



# PROFESSIONAL CODE OF ETHICS AND DISCIPLINE: FITNESS TO PRACTICE

“Promoting Quality Healthcare and Safeguarding  
the Public is our Prime Concern”

2014

## 1.0 PREFACE

The Code of Conduct was last reviewed by the Council in 1995. Though most of the provisions of the 1995 edition are relevant to date, it is necessary that these are updated or indeed rephrased - in order to reinforce their relevance in the health profession. It is in this context that this update is hereby made. As a consequence, the Code of Conduct has been changed to Code of Ethics.

It is further recognised that the preparation of such a document by necessity, requires a wider consultation and input particularly by individuals and professional associations whose members will be directly affected by its content. Therefore, views at individual level and as a professional grouping are encouraged in order to enrich and broaden its applicability across all professions covered by the Act.

Part I of this Code of Ethics describes the statutory basis and machinery of the Council's jurisdiction in cases of professional misconduct and criminal offences. Part II deals with various forms of misconduct that may lead to proceedings by the Disciplinary Committee. Part III contains specific advice in certain areas of professional conduct. Part IV describes the statutory basis and machinery of the Council's jurisdiction in relation to practitioners whose fitness to practice is adversely impaired by their physical or mental illness.

This Code of Ethics applies to all health practitioners whose call to practice requires them to register under the Health Professions Act No. 24 of 2009. As at 1<sup>st</sup> June, 2014, there were more than thirty (30) health Professions registrable under the Act. However, the Act allows for emerging health professions to be registered after the recommendation by the Council to the Minister of Health.

The Code of Ethics covers professional conduct of all the registered health professionals apart from nurses who are covered under a different Act. The Code of Ethics further covers all practitioners employed in the public and private sector including those in faith based organisations (Mission health institutions).

It should be noted that this Code of Ethics outlines basic principles of professional practice across the board. It is not a substitute for the specific Code of Ethics for the various health professions registered by the Council. Codes of Ethics are "profession specific" rather than generic. It is therefore, encouraged that as a matter of urgency, individual health associations prepare and submit to the Council, their individual Codes of Ethics in support of the implementation of the Health Professions Act No. 24 of 2009. These should be profession focused based on their scope of practice. It is always important to remember that good professional practice is a prelude to the attainment of a good reputation at individual level, improves patient/client outcome and contributes to national development.

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### 3.0 DEFINITION OF TERMS

**“Associated Industries”** means commercial firms which manufacture or market medicines, diagnostics, therapeutic agents or appliances.

**“Council”** means the Health Professions Council of Zambia as created under the Health Professions Act No. 24 of 2009 of the Laws of Zambia..

**“Conviction”** means determination of an offence by a Court of Law in Zambia. A conviction in itself gives the Disciplinary Committee jurisdiction even if the offence did not involve professional misconduct. The Committee is however particularly concerned with convictions for offences which affect a practitioner’s fitness to practice. In considering convictions, the Council is bound to accept the Court ruling.

The phrase **“Infamous Conduct in a Professional Respect”** was defined in 1894 by Lord Justice Lopes in the United Kingdom as follows:-

“If a medical man in pursuit of profession has done something with regard to it which will be - reasonably regarded as disgraceful or dishonourable by his professional brethren of good repute and competency, then it is open to say, that he has been guilty of infamous conduct or professional misconduct in a professional respect.”

In another judgement delivered in 1930, Lord Scrutton stated -as below:- “Infamous conduct in a professional respect means no more than serious misconduct judged according to the rules, written or unwritten, governing the professional.”

In upholding the phrases in quote, the Health Professions Council of Zambia (HPCZ) considers significant, that peers of proven good repute and competency should be involved in the disciplinary processes of fellow peers.

**“Controlled Medicines”** means shall have the interpretation as defined in the Medicines and Allied Substances Act No. 3 of 2013.

**“Health Practitioner”** means a person registered as a health practitioner in accordance with the Health Professions Act No. 24 of 2009 of the Laws of Zambia.

**“Informed Consent”** means giving sufficient information in a way that patients can understand, to enable them exercise their right to make informed decisions about their care.

