ANZSPM

The Australian & New Zealand Society of Palliative Medicine Inc. ABN 54 931 717 498

Executive Officer, Medical
AHPRA
GPO Box 9958
MELBOURNE VIC. 3001

[By email: medboardconsultation@ahpra.gov.au]

3 August 2018

Dear Sir or Madam,

Public consultation on *Good medical practice*

The Australian and New Zealand Society of Palliative Medicine (ANZSPM) appreciates the opportunity to provide comments on this consultation on the draft revised code of conduct, *Good medical practice: A code of conduct for doctors in Australia* ("Draft Code").

ANZSPM supports reviewing the current code to ensure that it continues to provide effective guidance to medical practitioners. We were disappointed not to have been included in an official notification about the consultation process and consider that the notification process could have been more extensive. It may be useful to consider allowing further time for response and broader dissemination at the organisational level.

About ANZSPM

ANZSPM is a specialty medical society that facilitates professional development for its members and promotes the practice of Palliative Medicine in order to improve the quality of care for people with life threatening illness.

Our members are medical practitioners who provide care for people with a life-threatening illness and include palliative medicine specialists, palliative medicine training registrars and other doctors such as general practitioners, oncologists, haematologists, intensivists, psychiatrists and geriatricians. ANZSPM currently has approximately 500 members, with more than 360 of our members in Australia.

Comments on the current code

Although the current code discusses doctors' health, ANZSPM considers there remains a pressing issue of enhancing the supportive structures, legislation and health systems to ensure doctors receive mental health assessment and required care.

ANZSPM is concerned that there is still is lack of clarity and concerns about mandatory reporting and structures within our health systems that means doctors in need continue to not receive the required mental health care that they need.

Comments on the Draft Code

Overall, the tidying up of the language and reordering of some provisions has improved the readability of the Draft Code.

We have provided comments on specific clauses of the Draft Code in the table below:

Draft Code Clause	Comment
1.1	Referencing the guidelines issued by the Board is useful, although we note that these are likely to develop and change over the period before the next code review. As such, it may make more sense to simply reference the existence of guidelines that the Board issues and where to find them, rather than specifically listing the current guidelines.
1.2	Outlining the uses of the code is important. It would be useful to provide additional context and information with respect to the consequences for a doctor's medical registration from serious or repeated failure to meet the standards set out in the Draft Code.
1.3	This clause makes clear that the code is subject to legislation, which is understood. However, it is important also to consider to what extent compliance with standards of professional practice may be taken into account in any legal proceedings. For example, the emergence of 'Voluntary Assisted Dying' legislation in Australia may give rise to situations where professional standards and freedom of conscience (recognised elsewhere in the Draft Code) come into conflict with legal principles and this should be carefully considered and addressed. Some clarity around the interaction between the Draft Code, an individual doctor's rights to make conscience decisions and relevant law would be useful.
2.1	As a general comment, this section of the Draft Code addresses professional values and qualities of doctors and may be more usefully presented in the form of a values statement. In other words, the values that all doctors should aspire to could be listed after the first sentence and the reference in the last sentence of this section to "act in a way that justifies community trust" could be replaced with a less subjective statement such as "act in a way that reflects these values". More specific comments are provided below.
2.1	With respect to the addition of the words "and comply with relevant laws", we note that compliance with relevant laws is difficult to assess and suggest that "act consistently with relevant laws" may be more appropriate wording for a code of conduct.
2.1	The requirement that a doctor needs "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" is a broad statement that more context would benefit.
2.1	The following sentence is also problematic and we recommending removing it: "If making public comment, you should acknowledge the profession's generally accepted views and indicate when your personal opinion differs."

