is legal already in some states and will probably become legal in Queensland in the near future. As it is legal, does this mean my opposition undermines community trust? Does the fact that "the profession's generally accepted opinion" is for abortion mean that I cannot speak against it?

This is but one example. Another is "gender reassignment". This issues illustrates scientific freedom as well as religious freedom.

I am on the board of Queensland Baptists. I am currently assisting in the drafting of a policy on excluding those who advocate "gender reassignment" from registration as a Baptist minister in Queensland. I will advocate for this policy in both my local church and the assembly of Queensland Baptist churches. Will such public statements mean I can no longer practice as a medical practitioner? "Gender assignment" is being pushed quite strongly by some groups as something that should occur more frequently, and such lobby groups can appear to represent public opinion, and indeed "the profession's generally accepted views" whether or not they are in fact generally accepted by the profession. There is evidence that professionals are afraid to discuss the scientific merit or otherwise of "gender reassignment" because of these lobby groups.

The Code rightly states "Doctors have a duty to make the care of patients their first concern ...".

Powerful lobby groups sometimes base their agenda on strongly held ideology rather than on evidence or scientific merit. There is limited evidence to support the benefit "gender reassignment" and potential harm in reassignment surgery.

Whether the evidence is or will be for or against the benefit to the individual is not the issue. The issue is that such interventions, like any other, must be subject to research, and subsequent management must be based on the evidence that emerges from this research. The inclusion of this paragraph will confirm the fear professionals already have of even discussing the risks and benefits of "gender reassignment". Thus this paragraph which confines comments to "the profession's generally accepted views" puts at risk evidence based medicine.

It may be argued that the wording allows differing views to be expressed provided it is indicated that the personal view is different to the "generally accepted view". However, the last sentence seems to remove this exception. It states "Behaviour which could undermine community trust in the profession is at odds with good medical practice and may be considered unprofessional."

Some lobby groups will argue that any opinion contrary to theirs will "undermine community trust" regardless of whether the view expressed is contrary to "the profession's generally accepted views".

There are all sorts of issues around *who* determines and *how* it is determined what are "the profession's generally accepted views" and what will "undermine community trust". In fact, historically advances in ethics have gone against the profession's generally accepted views, and the community's generally accepted views.

I'm sure that historically medical practitioners would have claimed that opposition to blood letting and the application of leaches undermined the community trust in doctors.

It was legal and acceptable for unwanted newborns to be exposed in ancient Roman society. Currently at least one well-known Australian ethicist argues for this practice in certain circumstances. The practice of "abortion" of viable near term infants is ethically very similar if not the same, as Peter Singer does in fact argue.

From a religious / ethical point of view, if the majority of the profession or the community find this acceptable does that mean it is unacceptable for me to publicly oppose it?

From a scientific point of view, is the majority of the profession always right? Do our practices never change?

It may be argued that this is not the intention of this paragraph, and it may not be at this moment. However, this is the way it will be used. The evidence for this is in such cases as the Catholic cleric who was taken to the anti-discrimination commission in Tasmania for expressing a view about same sex marriage in a pastoral letter to his congregations. The case is on hold, but the cost in time and money in defending the action meant those bringing the action succeeded in their aim. Similarly the Canadian Dr Kenneth Zucker had his unit closed because of his views on gender reassignment. He did not in fact oppose gender reassignment, but said that most children will revert to their natal sex if not encouraged to transition. This was at very least arguably based on evidence, but the evidence was not considered as important as the ideology of lobby groups. Evidence about what was in the best interest of a child was less important than the supposed community view.

If the best interests of a particular child were in transitioning then this should not be opposed by any medical practitioner. But the evidence for and against the benefit generally to children, or indeed adults, should be freely and respectfully debated.