## **PART I**

### **4.0 THE DISCIPLINARY PROCESSES OF THE COUNCIL**

#### **4.1 Statutory Provisions**

Disciplinary powers are conferred on the Council by the Health Professions Act No. 24 of 2009 which established the Council and the Registers. The Council's jurisdiction in relation to professional misconduct and criminal offences is regulated by Sections 31 and 61 of the Health Professions Act No. 24 of 2009 and the Disciplinary Proceedings (Rules). The Act under Section 31 (1) and (2) and Section 61 provides as follows:

#### **4.2 Section 31**

**(1). A person shall not:-**

- (a) make or cause to be made an unauthorised entry, alteration or erasure in the Register or a certified copy of an entry in the Register or a certificate of registration or other certificate issued under this Act;
- (b) impersonate or use the title of a registered health practitioner while not registered as such under this Act;
- (c) procure, or attempt to procure, registration under this Act, by fraud, false representation or the concealment of a material fact;
- (d) forge a certificate of registration or other certificate issued under this Act; or
- (e) undertake to provide health care services in excess of the scope of practice permitted for the registered health profession.

- (2) A person, who contravenes subsection (1), commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or imprisonment for a period not exceeding seven years, or both.

#### **4.3 Section 61**

A health practitioner commits professional misconduct if the health practitioner :-

- (a) contravenes the provisions of this Act;
- (b) unlawfully discloses or uses to the health practitioner's advantage any information acquired in the health practitioner's practice;
- (c) engages in conduct that is dishonest, fraudulent or deceitful;
- (d) commits an offence under any other law;
- (e) engages in any conduct that is prejudicial to the health profession or is likely to bring it into disrepute; or
- (f) breaches the Code of Ethics or encourages another health practitioner to breach or disregard the principles of the Code of Ethics.

## PART II

### 5.0 PROFESSIONAL MISCONDUCT WHICH MAY LEAD TO DISCIPLINARY PROCEEDINGS

In this Code of Ethics, professional misconduct offences which have in the past led to disciplinary proceedings or which in the opinion of the Court could give rise to such proceedings have been listed. However, this is not a complete set of offences. To do this would be impossible, because from time to time and with changing circumstances, the Council's attention is drawn to new forms of professional misconduct.

It is important to note that any abuse by a health practitioner of any of the privileges and opportunities afforded to the health practitioner or any grave dereliction of professional conduct or serious breach of professional ethics may give rise to a charge of professional misconduct.

Professional misconduct and personal behaviour which is of professional concern has been grouped under the following headings:-

- 5.1 Neglect or disregard by the health practitioner of his/her professional responsibilities to patients and clients under his/her care and treatment;
- 5.2 Abuse of professional privileges or skills;
- 5.3 Personal behaviour or conduct of the health practitioner derogatory to the reputation of the health profession;
- 5.4 Improper Advertising;
- 5.5 Disparagement of professional colleagues;
- 5.6 Ethical considerations on stigmatising conditions which disadvantage the patient or client;
- 5.7 Participation in or conducting clinical or other health research not approved by the relevant Ethics Committee; and
- 5.8 Improper relationships between the health professionals and the Associated Industries.
- 5.9 Continuing Professional Development and Supervision

**5.1 Neglect or disregard by the health practitioner of his/her professional responsibilities to his/her patients and clients under his/her care and treatment;**

**(a) Responsibility to maintain standards of health care provision**

Treatment, care and welfare of the patient or client should take into account the patient's/client's needs, preference and confidentiality. Patients/clients should not be discriminated on grounds of age, gender, marital status, education, medical condition, national or ethnic origin, physical or mental disability, political affiliation, tribe, race, religion or social status.

Patients are entitled to access quality health care from health practitioners. -These include:

- (i) conscientious assessment of the history, symptoms and signs of the patient's or client's condition;
- (ii) thorough professional attention, examination and, where necessary, diagnostic investigation;
- (iii) competent and considerate professional management;
- (iv) appropriate and prompt action upon evidence suggesting the existence of a condition requiring urgent professional intervention;
- (v) readiness, where the circumstances so warrant, to consult appropriate professional colleagues; and

**(b) Delegation of health care duties**

- (i) A health practitioner must at all times be mindful of his/her limitations and the competences of his/her peer, and where necessary, recommend additional service or opinion as long as this is in the interest of the patient or client.
- (ii) A health practitioner who delegates treatment or other procedures must be satisfied that the person to whom he/she is delegating the duties is competent to carry them out. It is important that the health practitioner should retain ultimate responsibility for the management of the patient or client because only the health practitioner has received the necessary training to undertake this responsibility.
- (iii) A health practitioner should not delegate professional duties to unqualified person if such duties require the health practitioner's personal knowledge and skills.
- (iv) A health practitioner who delegates the duties of signing certificates or prescriptions must ensure that the person the health practitioner has delegated such duties to is duly registered under the Health Professions Act .

