The Royal Australasian
College of Physicians

Dr Joanna Flynn AM
Chair
Medical Board of Australia

By email: medboardconsultation@ahpra.gov.au

Public consultation on draft revised code of conduct, Good medical practice: A code of conduct for doctors in Australia
Submission by the Royal Australasian College of Physicians

Thank you for the opportunity to comment on the proposed changes to the code of conduct *Good medical practice: A code of conduct for doctors in Australia.*

The Royal Australasian College of Physicians (RACP) trains, educates and advocates on behalf of more than 25,000 physicians and trainee physicians across Australia and New Zealand. The RACP represents a broad range of medical specialties who work at both the individual and population level, and at all stages of the lifecycle: from infancy and childhood, through adolescence and adulthood, to old age and the end of life; including paediatrics and child health; cardiology; respiratory medicine; neurology; oncology; public health medicine; occupational and environmental medicine; palliative medicine; sexual health medicine; rehabilitation medicine; geriatric medicine and addiction medicine. The RACP strives for excellence in health and medical care through lifelong learning, quality performance and advocacy.

Proposed changes to the code of conduct, Good medical practice: A code of conduct for doctors in Australia
Subject to the below recommendations, the RACP supports the proposed changes to the code of conduct *Good medical practice: A code of conduct for doctors in Australia* (option two) and welcomes any revision to the code that improves readability, protection of the public and the strengthening and clarity of requirements.

Regarding specific questions, the RACP would like to make the following comments:

1. **From your perspective, how is the current code working?**

   The current code is functioning well. It would however benefit from higher visibility.

2. **Is the content and structure of the draft revised code helpful, clear, relevant and more workable than the current code?**

   Subject to the suggested changes and recommendations below, we agree that the draft revised code is helpful, clear, relevant and more workable than the current code.

145 Macquarie Street, Sydney NSW 2000, Australia ▪ Tel: +61 2 9256 5444 ▪ Fax: +61 2 9252 3310
▪ Email: racp@racp.edu.au ▪ Web: www.racp.edu.au
ACN 000 039 047 ABN 90 270 343 237

3. Is there any content that needs to be changed or deleted in the draft revised code?

Section 4.15 The heading 'Personal relationships' is a bit vague and could be confused with section 10.2 'Professional boundaries'. However, this section is shorter and less prescriptive than the specific guidance from the Medical Council of New Zealand (attached).

Section 10.4: The definition of vexatious complaints in this section, specifically "lack substance and have other motivations" is odd. It would be preferable to describe such complaints as 'not made in good faith' or 'made for an improper purpose' and as 'an abuse of process'.

The RACP strongly recommends the sections that refer to "culturally safe" care (2.1 and 4.8.1) need to be carefully rethought and rewritten to ensure that the terms are sufficiently clear. Clarity of these terms will guarantee that no-one considers that "culturally safe" or "patient-centred" could be interpreted to mean that a practitioner would be expected to accede to requests or demands for unsafe, inappropriate or illegal therapy or intervention.

4. Is there anything missing that needs to be added to the draft revised code?

Section 11.2, Your health, would benefit from a clearer prohibition on not assessing or treating yourself.

5. Do you have any other comments on the draft revised code?

Subject to the comments and recommendations above, the RACP considers the draft revised code to be satisfactory.

Please do not hesitate to contact RACP Project Manager, [redacted] by email [redacted] should you require clarification on the above recommendations.

Yours faithfully

[redacted]

Professor Richard Doherty
Dean

3 August 2018

MEDICAL COUNCIL OF NEW ZEALAND

NOVEMBER 2016 www.mcnz.org.nz

Statement on providing care to yourself and those close to you

You may find yourself in circumstances where you must decide whether it is appropriate to provide treatment to yourself, family members or those close to you. In these situations, it is important that you consider and reflect on your ethical and professional obligations as a doctor. The Medical Council ('Council') expects that you will not provide care to yourself or those close to you in the vast majority of clinical situations.

