



CODE OF ETHICS 2009

Professional Conduct
And Discipline

Medical Ethics

Advertising Code

Fitness to Practise

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Following the interview the two members may require the member in question to submit to a medical examination or examinations by two examiners, to be selected jointly by the two appointed members and the member in question, or in the absence of agreement to be nominated by the President of the Council.

The medical examiners are asked to report on whether the member is fit to practise without restriction or, if not, what nature of medical management and supervision and limitations upon practice are recommended. The examiners' reports are sent to the member. If the examiners find that the member's fitness to practise is seriously impaired, the member is asked to undertake to accept medical care and supervision.

If following the examination(s) such medical examiners pass the member as fit, or the member agrees to comply and complies with any conditions imposed by such medical examiners, no further action shall be taken, provided that the two Council members may from time to time interview the member in order to monitor his or her progress, and may at any time require the member to submit to further medical examination

If the member shall fail to agree a date and time for the interview, shall refuse to attend such interview, or shall fail to submit to the medical examination, or to comply with any conditions imposed by the medical examiners, the two Council members shall so inform the Council, and the Council after considering the matter may direct the President to serve, and the President shall serve, on the member notice in writing requiring him or her to attend such interview and/or comply with such conditions and informing him or her that if he or she fails to do so within fourteen days after service of such notice, the President of the Council will terminate his or her membership to the College.

Conclusion

Although the Council's duty to protect patients is paramount, it is also the aim of the health procedures to secure the complete rehabilitation of the member. As with any patient suffering from a serious illness, it is not a kindness to a colleague, or to the colleague's patients, to help to conceal or to ignore a developing illness. It is every member's duty to inform an appropriate person or Council when doubt arises about a colleague's fitness to practise safely and effectively.

PART V

FITNESS TO PRACTISE:

PROCEDURES FOR MEMBERS IMPAIRED BY PHYSICAL OR MENTAL ILLNESS

Introduction

In 1993 the Council introduced procedures, known as the health procedures, for rehabilitating sick members, that is, members whose fitness to practise is seriously impaired by a physical or mental condition.

The principles of the health procedures

The health procedures are designed:

- a) to protect patients from members whose ill-health impairs their ability to practise medicine;
- b) to provide continuing monitoring and care of sick members, in their own and patients' interests, with the aim of returning them to unrestricted practice where possible;
- c) to treat the cases of sick members with the same confidentiality that is owed to any patient.

Consideration of evidence

Evidence suggesting that a member's fitness to practise is seriously impaired by an illness usually comes to the Council from a concerned colleague.

Under the rules, the evidence must be considered by the President, or by another member of the Council appointed by the President, that a member may be unfit by reasons of ill-health properly to carry out his or her practice. If the President is satisfied from the evidence that a question does arise that the member's fitness to practise is seriously impaired, the member is then informed of this and invited to agree within fourteen days to submit to an interview by at least two members. The Council will appoint two members of the Council to interview the member.

The two members will require the member to meet them for an interview.

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PART V

FITNESS TO PRACTISE: PROCEDURES FOR MEMBERS IMPAIRED BY PHYSICAL OR MENTAL ILLNESS

Introduction

The Principles of the health procedures

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Publicity material

There are no recognised specialist qualifications in Phytotherapy, hence none shall be claimed in advertisements.

Advertising which expressly or implicitly claims to cure conditions, as distinct from relieving symptoms, is prohibited.

Articles, books and broadcasting by members

Books or articles written by members may include their name, qualifications, appointments and details of other qualifications. Similar information may be given where members participate in the broadcast presentation and discussion of Phytotherapy and related topics. Difficulties in this area arise chiefly when material included in articles, books or broadcasts is likely to imply that the member is especially recommended for patients to consult. Members should see to it that no such implication is given.

Where a member writes articles or columns which offer advice on medical conditions or problems, or offers telephone or other recorded advice on such subjects, or broadcasts about them, it should be realised that members may have little or no control over the published form and content and thus be the cause of misleading information reaching the public.

available and the practice arrangements should be distributed widely to the public. As far as practicable, material published in this way should provide the same items of information about each member and practice.

Notices about individual members or practices

Members should provide the public with practice leaflets giving factual information about their professional qualifications, services and practice arrangements and including, if they wish, **a statement about their approach the practice. Up to-date information of the kind should** be available in members' practices. Members may, if they so decide, distribute such information on an unsolicited basis within the areas which they serve, provided that the distribution is not targeted in such a way as to put the recipients under pressure. Members may also publish factual information in the press, directories or other media.

Members should be fully aware of the British Code of Advertising Practice. Part CI, "advertisements containing health claims", applies to advertisements by Members in addition to the general principles of the Code.