**(c) Maintenance of standards**

**A health practitioner shall ;**

- (i) maintain basic equipment or appropriate standards of hygiene in the health practitioner's practice as directed by the Council;
- (ii) conduct relevant investigations on a patient/client or, where necessary, arrange for such investigations to be conducted by another health practitioner;
- (iii) assess a patient's/client's condition from such patient's/client's medical history or clinical signs and where in doubt, to consult with, or to refer such patient/client to another health practitioner;
- (iv) keep, in English, clear and accurate records of clinical findings, decisions made, treatment prescribed and advice given to patients or clients;

- (v) allocate available resources to the promotion of good medical practice and the maintenance of such health practitioner's professional competence;
- (vi) meet the standards of professional practice that are generally regarded as appropriate by professional peers, locally or internationally;
- (vii) Maintain high standards of probity in financial matters and ensure that there are adequate systems to maintain and monitor good practice in financial dealings;

**A health practitioner shall not;**

- (i) Intervene in a patient's/client's treatment or treating a patient/client without obtaining adequate informed consent from the patient/client except in an emergency;
- (ii) Perform, except in an emergency, a professional act for which the health practitioner is inadequately trained or is insufficiently experienced or which is not within such health practitioner's professional competence;
- (iii) perform, except in an emergency, a professional act under improper conditions or in inappropriate surroundings;
- (iv) Give advice or information to a patient/client or patient's/client's relative in an unprofessional manner or offering unnecessary professional service to a patient/client for a health practitioner's direct or indirect personal gain;
- (v) Issue a false or inaccurate medical report;
- (vi) Accept a commission from a person or another health practitioner in return for the purchase, sale or supply of any goods, substances or materials used by the health practitioner in the conduct of the health practitioner's professional practice;
- (vii) Share fees with any person or health practitioner who has not taken a commensurate part in providing the services for which those fees are charged;
- (viii) Charge or receive fees for services not personally rendered except for services rendered by another health practitioner with whom such health practitioner is associated as a partner, shareholder in a company or locum tenens;
- (ix) Wilfully neglect, abandon or refuse to attend to a patient/client entrusted into a health practitioner's professional care to such an extent that the neglect or refusal is not in the best interest of the patient/client;
- (x) Discriminate in the management of patients/clients based on the patient's/client's lifestyle, culture, beliefs, race, sex, sexuality, disability, age, ethnicity, social or economic status.

**5.2 Abuse of professional privileges or skills**

**(a) Abuse of privileges conferred by law; misuse of professional skills**

A health practitioner must undertake to discharge his/her professional duties diligently and in a manner that best considers the welfare of the patient/client.

### **(i) Prescribing and supply of controlled medicines**

- The prescribing and supply of controlled medicines is reserved to members of the health profession and certain other authorised professionals. The prescribing and supply of such medicines is subject to statutory restrictions. It is professional misconduct to prescribe or supply controlled medicines other than in the course of bona fide treatment. Any practitioner who contravenes any provisions of the following Acts, shall commit professional misconduct;
- The Medicines and Allied Substances Act of the Laws of Zambia; and
- The Narcotic and Psychotropic Drugs Act of the Laws of Zambia.

### **(ii) Medical Certificates**

A health practitioner's signature is required by statute on certificates for a variety of purposes on the presumption that the truth of any statement which a health practitioner may certify can be accepted without question. A health practitioner is accordingly expected to exercise care in issuing certificates and similar documents, and he/she should not certify statements which he/she has not taken appropriate steps to verify.

A health practitioner who, in a professional capacity, signs any certificate or similar document containing statements which are untrue, misleading or otherwise improper shall be liable to disciplinary proceedings.

### **(iii) Termination of Pregnancy**

Termination of pregnancy is regulated under the Termination of Pregnancy Act CAP 304 - of the Laws of Zambia. A conviction under this Act in circumstances which contravenes the Act in itself shall afford a ground for disciplinary proceedings.