Draft Code Clause	Comment
	The wording suggests that the Draft Code could restrict a doctor's capacity to make public comment and contribute to public debate about important issues of public health, that would not directly contravene professional conduct or direct patient care. Additionally, there are several examples where a 'profession's generally accepted view' (such as matters of abortion, voluntary assisted dying) may not be conclusive and where community, societal and professional perspectives all may contribute valid and diverse views. In these circumstances, a minority view is not linked with lack of professionalism or bad medical practice, however the current wording in this clause gives that perception. There may also be examples where evidence practice gaps means that the generally accepted view lags behind what is emerging best practice. Given these concerns with the current wording, more consideration of both the intent of this provision and the potential impact of the current drafting is recommended.
3.2.7	This addition is useful, but does not reflect the fact that treatments are not considered purely on the basis of efficacy, but also on minimising the risk of harm. This should be reflected in this clause or perhaps linked more clearly with clause 3.2.4.
3.2.8	Similar to the concerns expressed with respect to clause 2.1, it is unclear how the concept "the profession's generally accepted views" would be assessed or how "generally accepted views" is defined for the purposes of the Draft Code. More clarity on this point would be beneficial.
3.4.3	We note that race, religion, sex, etc may be medically relevant to how a patient is managed appropriately and as such the current wording does not seem appropriate. We recommend that the words "medically irrelevant grounds including" be replaced with "the basis of".
3.4.6 and 3.4.7	We note that we support the inclusion of these clauses and that no change has been made from the current code. These provisions are of particular importance for the practice of Palliative Medicine in the setting of voluntary assisted dying legislation.
4.5	The concept of informed consent will also need to consider the role of supported decision making – refer to https://www.alrc.gov.au/publications/towards-supported-decision-making-australia.
4.7	We recognise the intent of this provision to acknowledge Aboriginal and Torres Strait Islander Peoples specifically and the suggestion to align the Draft Code with the Nursing and Midwifery Board of Australia codes of conduct. However, this new drafting has created some unnecessary duplication. For example: • the introduction duplicates language used in clause 7.3; • clause 4.7.1 is replicated in clauses 4.8.4 and 3.4.3; • clause 4.7.2 duplicates 7.3.

Draft Code Clause	Comment
	Clause 4.7.3 presents a new concept, recognising the cultural importance of family, community, etc. However, this could be incorporated into the existing clause 4.8 on culturally safe and respectful practice, and we note that this clause did previously specifically identify Aboriginal and Torres Strait Islander People.
4.8	The introductory words to this clause state that good medical practice "is culturally safe and respectful" but 4.8.1 then provides "that only the patient and/or their family can determine whether or not care is culturally safe and respectful". As a code of conduct, we would expect these provisions to provide doctors with guidance to ensure their behaviour is culturally safe and respectful. However, this current drafting fails to do this. It suggests that practitioners should act in a way that is culturally safe and respectful, but then clarifies that only someone else can determine if they are behaving in a culturally safe and respectful way. This is a significant shift from the previous provision which referred to good medical practice involving "genuine efforts to understand the cultural needs and contexts of different patients to obtain good health outcomes".
4.8.6	This clause seems to suggest that good medical practice is culturally safe and respectful if you create a culturally safe work environment, which is circular. This would be better worded by removing the first part of this clause and stating simply: "4.8.6 Positive role modelling in the work environment that supports the rights, dignity and safety of others, including patients, colleagues and team members."
4.9.1	This wording is a little unclear and could perhaps be reworded more simply, for example: "Ensuring you consider when reassessment of a patient's decision-making capacity is required."
4.13.2	While ANZSPM believes that interdisciplinary palliative care is the gold standard, it remains a concern that there are areas in Australia which are under-resourced or don't have access to a full complement of interdisciplinary team members especially in regional and remote areas. Also an interdisciplinary approach really means where expertise is integrated and cohesive (including the patient and their family as part of the team) to work toward shared goals for the patient. It may be useful to provide this additional context.
7.3	The revised wording seems overly prescriptive of a doctor's role in advocacy. The wording could perhaps be more focused on supporting doctors who choose advocacy roles by revising to: 'Good medical practice *can also involve* using your expertise and influence to identify and address healthcare inequity and protect and advance the health and wellbeing of individual patients, communities and populations'.

ANZSPM

The Australian & New Zealand Society of Palliative Medicine Inc. ABN 54 931 717 498

We would welcome the opportunity to be involved in future consultation on the Draft Code. Please contact Chief Executive Officer Simone Carton if further information relating to our response is needed.

Yours faithfully,

[redacted]

Prof Meera Agar
President

[redacted]

Simone Carton
Chief Executive Officer

Suite 6, Level 5, 490 Northbourne Avenue Dickson ACT 2602 | PO Box 7001 Watson ACT 2602
www.anzspm.org.au | Email: info@anzspm.org.au