Information to companies, shops and similar organisations

Members who wish to offer their services to a company or shop, or association, may send factual information about their qualifications and services to a suitable person, and may where appropriate place a factual advertisement in a relevant trade journal, provided that the same principles are observed as in the guidance given above. Members must not however use the provision of such services as a means to put pressure upon individuals to become their patients.

The use of professional directories

Factual information about a member who is appropriately qualified may be published in a professional directory of persons offering particular services, provided that it is open to all members practising. Members should not however cause, sanction or acquiesce in the publication of their names or practice details in any professional directory or book which supports to make recommendations as to the quality of particular members or their services.

PROFESSIONAL CONDUCT AND DISCIPLINE

PART I

FORMS OF PROFESSIONAL OR ETHICAL MISCONDUCT WHICH MAY LEAD TO DISCIPLINARY PROCEEDINGS

The question whether any particular course of conduct amounts to serious professional misconduct is a matter which falls to be determined by the Professional Ethics Committee after considering the evidence in each individual case. Any abuse of the privileges and the opportunities afforded to them, or any dereliction of professional duty or breach of medical ethics, may give rise to a charge of serious professional misconduct. If in any doubt the Council should be consulted.

In the following paragraphs areas of professional conduct and personal behaviour which need to be considered have been grouped under 6 main headings:

- Neglect or disregard of personal responsibilities to patients for their care and treatment;
- Abuse of professional privileges or skills conferred by law;
- Abuse of privileges or skills conferred by custom;
- Personal behaviour: Conduct derogatory to the reputation of the profession;
- The advertising of members' services;
- Comment about professional colleagues.

I Responsibility for standards of medical care

1. The public are entitled to expect that a Member will afford and maintain a good standard of medical care. This includes:

- a) conscientious assessment of the history, symptoms and signs of a patient's condition;
- b) sufficiently thorough professional attention, examination and, where necessary, diagnostic investigation;
- c) competent and considerate professional management
- d) appropriate and prompt action upon evidence suggesting the existence of a condition requiring urgent medical intervention; and

e) readiness, where the circumstances so warrant, to consult with appropriate professional colleagues.

2. Treatment of a patient is legally permitted only with a patient's express or implied consent and Members must recognise the patient's right to refuse treatment or ignore advice.

3. It is the duty of the member if he or she is away from their practice for any length of time to ensure that adequate arrangements are made to enable patients to receive treatment by suitably qualified professional and competent colleagues.

4. Members are required to conduct the initial consultation with a patient face-to-face, with periodic in-person consultations thereafter. Repeat prescriptions may be supplied through telephone or postal contact for a limited period.

II Personal Behaviour: Conduct Derogatory to the Reputation of the Profession

5. A member's conviction of a criminal offence may lead to disciplinary proceedings whether directly connected with the member's profession or not, including:

Personal misuse or abuse of alcohol or other drugs, dishonest behaviour, indecent or violent behaviour, criminal deception (obtaining money or goods by false pretences), forgery, fraud, theft or any other offence involving dishonesty, or other offences arising from misuse of alcohol (such as driving when under the influence of alcohol).

6. Members must not treat patients or perform other professional duties while under the influence of drink or drugs, or be unable to perform their professional duties because they are under the influence of drink or drugs.

III Certificates

7. Members must not certify statements or sign any certificate or similar document containing statements which are untrue, misleading or otherwise improper.

PART IV

ADVERTISING CODE

The advertising of members' services The need for good communication

Good communication between members and patients, and between one member and another, is fundamental to the provision of good patient care, and those who need information about the services of members should have ready access to it. Patients need information in order to make an informed choice,

People seeking medical attention for themselves or their families can nevertheless be particularly vulnerable to persuasive influence, and patients are entitled to protection from misleading advertisements. The promotion of members' services as if the provision of medical care were no more than a commercial activity is likely both to undermine public trust in the profession and, over time, to diminish the standards of medical care which patients have a right to expect.

Information about general services

Patients are best able to make an informed choice of practitioner if they have ready access to comprehensive, up-to-date, well-presented and easily understood information. The circulation of literature intended to educate the public about the work of the member, the scope of his services, etc., is perfectly acceptable.

The literature offered should be of a strictly professional style and format.

Essential practice information consisting of names and qualifications of members practising, address and telephone numbers, hours of business, facilities on offer such as parking arrangements and information on the subject of herbal medicine, may be distributed to medical and bona-fide paramedical practitioners, dispensing chemists and non-commercial points of contact such as libraries, information centres and citizens' advice bureaux.

Lists of members

Lists including factual information, presented in an objective and unbiased manner, about the members and their professional qualifications, the facilities

Clinical trials of herbs

It may be improper for a member to accept per capita or other payments from a phytopharmaceutical company in relation to a research project such as clinical trials, unless the payments have been specified in a protocol for the project which has been approved by the relevant committee. It is improper for members to accept payment in money or kind which could influence their professional assessment of the therapeutic value of a new product.