The code states that medical practitioners " must be honest, ethical and trustworthy and comply with relevant laws". A teacher I know was compelled to state that the body of child transitioning to the opposite gender was the body of the sex to which they were transitioning. He pointed out to his superiors this was a lie. This was deemed irrelevant. I believe this required the teacher to be dishonest and untrustworthy. Will "community values" over ride the requirement to be honest?

I include this as an example of how supposed "community standards" can override considerations of truth.

A similar statement regarding "the profession's generally accepted views" is found in 3.2.8, but this is in the context of "good patient care" rather than publicly stated opinion, so is not liable to the objection I make.

With regard to the profession being able to critique itself the standard "Behaviour which could undermine community trust in the profession is at odds with good medical practice and may be considered unprofessional." is an overreach. Accusing medical practitioners of being overly influenced by pharmaceutical companies may well undermine community trust – but is never the less often true and is a public interest disclosure. The fact that such influence is an issue is recognised in 10.12.4 of the proposed code, and Section 2.4 inhibits public discussion of the problem.

In summary, my contention is that this paragraph

> Contains quite subjective terms, that is,
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> > "the profession's generally accepted views" and "community trust"
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> and that this subjectivity may be used to curtail religious and scientific freedoms in ways that are not currently intended or foreseen.
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> It also inhibits healthy critisism in such a way that the public may accuse the profession of hiding problems in a self-serving manner, which will decrease public trust in the profession.

In terms of remedy.

I have no objection to the first four sentences, except when they are extrapolated to the next two. The fifth is not such a problem when it strictly refers to the treatment, management or prevention of disease. However, in its current form it is not limited to this but extends to public debate.

The final sentence is most problematical in that almost any minority view espoused by a medical practitioner could be taken to "undermine community trust".

The easiest solution is to remove these two sentences.

The more nuanced approach would be to recast them to preserve religious and scientific freedom and enable public interest disclosure of problems within the profession. Such recasting should be subject to a further community consultation.

Respecting culture, paragraph 6 in Section 2.1 and all of Section 4.8

As a secondary issue, and speaking from experience in a different culture (more than a decade of practice in a majority Muslim country with a significant Hindu minority) the statements about culture are too broad.

There are cultural practices we should respect, and there are cultural practices we should oppose. We should be able to critique other cultures, and we should allow other cultures to critique ours, and learn from this critique of our culture. All cultures, including our own, have objectionable practices.

The obvious example of a cultural practice we should not respect, and is in fact illegal in Australia, is female genital mutilation (FGM). If we take literally the statement to be "respectful of the beliefs and cultures of others" this would mean we should respect this practice and not oppose it.

I note that this wording in proposed Section 2.1 has not changed from the current code Section 1.4. Section 3.7 of the current code is well written and does not imply that ALL cultural practices must be respected. The equivalent in the revision seems to be Section 4.8, and while rather verbose compared to the current 3.7 it is OK, except that 4.8.1 could be interpreted to support FGM.

Australian law, *not the individual or family* has determined that this cultural practice is unsafe. It could be argued that FGM is not "care", but what is "care" is also culturally determined. Until we can see this point of view (without respecting it) we cannot engage with the community in a way that aims to respectfully change their perception of this practice. We must grasp the tension of engaging respectfully even when we do not respect the practice we wish to change.

Length of the code

Finally I note in passing with some resignation and much less importance, the code has increased in length. This makes it less accessible. The longer the code the less likely anyone is likely to read it.

It has from 25 (less 3 in the index and cover page = 22) to 31 pages (less 4 in index and cover page = 27).

There is a lot of repetition. One example is quoted above – respecting culture is mentioned in 2.1 and 4.8. Also in 1.5.

And I fail to see the difference between Sections 3 and 4. How is "Working with patients" not part of "Providing good care"? An example of repetition here is 3.4.1 "Treating your patients with respect at all times." and 4.2.1 "Being courteous, respectful, compassionate and honest." 4.2.3 regarding confidentiality is repeated in Section 4.4. An individual editor could be usefully employed.

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