### **(b) Abuse of privileges in personal circumstances**

As health practitioner must practice the art and science of his/her profession conscientiously. A health practitioner must avoid a patient/client relationship which could impair professional judgement especially, in the areas of familial, social, financial, business or close personal relationship.

Patients or clients grant health practitioners privileged access to their homes and confidences, and some become emotionally dependent upon their health practitioners. Good professional practice depends upon the maintenance of trust between the health practitioners and the patients or clients and their families, and the understanding by both that a proper professional relationship will be strictly observed. In this situation, health practitioners must exercise great care and discretion not to damage this crucial relationship and trust. Any action by a health practitioner which breaches this trust will constitute professional misconduct.

Three particular areas identified in which this trust may be breached;

- (i) Improperly disclose information which he/she obtained in confidence from or about a patient or client;
- (ii) Exerting improper influence upon a patient or client to lend him/her money or given other favours;
- (iii) Entering into an emotional and/or sexual relationship with a patient/client or with a member of a patient's/client's family which disrupts the patient's/client's family life or otherwise damages, or causes distress to the patient/client or the patient's family.

It should be noted that the Council is not concerned with personal relationships between the health practitioner and other persons but only with the personal relationships established between the health practitioner and the patient or the close relatives of the patient. The Council considers it professional misconduct for a health practitioner who uses his/her professional position in order to pursue or advance a personal relationship of an emotional or sexual nature with a patient or close relative of a patient.

The Council is also aware that health practitioners are sometimes caused undue anxiety by unsolicited declarations of affection by patients or clients or threats that a complaint will be made on the grounds of a relationship which existed only in the patient or client's imagination. All complaints received by the Council are screened most carefully and action is taken only when the evidence collected is sufficient to warrant disciplinary proceedings.

The health practitioner has a duty to avoid any action which might disturb the confidence of the patient/client in any health practitioner or in the health profession as a whole. The professional relationship between the health practitioner and his/her patient/client depends on trust and the assumption that the health practitioner will act in the best interests of the patient/client. Patients deserve full respect in all areas of their personality (physical, psychological, spiritual, financial, and social) and the health practitioner should aim at rehabilitating them to their full state of human dignity.

Acts of indecency or dishonesty or other acts involving abuse of professional privileges will render the health practitioner liable to disciplinary proceedings for misconduct.

### **5.3 Personal behaviour or conduct of the health practitioner derogatory to the reputation of the profession.**

A health practitioner should observe proper standards of personal behaviour, not only in professional activities, but at all times. This is the reason why the conviction of a health practitioner for any offence may lead to disciplinary proceedings even if the offence is not directly connected with the health practitioner's profession. In particular, four areas of personal behaviour can be identified which may occasion disciplinary proceedings. These are:- personal misuse of alcohol or substance abuse, indecent and/or unprofessional dressing, dishonest behaviour or corrupt practices, and indecent or violent behaviour.

### **(a) Personal misuse of alcohol or substance abuse**

Convictions for drunkenness or other offences arising from misuse of alcohol or other substances indicate habits which are discreditable to the profession and may be a source of danger to the health practitioner's patients/clients. A health practitioner who treats or attends to a patient or client, or performs other professional duties while he/she is under the influence of alcohol or other substances of abuse, is liable to disciplinary proceedings.

### **(b) Indecent and/or unprofessional dressing**

A health practitioner is expected to be dressed respectably and should be adequately covered in prescribed uniform or according to the given dress code provided that such dressing will not be adjudged to be offensive, provoking, revealing private body parts; sagging trousers, mini-skirts, tight trousers and other similar unprofessional attires. Indecent and/or unprofessional dressing, which has come to the attention of the Council, may attract disciplinary action.

### **(c) Dishonest behaviour or corrupt practices**

A health practitioner is required to uphold honest behaviour at all times. A health practitioner is liable to disciplinary proceedings if he/she:-

- (i) is convicted of criminal deception (obtaining money or goods by false pretences), corruption, forgery, fraud, theft or any other offence involving dishonesty;
- (ii) commits dishonest acts in the course of the health practitioner's professional duties or against his patients/clients or colleagues;
- (iii) improperly demands or accepts fees from a patient or client in circumstances contrary to laid down regulations (institutional policies) or if the health practitioner knowingly and improperly obtains any payment to which he/she is not entitled;
- (iv) issues prescriptions without following prescription procedure .
- (v) participates in the manufacturing and supplying of counterfeit or substandard medicines or medical equipment and allied substances to persons or institutions.
- (vi) practises without a valid practicing licence or practices in an unregistered health facilities; or in partnership or association with a person not registered under the Act;
- (viii) involves himself/herself in corrupt practices or forgery
- (ix) practises under the influence of alcohol or other intoxicating liquor or drug; or personally misuses alcohol or other drugs.