Gifts and loans

The seeking or acceptance by members of unreasonable sums of money or gifts from commercial firms which manufacture or market herbal products or diagnostic agents or appliances may be regarded as improper. It may be improper for members to accept monetary gifts or loans or equipment for their personal use.

IV Termination of Pregnancy

8. It is illegal for anyone not a registered medical practitioner to attempt to procure an abortion. A member must not knowingly administer an abortifacient or known uterine stimulant to a pregnant patient.

V Treatment of STDs

9. A member must not treat nor prescribe any remedy for *gonorrhoea*, *syphilis* or *urinary infections of a venereal nature*.

VI Professional Confidence

10. Members must maintain trust between themselves and their patients and their families and must exercise great care and discretion in order not to damage this crucial relationship.

VII Undue Influence

11. Members must not improperly exert influence upon a patient to lend them money or to alter wills in their favour.

VIII Personal Relationships Between Members and Patients

12. Members must not improperly disclose information obtained in confidence from or about a patient.

13. Members must not enter into an emotional or sexual relationship with a patient (or with a member of the patient's family) which disrupts that patient's family life or otherwise damages, or causes distress to, the patient or his or her family.

IX Intimate Examinations

14. It is required that any intimate examinations on a patient of the opposite sex be conducted in the presence of a relative of the patient or a suitable assistant.

X Parental Supervision

15. A parent or supervising adult must be present during any examination or treatment of a child under the age of 16. Members must obtain the consent of the parent or guardian of patients under the age of 18. Where this consent cannot be obtained, treating the patient may technically constitute an assault.

XI Indecency and Violence

16. Assaults on a patient, violent or indecent, will be regarded as serious professional misconduct.

XII Advertising

17. Whilst members may provide factual information about their professional qualifications and services, such advertising must be 'legal, decent, honest and truthful' and conform with the other requirements of the College of Practitioners of Phytotherapy Code of Advertising Practice (See Part III). To reduce the risk of confusing patients, the use of the title of 'Doctor' by Members with non-medical PhDs should be avoided on patient literature.

XIII Comment About Professional Colleagues

18. Whilst honest comment about another Member offered in good faith and intended to promote the best interest of the patient may be acceptable, gratuitous and unsustainable comment which, whether directly or by implication sets out to undermine trust in a professional colleague's knowledge or skills, is unethical conduct. It is, however, a Member's duty, where the circumstances so warrant, to inform the Council about a colleague whose professional conduct or fitness to practise may be called into question or whose professional performance appears to be in some way deficient.

If a patient chooses for personal reasons to transfer to another practitioner without the knowledge or recommendations of the original practitioner, it would be advisable as a matter of courtesy for the second practitioner to inform the original practitioner before making any further arrangements, so that any relevant information may be exchanged.

Principles governing decisions about access to medical care

A member should always seek to give priority to the investigation and treatment of patients solely on the basis of clinical need.

Financial relationships between members and independent organisations providing clinical, diagnostic or medical advisory services:

A member who recommends that a patient should attend at, or be admitted to, any private clinic, organisation or similar institution, must do so in such a way as will best serve, and will be seen best to serve, the medical interests of the patient. Members should therefore avoid accepting any financial or other inducement from such an institution which might compromise, or be regarded by others as likely to compromise, the independent exercise of their professional judgement.

Where members have a financial interest in an organisation to which they propose to refer a patient for treatment they should always disclose that they have such an interest at the time of making the referral.

Relationships between members and phytopharmaceutical and allied industries:

Phytotherapists and the phytopharmaceutical industry have common interests in the research and development of new products. Advertising and other forms of sales promotion by individual firms are necessary for their commercial viability and can provide information which is useful to the profession. Nevertheless, members should avoid accepting any pecuniary or material inducement which might compromise, or be regarded by others as likely to compromise, the independent exercise of their professional judgement.

other person but only when a member is satisfied that it is necessary in the patient's best medical interests to do so.

When a member suspects a patient may be a victim of abuse or neglect, in such circumstances a patient's interests are paramount and will usually require the member to inform an officer of a statutory agency.

Similar problems may arise where a patient lacks understanding because of illness or mental incapacity. In such cases the member should attempt to persuade the patient to allow an appropriate person to be involved in the consultation. If the patient cannot understand or be persuaded, but the member is convinced that the disclosure of information would be essential to the patient's best medical interests, the member may disclose to an appropriate person or authority the fact of the consultation and the information learned from it.

Disclosure required by statute

Information may be disclosed in order to satisfy a specific statutory requirement, such as notification of an infectious disease or of attendance upon a person known or suspected to be addicted to controlled drugs.