Council recognises that there are exceptional circumstances[1] where treatment of those close to you may be unavoidable, and you may treat those close to you only when the overall management of their care is monitored by an independent registered health practitioner.[2] In these instances, it is your responsibility as a doctor to ensure that the care you provide meets acceptable clinical and ethical standards of the profession.

Wherever possible, you should avoid treating people with whom you have a personal relationship rather than a professional relationship as providing care to yourself or those close to you may be inappropriate due to discontinuity of care and the lack of clinical objectivity. An objective assessment of the patient's medical condition is imperative to ensure good practice and care. As such, Council expects you to have your own general practitioner, and for your family and those you are close to to seek advice from an independent registered health practitioner.

Definitions

1. For the purpose of this statement, Council has defined the following key terms:

Family member:
An individual with whom you have both a familial connection and a personal or close relationship such that the relationship could reasonably be expected to affect your professional and objective judgement. Family member includes, but is not limited to, your spouse or partner, parent, child, sibling, members of your extended family or whānau, or your spouse or partner's extended family or whānau.

Those close to you:
Any other individuals who have a personal or close relationship with you, whether familial or not, where the relationship is of such a nature that it could reasonably be expected to affect your professional and objective judgement. Council recognises that those close to you will vary for each doctor.

Care:

Anything that is done for a diagnostic, preventive, palliative, cosmetic, therapeutic or other health-related purpose. This includes, but is not limited to: prescribing medication and other substances; ordering and performing tests; conducting physical examinations; and providing a course of treatment.

[1] See clause 6 of this statement.

[2] In many instances, the independent registered health practitioner monitoring the patient's care will be a general practitioner. However, it may be appropriate for other registered health practitioners, such as a nurse practitioner or a community care nurse, to monitor the patient's care.

Minor condition:
A non-urgent, non-serious condition that requires only short-term, episodic, routine care, and is not likely to be an indication of, or lead to, a more serious, complex or chronic condition, or to a condition that requires ongoing clinical care and monitoring. Complex or chronic conditions are not considered minor conditions, even where their management may be episodic in nature.[3]

Urgent situation:
Treatment of illnesses or injuries that require immediate attention.

Why assessment of yourself and those close to you is not advisable

2. The Council expects all doctors to have their own general practitioner as you may lack clinical objectivity about the correct diagnosis or treatment when you assess and treat yourself.[4] Incorrect diagnosis or treatment could worsen your health. As your health needs will change over the course of your practising life, it is important that there is an accurate and complete longitudinal record of all your health issues and the treatments you receive. This longitudinal record is best established, co-ordinated and maintained by your general practitioner.

3. Best practice involves clinical objectivity; however, clinical objectivity can be compromised when providing care to family members or those close to you. For example:

   - You may be inclined to care and treat problems that are beyond your skill or competence and/or be expected, or placed under pressure to do so by someone you are close to.
   - You may hold preconceived notions about the health and behaviour of someone you are close to, or make assumptions about that person's medical history or personal circumstances.
   - You or those close to you may be reluctant to discuss personal and sensitive issues, which could impact on their care and the clinical decisions that are made.
   - You may wrongly assume that you are privy to all relevant information about those close to you and that asking questions and taking a full history or conducting a medically indicated examination, is unnecessary.
   - You may not have all the relevant clinical information (records or notes) relating to your patient and this may result in poorer patient outcomes.
   - Your existing relationship, strong feelings for and attachment to that person may lead you to over treat or provide care beyond what would normally be provided. Conversely, you may trivialise a concern if you consider that the person you are providing care to is exaggerating.

   Consequently, you may not provide the best quality treatment, despite your intention to provide family members and/or those close to you with good care.

Situations where providing care to yourself or those close to you is inappropriate

4. You **must not** treat yourself, family members, or those close to you in the following situations:
   - Prescribing or administering medication with a risk of addiction or misuse.
   - Prescribing psychotropic medication.
   - Prescribing controlled drugs as specified and described under the Misuse of Drugs Act 1975.[5]
   - Issuing repeat prescriptions where you do not have appropriate information available to review the suitability of the repeat prescription.[6]

[3] Refer to clause 5 of this statement which sets out Council's position about doctors treating their family members or those close to the doctor for minor illnesses and conditions.

