

Chair and members
Medical Board of Australia

1 Aug 2018

Dear Members,

Re: Draft revised “Good medical practice: A code of conduct for doctors in Australia”

I am a medical practitioner, and also a patient. I write with regard to content that needs to be deleted in the draft revised code. In particular, I wish to express concerns with the following text in Section 2.1 of the above draft, which is not present in the current code of conduct.

“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.”

I believe this text should be DELETED.

Firstly, the Medical Board should not presume to regulate the speech and actions of an individual outside of work. This is particularly the case where the individual may explicitly (or implicitly) speak or act in a personal capacity, rather than on behalf of a healthcare organization or the medical profession as a whole. Doctors should be free, especially outside of work, to express their opinions and views without fear of potentially facing disciplinary proceedings before the Medical Board for unprofessional conduct. As a patient, in order to make a truly informed choice of care and even choice of carer, I would want to know what the deepest convictions and values of my treating doctor[s] or prospective treating doctor[s] are, not just an apparently politically correct veneer imposed upon him or her by adherence to this paragraph in the code.

Secondly, the paragraph above raises questions regarding the extent to which an individual medical practitioner’s Medical Indemnity Insurance provider may [or may not] support them medicolegally if they are required to respond to the Board to justify their comments and actions “outside work”. Indemnity Insurance providers may potentially choose to define “outside work” as outside of their sphere of coverage, leaving practitioners with uncertainty with regards to representation.

Thirdly, the wording “behaviour which could undermine community trust in the profession” is vague and unhelpful. In the context of this paragraph, the implication is that having a personal opinion that differs from the profession’s generally accepted views constitutes such behaviour. The medical profession needs to be mature enough to acknowledge and accept

that dissenting views do exist on a vast range of issues and are worth openly debating. Rather than suppressing the expression of dissent, the profession should allow these views to be expressed and, if needed, shown openly to be erroneous based on available evidence. While such dissenting views sometimes have led to danger to patients, and hence need to be openly and publicly addressed rapidly, there have also been occasions where such views of the minority have proven to be the correct ones which have protected the health of patients and also advanced medical science, despite erroneous beliefs held by the majority of peers. For example, Barry J. Marshall and Robin Warren discovered the bacterium *Helicobacter pylori* and deciphered its role in gastritis and peptic ulcer disease in the 1980s. Although they were awarded the Nobel Prize in Physiology or Medicine for this in 2005, at the time when Warren and Marshall first announced their findings, it was a long-standing and generally accepted belief in medical practice that stress and lifestyle factors were the major causes of peptic ulcer disease. Thus, the clinical community met their findings with skepticism and a lot of criticism [which accounts for the remarkable length of time for their discovery to become widely accepted]. If they had had to cease their work under Medical Board censure back then, medicine would not have been advanced in this field.

In summary, I believe Section 2.1 in the draft code does not require the above-mentioned paragraph. It raises problematic issues and is unhelpful. It is not in the current code. If the Medical Board believes it is an integral part of the draft code which cannot be removed or changed, then I suggest that the draft code be rejected and the current code remain in place.

Yours sincerely,

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