



3 August 2018

Dr Joanna Flynn
Chair
Medical Board of Australia

By email: medboardconsultation@ahpra.gov.au

Dear Dr Flynn

I refer to the Medical Board's public consultation paper on the draft revised code of conduct, *Good medical practice: A code of conduct for doctors in Australia*.

The National Health Practitioner Ombudsman and Privacy Commissioner (NHPOPC) **supports the Medical Board's preferred Option 2** and the revisions to the code of conduct.

Role of the NHPOPC

The role of the NHPOPC is to provide ombudsman, privacy and freedom of information oversight of the Australian Health Practitioner Regulation Agency (AHPRA) and the 15 National Health Practitioner Boards (National Boards), including the Medical Board.

My office handles complaints and, where appropriate, conducts investigations into the administrative actions of AHPRA and the National Boards in order to assist people (both members of the public and health practitioners) who are dissatisfied with the way a matter has been handled. My office also works with AHPRA and the National Boards to address systemic issues which have been identified during the course of our complaint handling activities.

Questions for consideration

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

In 2016–17, the NHPOPC recorded a total of 640 approaches (363 complaints and 277 inquiries). Approximately 37% of these complaints related to the administrative actions of the Medical Board. It is noted, however, that we did not record any complaints that were specifically about the current code of conduct. While a small number of complainants referred generally to the code of conduct when explaining their concerns, the code of conduct was not the primary complaint issue. Based on this, it would appear that the current code is not a major area of concern for complainants who approach my office.

Notwithstanding this, the NHPOPC supports the proposed revisions to the code of conduct. This is because the revised code more explicitly sets out the principles that characterise good medical practice. On this basis, it can be anticipated that the revisions will strengthen the understanding of the code of conduct, which is beneficial to both medical practitioners (in relation to the standards to which they must adhere) and the community (in relation to the standards which they can expect from medical practitioners).

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

The NHPOPC is of the opinion that the proposed revisions to the code more clearly set out the principles that characterise good medical practice and the standards of ethical and professional conduct expected of doctors.

The NHPOPC would like to highlight the following sections of the draft revised code that are helpful, clear, relevant and more workable than the current code:

- Culturally safe and respectful practice (revision to section 3.7 of the code): The NHPOPC agrees that consistent guidance across the regulated health professions is beneficial. Although the NHPOPC currently has minimal relevant complaint data in relation to culturally safe and respectful practice, we support the Medical Board's proposed content.
- Additional medically irrelevant grounds on which a practitioner may not discriminate (revision to section 3.4 of the code): The NHPOPC supports the insertion of additional grounds on which a practitioner may not discriminate (i.e. gender identity and sexual orientation), as this is consistent with grounds described in anti-discrimination and equal opportunity legislation.
- Vexatious complaints (additional section 10.4 of the code): The NHPOPC supports the steps taken by the Medical Board to strengthen the code in relation to vexatious complaints. In particular, we believe that this new section of the code will assist practitioners in understanding what constitutes a vexatious complaint. This is particularly important as our office has received complaints from practitioners who characterise notifications made about them as vexatious when the notification does not meet the widely accepted definition of "vexatious".
- Bullying and harassment (additional section 5.4 of the code): The NHPOPC supports the additions throughout the code of conduct which state, in more explicit terms, how practitioners should seek to have respectful relationships with colleagues, other health professionals, team members and patients.

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

The NHPOPC does not have any suggestions regarding content that needs to be changed or deleted in the draft revised code.

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

The NHPOPC does not have any suggestions regarding content that needs to be added to the draft revised code.

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

It is clear from the consultation documentation that the Medical Board has put significant work into the consultation paper and proposed revision to the code. The NHPOPC has no further comments but applauds the efforts of the Medical Board to improve the code of conduct for the benefit of practitioners and the community.

Thank you for the opportunity to comment on the draft revised code of conduct.

You are welcome to contact this office on 1300 795 265 or by email via complaints@nhpopc.gov.au if you require any further information.

Yours sincerely



Richelle McCausland

National Health Practitioner Ombudsman and Privacy Commissioner