[4] Council has outlined why a doctor should have his or her own general practitioner in *Supporting doctors' health* on https://www.mcnz.org.nz/support-for-doctors/supporting-doctors-health/

[5] Refer to Schedules 1, 2 and 3 of the Misuse of Drugs Act 1975 for a list of substances that are classified as Class A drugs (drugs that pose a very high risk of harm), Class B drugs (drugs that pose a high risk of harm) and Class C drugs (drugs that pose a moderate risk of harm).

[6] See also the section on 'Repeat prescriptions' in Council's statement on *Good prescribing practice.*

- Undertaking psychotherapy.
- Issuing certificates including but not limited to medical certificates for time off work or school, medical certificates assessing fitness to drive or dive, medical certificates regarding a mental disorder, and death certificates.[7]
- Conducting medical assessments for third parties such as ACC and private insurers.[8]
- Performing invasive procedures.

5. It is inappropriate to accede to personal requests for a non-standard professional assessment, examination, procedure or prescription.[9] It is also inappropriate to provide recurring episodic treatment or ongoing management of an illness or condition to family members or those close to you even where that illness or condition is minor.[10] Another registered health practitioner must be responsible for treatment and ongoing management of such conditions.

Exceptional circumstances when care may be provided

6. Council considers that there are only limited exceptions to the restriction on providing care to yourself or those close to you. These exceptions are as follows:

   - In an urgent situation, where you may be required to provide treatment to yourself or those close to you until another doctor is available.
   - If you are working in a particular community where there are people close to you who are patients because it is difficult for them to access other practitioners. However, in this situation there are additional pressures and you must be aware that objectivity may be compromised. Good professional judgement is required and you must have a low threshold for referring these patients to an independent doctor for consultation, and for seeking advice from a colleague and utilising your peer networks.

7. In the above circumstances, and in any other situation where there is no reasonable alternative to providing care to yourself or those close to you, you should take particular care to ensure that:

   - The care involves an adequate assessment of your or the patient's condition, based on the history and clinical signs and an appropriate examination.
   - The care you provide to yourself or to someone close to you is consistent with what you would provide on a professional basis to a patient with the same condition and under the same circumstances.
   - You transfer or refer the patient to another doctor in a timely manner. You must ensure that all relevant information about the patient is provided to that doctor and to the patient's general practitioner (if this is a different doctor from the doctor receiving the referral).
   - You maintain confidentiality of the health information of any person you treat, and only disclose information in accordance with the health information privacy rules.[11]
   - The details of the consultation are recorded in clear, accurate and contemporaneous patient records that report the relevant clinical findings, the decisions made, the information given to the patient and any medication or other treatment prescribed.[12]
   - The care is monitored by another doctor.

[7] See also Council's statement on *Medical certification.*

[8] See also Council's statement on *Non-treating doctors performing medical assessment of patients for third parties.*

[9] Requests of a personal or casual nature may arise in the course of working together ("corridor conversations"), and may be made by a colleague who is more senior or in a dominant power relationship. Such requests are inappropriate and may amount to unprofessional behaviour. See also Council's statement on *Unprofessional behaviour and the health care team. Protecting patient safety.*

[10] Refer to clause 1 for a definition of 'minor condition'.

[11] Refer to Rule 11 of the Health Information Privacy Code 1994.

[12] The first three points are requirements for all consultations, as outlined in *Good Medical Practice*. For further information on the requirements for documenting a consultation, please see the Council's statement on *The Maintenance and Retention of Patient Records*.

Related resources

- Good medical practice
- Medical certification
- Non-treating doctors performing medical assessments of patients for third parties
- The maintenance and retention of patient records
- Unprofessional behaviour and the health care team. Protecting patient safety
- Good prescribing practice
- Supporting doctors' health
- Health Information Privacy Code 1994
- Misuse of Drugs Act 1975

November 2016

This statement is scheduled for review by November 2021. Legislative changes may make this statement obsolete before this review date. The contents of this statement supersede any inconsistencies in earlier versions of the statement.