### **(c) Indecent or violent behaviour**

Health practitioners are expected to behave in ways acceptable for the conduct of their profession. Indecent or violent behaviour on a patient or client or fellow or colleagues is regarded as professional misconduct. Any conviction for indecency or assault would warrant disciplinary proceedings, and would be regarded with particular gravity if the

offence was committed in the course of the health practitioner's professional duties. This includes verbal abuse.

Therefore, a health practitioner shall not:

- (i) Display indecent or violent behaviour towards patients/clients or their relatives or towards professional colleagues;
- (ii) Be involved into verbal abuse, assault or battery towards professional colleagues, patients/clients or their relatives.

#### **(d) Maintaining Professional Confidence**

It is a health practitioner's duty to strictly observe the rule of patient/client confidentiality by refraining from disclosing voluntarily to any third party information which he/she has learned directly or indirectly in his/her professional relationship with the patient or client. The death of the patient or client does not absolve the health practitioner from the obligation to maintain confidentiality. Divulging information regarding a patient/client which has come to the practitioner's knowledge during his/her course of duty is deemed professional misconduct.

However, the following are exceptions to this principle, if the :

- (i) Patient or next of kin or patient's legal advisor gives express, informed, written, or verbal consent. In case of a minor, the written or verbal consent of a parent or guardian.
- (ii) Information is required by law;
- (iii) Information regarding a patient or client's health is given in confidence to a relative or other appropriate person, in circumstances where the health practitioner believes it is undesirable on medical grounds to seek the patient or client's consent;
- (iv) Disclosure is in the public interest
- (v) Information may be disclosed for the purpose of a medical or health research project. In such a case the project should have been approved by a recognised Ethics Committee appointed for such a purpose and that the participant consented to the disclosure of such research information.
- (vi) In the health practitioner's opinion, disclosure of confidential information to a third party is in the best interest of the patient.

## **5.4 Improper Advertising**

Professional conduct in relation to advertising of health services or one's professional status is regulated by this Code of Ethics. This Code of Ethics provides that any level of advertising must not contain false, inaccurate, misleading or incomplete information either on the services provided or on the individual professional status and neither should it be self-promotional.

This part of the Code sets out the reasons why advertising by the health practitioner may be undesirable and may in some cases be regarded as professional misconduct.

The following paragraphs highlights various circumstances in which questions of advertising most commonly arise.

The Council states that health practitioners should refrain from self-promotion, because the health practitioner who is most successful at achieving publicist may not be the most appropriate to consult. Furthermore, people with health problems are often particularly vulnerable to persuasive influence. In such circumstances the use of promotional advertising is not only the breach of professional Code of Ethics but could be a source of danger to the public, in extreme cases, raising illusory hopes of a cure.

In order to make an informed choice of a health practitioner to consult, prospective patients/clients need to have ready access to accurate, comprehensive, well presented information about the health practitioners in their geographical areas.

The following acts by a health practitioner or a facility on the issuance of notices or announcements by the health practitioner and health facilities shall be deemed acceptable forms of advertising:

#### **(a) Posters, fliers and brochures**

Notices or announcements in form of posters or sign posts of such health practitioners, including factual information about their names, profession, qualifications, field of practice, scope of services available, consulting hours, contact details (phone number, email) may be distributed for the benefit of the members of the public in their areas. Such information may be displayed at the health practitioners' health facility. The maximum size for the poster or sign post shall not exceed 1.5m x 1m. Within the facility premises, one poster or sign post shall be displayed at all points of entry.

It is acceptable for health practitioners to inform patients/clients and their colleagues of their services and practice arrangements provided the material circulated makes no claim as to the quality of the service of the health practitioner, personal qualities and level of performance. Such material may be made available for issue individually to existing patients/clients at the health practitioner's health facility in form of fliers or brochures and may be made available to persons about health practitioners' services but should not be distributed to un-soliciting persons and should not be released in bulk.

