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To: [medboardconsultation](#)
Subject: My Submission to the June 13 Public consultation on draft revised code of conduct, "Good medical practice: A code of conduct for doctors in Australia."
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I am a general practitioner currently practising in Sydney. I am writing to make a submission regarding section 2.1, paragraph 4 in the AHPRA's June 13 Public consultation on draft revised code of conduct, "Good medical practice: A code of conduct for doctors in Australia". I have grave concerns about this clause being included in the new code of conduct and I believe it should be deleted. Below is the paragraph I am referring to:

Section 2.1 Professionalism

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.

In the past, the medical regulator's code of conduct had been related to the doctor-patient relationship, i.e. relating to what happens during a clinical consultation, or relating to any interactions between the treating doctor and patients that they have been in a doctor-patient relationship with.

There has never been any precedent for the code of conduct to attempt to regulate a doctor's freedom to express his or her personal opinions on issues publicly or online.

The reason I believe that this clause is unhelpful and should be deleted is because:

Firstly, the terms used in this clause are poorly defined and questionable.

Secondly, the clause does not respect doctors' professionalism in delineating personal opinions from their patient treatment. Doctors should indeed not allow their personal opinions to affect their ability to treat patients according to best practice guidelines. This is the domain that the medical regulator should seek to regulate, rather than regulating doctors' rights to express their opinions in public or online.

Thirdly, it is detrimental to patient care and safety when doctors are afraid to speak up because of the threat of disciplinary proceedings by the medical regulator.

Questionable Definition of terms

The first issue to note is that the terms used in this clause are poorly defined and questionable.

Could the term "public comment" be referring to verbal statements made in workplaces, meetings and/ or public forums, or written statements in published documents such as letters, articles or other papers, and/or everything that is said or written online?

A very concerning aspect of this clause is the meaning of "the profession's generally accepted views". Who determines what is "generally accepted"? Doctors often disagree with statements made by, for example, the Australian Medical Association. Would a contrary statement to the AMA's statements expose a doctor to disciplinary proceedings?

Complaints based on this clause could come from members of the public and other doctors, including people with commercial interests where it may serve their interests to stop a doctor from speaking out.

With such a wide and questionable definition of terms in this clause, this clause would be exposing doctors to many stressful, unjustified disciplinary proceedings.

The code of conduct should respect doctor's professionalism in delineating personal opinions from their patient treatment

A doctor may have a personal opinion that differs from popular cultural beliefs or the beliefs of most people in the profession, due to his or her studies and research, personal convictions, upbringing, cultural background, political leanings, or religious beliefs. This should not have an impact at all on how a doctor treats his or her patients according to accepted clinical guidelines of best practice.

I believe that the code of conduct should aim to ensure that doctors do not allow their own personal opinions on various issues to cloud their judgement and affect the way they relate to and treat patients in the clinical setting. This is the realm of professionalism the code should seek to regulate, and past codes of conduct have served this purpose well.

However, this clause in the revised code moves beyond this defined relationship and setting to restrict doctors from expressing their personal opinions in a public or online setting. This is restricting a doctor's freedom of speech when it does not affect his or her patient treatment. A doctor should be entitled to give his or her opinions publicly or online on a range of issues even if it is different to what most of the population or even most people in the profession believe, as long as it does not affect the way the doctor treats their patients.

Detriment to patient care and safety

It is detrimental for patient care and safety to remove the rights of doctors to speak up against accepted practices and treatments:

1. Firstly, preventing doctors from speaking up when they feel that current treatment protocols are not in the best interest of patients is to say that we believe we already have the best practice in place and that we never need to develop and investigate further. This is obviously not the case as all medical knowledge is in constant evolution and we need doctors to be allowed to continue to discover, explore, debate and move forward in our knowledge as a profession.

To restrict doctors from speaking out against current accepted practice stifles scientific progress and is in the long term detrimental to the development of new understanding and discoveries in the medical field.

An example from the past is when it used to be accepted practice for doctors to widely overprescribe opioids for acute pain, which led to issues of drug dependence. We now understand that this practice is detrimental to patient care and we now reserve opioids for treatment for specific cases of acute and chronic pain that are not responsive to other treatment options only. If such a clause was in place at the time, doctors who spoke up against this accepted practice could be issued complaints by patients and even companies with an interest in continued excessive opioid prescriptions by doctors. The fear of disciplinary proceedings may stop doctors from speaking out and development of our understanding in best practice in patient care would be stifled.

2. Secondly, patient safety is in jeopardy when doctors are too fearful to speak up to raise concerns about current treatment protocols. For example, the challenges facing junior doctors when speaking out against their more senior colleagues are demonstrated in this article in MJA Insight: "The Tyranny of excessive medical hierarchy". (see: <https://www.doctorportal.com.au/mjainsight/2017/23/the-tyranny-of-excessive-medical-hierarchy/>).

The medical hierarchy is already well known as discouraging open communication, especially in a hospital setting. This new clause only adds to this type of challenges already faced by junior doctors. Where views are also silenced by the threat of disciplinary proceedings by the medical regulator, doctors will be even less inclined to challenge current accepted treatment protocols which they discover may not be in the patient's best interest. Patient safety is not served when doctors are too fearful to speak up.

In conclusion, this clause includes terms that are poorly defined and questionable, it fails to respect that doctors' professionalism means that doctors must delineate their personal opinions from their patient treatment. Its aim to remove the rights of doctors to speak up publicly against accepted practices and treatments causes harm to patient care and safety. The Medical Board should be very cautious about including this clause in its code and I submit that this clause be removed from the upcoming revised code.

Yours faithfully,

Dr Pansy Lai,

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