Disclosure to third parties

Members must not disclose any information about a patient to a third party unless:

- The failure to disclose appropriate information would expose the patient, or someone else, to harm;
- Where a patient cannot understand;
- To satisfy a specific statutory requirement.

Principles governing the reference of patients to, and their acceptance by, other members:

Transfer of patients

Where a patient transfers to another practitioner for any reason, all possible help should be afforded to the second practitioner if requested.

PART II

NOTES

Members must be familiar with, and comply with, the following legislative provisions:

I Medicines Act 1968 and the Medicines (Retail Sale or Supply of Herbal Medicines) Order 1977 which sets out maximum doses for remedies listed in the Order and for the keeping of prescription and dispensing and the supply of remedies from premises occupied by the practitioner which can be closed so as to exclude the public.

II Medicines (Labelling and Advertising to the Public) Regulations 1978 which specifically controls advertising for remedies and cures.

III Notifiable Diseases

A member must notify the District Medical Officer regarding any disease on the current list of notifiable diseases. In cases of industrial poisoning or accident, the Health and Safety Executive should be notified.

Current notifiable diseases include *smallpox, cholera, diphtheria, scarlet fever, typhus, typhoid, paratyphoid, plague, tuberculosis, acute poliomyelitis, acute encephalitis, acute meningitis, ophthalmia neonatorum, malaria, dysentery, measles (exc. Rubella), whooping cough infective jaundice, tetanus, leptospirosis, food poisoning, yellow fever, anthrax, relapsing fever, rabies, Lassa fever, viral haemorrhagic fever, Marburg disease, HIV/AIDS.*

IV Environmental Protection Act 1990 which deals with the safe disposal of clinical waste.

V Health and Safety at Work Act 1974 which seeks to protect both staff and patients.

VI Data Protection Act which requires formal Registration by practitioners keeping patients' records or data on a computer file.

VII Access to Health Records Act 1990 which gives patients certain rights of access to their medical records.

MEDICAL ETHICS

PART III

ADVICE ON STANDARDS OF PROFESSIONAL CONDUCT AND ON MEDICAL ETHICS

The Council has approved the following paragraphs giving general advice on personal relationships between members and patients, on professional confidence, on the reference of patients to and acceptance of patients by specialists, on circumstances in which difficulties in relation to self-promotion most commonly arise and on relationships between members and the phytopharmaceutical and allied industries.

Personal relationships between members and patients

The Council has always taken a serious view of the abuse of a member's professional position in order to pursue a personal relationship of an emotional or sexual nature with a patient or the close relative of a patient. Such an abuse may be aggravated in a number of ways. For example, a member may use the pretext of a professional visit to a patient's home to disguise the pursuit of the personal relationship with the patient. Or a member may use knowledge, obtained in professional confidence, of the patient's marital difficulties to take advantage of the situation. These are merely examples of particular abuses.

The trust which should exist between members and patients can be severely damaged when as a result of an emotional relationship between a member and a patient, the family life of the patient is disrupted. This may occur without sexual misconduct between the member and the patient.

These principles apply to both heterosexual and homosexual relationships.

Innocent members are sometimes caused anxiety by unsolicited declarations of affection by patients or threats that a complaint will be made on the grounds of a relationship which existed only in the patient's imagination.

Professional confidence

Principles

Patients are entitled to expect that the information about themselves or others which a member learns during the course of a consultation will remain confidential. Members therefore have a duty not to disclose to any third party information about an individual that they have learned in their professional capacity, directly from a patient or indirectly, except in the cases discussed below.

Members carry prime responsibility for the protection of information given to them by patients or obtained in confidence about patients. They must therefore take steps to ensure, as far as lies in their control, that the records, manual or computerised, which they keep, to which they have access, or which they transmit, are protected by effective security systems with adequate procedures to prevent improper disclosure.

Members who work as part of a team, for example in a training clinic, must judge when it is appropriate for information to be disclosed. They must leave those whom they authorise to receive such information in no doubt that it is given to them in professional confidence. The member also has the responsibility to ensure that arrangements exist to inform patients of the circumstances in which information about them is likely to be shared and to give patients the opportunity to state any objection to this.

A member who decides to disclose confidential information about an individual must be prepared to explain and justify that decision, whatever the circumstances of the disclosure.

Disclosure without the consent of the patient

Members who are faced with the difficult decision whether to disclose information without a patient's consent must weigh carefully the arguments for and against disclosure. If in doubt, they would be wise to discuss the matter with an experienced colleague. The following paragraphs discuss circumstances of this kind.

Disclosure in relation to the clinical management of the patient

In exceptional circumstances a member may consider it undesirable, for medical reasons, to seek a patient's consent to the disclosure of confidential information. In such cases information may be disclosed to a relative or some