#### **(b) Print and electronic media**

The publication of notice in the print or electronic media containing factual information about the health practitioner's names, profession, qualifications, registration number, field of practice, scope of services available, consulting hours, contact details (phone number, email).

#### **(c) Articles, books and broadcasting**

Broadcasting of articles and publishing of books properly indicating the health practitioner's name as an author and indicating professional standing. Similarly health practitioners possessing necessary knowledge and skills may participate in the presentations and discussions of health topics through the media or before the lay audiences provided no information about a health practitioner's professional standing is presented in such a way as to imply that he/she is the only best or most experienced

person practicing in that particular field. Any reference to publications by the health practitioners whether forthcoming or past should be factual.

Health practitioners who regularly write in magazines, journals or newspapers addressed to the public, articles or columns offering advice on common health conditions or problems or who are involved in regular service or televisions or radio programmes dealing with such matters. In such circumstances the practitioner should not take undue advantage by advertising themselves or colleagues through the programme or article.

#### **(e) General Notices by Practitioners or Health Facilities**

The following services shall be acceptable by health practitioners and health facilities:

- The advertising of employment opportunities in relevant professional journals in daily newspapers.
- The sharing of information between professional colleagues which relates to services they offer, practice arrangements, details of fees and charges.
- Specialists providing information to professional colleagues informing them of the services they offer and of their practice arrangements including the details of fees and charges.

However, the health practitioners shall not:

- (i) Advertise the services in manner that both the contents of the advertisement and method of presentation is incompatible or contrally with acceptable forms set out in this Code of Ethics.
- (ii) Arrange for or agree to any publication or broadcasting of information which improperly draws attention to the title of professional attainment of a health practitioner, the quality of services offered, such health practitioners prices, which would cause persons to believe that the health practitioner has special abilities when compared with other practitioners;
- (iii) Publish material or air a radio programme in a manner likely to attract patients to the health practitioners' financial benefits or to encourage patients to refer themselves directly to such practitioners;
- (iv) Personally or through his/her agent use the circulation of such material to gain advantage over local colleagues or to canvas their patients/clients.
- (v) Publish information about a health practitioner's professional standing in such a way as to imply that he is the only best or most experienced person practicing in that particular field.
- (vi) Release materials to un-soliciting persons in public places
- (vii) Agree to be paid or remunerated based on the number of patients solicited to the health facility.
- (viii) In communication addressed to the lay public, using or permitting the use of his/her professional qualification as an advertisement for the organisation or being personally involved in advertising its services.
- (ix) Accept any pecuniary, material or any other inducement from pharmaceutical industry or any other industry which might compromise, or be regarded as likely to compromise, the independent exercise to their professional judgement in prescribing matters. However, monetary grants

or equipment donated to the health facilities for the benefit of large majority of the patients may be acceptable provided the facility is not compelled or induced to procure items from the pharmaceutical industry or any other industry.

In the event that the case is not clear, the Council shall determine if professional misconduct was committed.

### **5.5 Disparagement of professional colleagues**

- (i) A health practitioner has a duty, where the circumstances so warrant, to inform the Council about a professional colleague whose behaviour may have raised a question of professional misconduct, or whose fitness to practise may be seriously impaired by reason of a physical or mental illness. Similarly, a health practitioner may also comment on the professional performance of a colleague in respect of whom the health practitioner acts as a referee.
- (ii) It is not acceptable for a health practitioner to disparage, whether directly or by implication, the professional skill, knowledge, qualifications or services of any other health practitioner irrespective of whether this may result in his/her own professional advantage.

Failure to report any un-acceptable conduct of a colleague which the health practitioner is privileged to be aware of will be considered unprofessional.

### **5.6 Ethical considerations on stigmatising conditions which disadvantage the patient or client.**

- (i) A health practitioner should not refuse to treat or attend to a patient/client if the condition is within the health practitioner's competence, solely on the grounds that the patient/client is or may be - having a stigmatising medical condition.
- (ii) In order to prevent transmission of communicable conditions within the health care system, a health practitioner must apply stringent precautionary measures that help to protect and prevent the spread of communicable diseases between patients/clients and other health care workers; in addition, a health practitioner must take special care in the disposal of contaminated materials including sharps.
- (iii) A health practitioner shall not conceal his/her own illness which could endanger patients/clients and professional colleagues.

### **5.7. Participating in or conducting clinical or other health related research not approved by the relevant Ethics Committee.**

When required to participate in any research involving human participants, a health practitioner must ensure that there is a written and approved research protocol with defined lines of scientific supervision from a relevant Ethics Committee. A practitioner must ensure that Research participants are sufficiently protected and that their

participation in the research is based on informed consent.

Relative probability of harm and benefits must also be adequately explained to all the participating human participants including their proxy. A health practitioner shall ensure :

- (i) That the research is approved by established institutional and professional bodies.
- (ii) The protection of the protection of the rights of human study subjects and to conform to recognised medical norms and guidelines of the profession related to research.

## **5.8. Relationships between the health professionals and the Associated Industries**

Notwithstanding the beneficial relationship between the health profession and the Associated Industries in terms of research, and the consequent development of new drugs or diagnostic equipment of therapeutic value, their production and distribution for clinical use, the medical practice owes much to the industries for the facilitation of medical/health research and post graduate education of health practitioners through financial support from associated industries.

The necessity of advertising and other forms of sales promotion by individual firms within the associated industries is appreciated to enhance their commercial viability and provision of relevant information.

A health practitioner should not only choose but shall also be seen to be choosing the drug, appliance or goods which, in his/her independent professional judgement and having due regard to economy, will best serve the medical/health interest of his/her patient/client.

Health practitioners should therefore, avoid accepting any pecuniary or material inducement which might compromise, or be regarded as likely to compromise, the independent exercise to their professional judgement in prescribing matters.

The seeking and/or acceptance by health practitioners of unreasonable sums of money or gifts from commercial firms which manufacture or market medicines or diagnostic or therapeutic agents or appliances may be regarded as improper. Examples of inducements which the Council may regard as improper are set out below:

### **(a) Clinical trials of medicines**

It may be improper for a health practitioner to accept per capita or other payments from a pharmaceutical firm or associated in relation to a research project such as the clinical trial of a new drug, unless the payment has been specified in a protocol of the project which has been approved by the relevant national or local Ethics Committee. It may be improper for a practitioner to accept per capita or other payments under arrangements for recoding clinical assessments of a licensed medical product, whereby he/she is asked to report reaction which he/she has observed in patients/clients for whom he/she has prescribed the drug, unless the payments have been specified in a protocol for the

project which has been approved by the relevant national or local Ethics Committee.

It is improper for a health practitioner to accept payment in money or kind which could influence his/her professional assessment of the therapeutic value of a new drug.

#### **(b) Gifts and loans**

It may be improper for an individual health practitioner to accept from a associated industries monetary gifts or loans or expensive items of equipment for his/her personal use. Exception can, however, be taken to grants of money or equipment by firms to institutions such as health facilities, training institutions, when they are donated specifically for the purposes of research.

#### **(c) Acceptance of hospitality**

It may be improper for an individual health practitioner or groups of health practitioners to accept lavish hospitality or travel facilities under the terms of sponsorships of postgraduate meetings or conferences. However, exception is likely to be taken to acceptance by an individual health practitioner of a grant which enables him travel to an international conference or to acceptance, by a group of practitioners who attend a sponsored postgraduate meeting or conference or hospitality at an appropriate level which the recipients might normally adopt when paying for themselves.

### **(5.9) Continuing Professional Development and Supervision**

It is expected that health practitioners are kept abreast with the current trends in their scope of practice. The health practitioners have also an obligation to supervise their colleagues and mentor students who have been placed under their charge. Therefore, a health practitioner shall:

- i. Upgrade such skills and knowledge as appropriate to the health practitioner's scope of practice as required by the Council;
- ii. Provide an honest and objective appraisal or assessment of the performance of any health practitioner under such health practitioner's supervision or any student undergoing training under such health practitioner;
- iii. Adequately supervise junior health practitioners under their responsibility.

### **6.0 FITNESS TO PRACTICE**

When a health practitioner's fitness to practice is adversely impaired by reason of a physical or mental illness in such a way that it imperils patients/clients, embarrasses professional colleagues or indeed jeopardises professional position, the Disciplinary Committee may liaise with the Specialist and Impaired Practitioners Committee in suspending the practitioner's registration or attach conditions to it after the provisions of the Disciplinary Proceedings (Rules) have been followed.

This measure shall be undertaken to protect the public and safeguard the reputation of the profession.



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