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## BOARD NOTICE

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### BOARD NOTICE 128 OF 2014



ALLIED HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA (AHPCSA)

ALLIED HEALTH PROFESSIONS ACT (ACT No.63 of 1982) AS AMENDED

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### DRAFT CODE OF ETHICS, INCLUDING GUIDELINES FOR GOOD PRACTICE AND ADVERTISING GUIDELINES

#### DEFINITION

In this notice, “**the regulations**” means the Regulations pertaining to the Allied Health Professions Act (Act No.63 of 1982) as amended and published by Government Notice No. R 127 of 12 February 2001.

The Allied Health Professions Council of South Africa (AHPCSA), in consultation with its professional boards, and in terms of Section 54(8) of the Regulations, hereby publishes a draft Code of Ethics for comment by stakeholders. Interested persons are invited to submit, within one month after the date of publication of this notice, substantiated comments on or representations regarding the proposed Code of Ethics to the Registrar, Dr Louis Mullinder, via fax: (012) 349 2327, e-mail: [ethics@ahpcs.co.za](mailto:ethics@ahpcs.co.za) or by courier or hand delivered to the Allied Health Professions Council of South Africa, Castelli Suite, Il Villaggio 5 De Havilland Crescent South, Persequor Technopark, Pretoria.

A handwritten signature in black ink, appearing to read 'Louis Mullinder'.

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**DR LOUIS MULLINDER**

Registrar

Allied Health Professions Council of South Africa



**ALLIED HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA**

**CODE OF ETHICS IN TERMS OF SECTION 54(8) OF REGULATIONS NO.R.127 OF  
12 FEBRUARY 2001 TO THE ALLIED HEALTH PROFESSIONS ACT, ACT 63 OF  
1982, AS AMENDED  
INCLUDING  
GUIDELINES FOR GOOD PRACTICE  
AND  
ADVERTISING GUIDELINES**

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## **SECTION 1: DEFINITIONS**

In the Act<sup>1</sup> and Regulations, any word or expression to which a meaning has been assigned shall have the meaning so assigned unless the context indicates otherwise.

**'advertisement'** means any direct or indirect visual or oral communication transmitted by any medium, or any representation or any reference written, inscribed, recorded, encoded upon or embedded within any medium (including but not limited to the internet, newspapers, magazines, pamphlets), by means of which a person seeks to

1. bring to the attention of all or part of the public:-
  - a. The existence or identity of a supplier (i.e. practitioner or its practice);
  - b. The existence, nature, availability, properties, advantages or uses of any goods or services that are available for supply, or the conditions on, or price at, which any goods or services are available for supply, or
2. Promote the supply of goods or services; or
3. Promote any cause

and **advertising** has a corresponding meaning;

**'bona fide patient'** shall mean a patient who has at any time previously been treated by the practitioner concerned;

**'canvassing/touting'** means conduct which draws attention, verbally or by means of printed or electronic media, to one's personal qualities, superior knowledge, quality of service, professional guarantees or best practice or tout to draw attention to one's offers, guarantee or material benefits or allow canvassing or touting to be done for patients on his or her behalf;

**'council'** means the Allied Health Professions Council of South Africa established by section 2 of the Act;

**'disciplinary inquiry'** means an inquiry held in terms of Chapter 3 of the Act by the council or a 'professional board', acting under powers delegated to it by the council;

**'Health Professions Act, 1974'** means the Health Professions Act, 1974 (Act No. 56 of 1974, as amended);

**'practitioner'** means a person registered as an acupuncturist, ayurveda practitioner, Chinese medicine practitioner, chiropractor, homeopath, naturopath, osteopath, phytotherapist or Unani-Tibb practitioner, in terms of this Act;

**'private practice'** means a practice where a practitioner practises a registered allied health profession;

**'profession'** means any registered allied health profession;

**'professional board'** means a professional board established in terms of section 10A;

**'qualification'** means any degree, diploma or certificate awarded after examination of a person's proficiency in a particular subject;

**'register'**, as a noun, means a register kept in terms of this Act, and when used in relation to any category or any member of any category of persons in respect of whom a register is kept, the register kept in respect of that category; and as a verb, means to enter in a register under this Act, and the words 'registered' and 'registration' and all other words derived from the word 'register' shall have a corresponding meaning;

**'registrar'** means the registrar of practitioners and students appointed in terms of section 11(1);

**'registration certificate'** means a registration certificate issued in terms of any regulation made under section 38(1)(g);

**'regulation'** means any regulation made in terms of the Act;

**'residence'** means any dwelling, flat, room, suite or set of rooms used by a person registered in terms of the Act;



**'rule'** means any rule made in terms of the Act;

**'the Act'** means the Allied Health Professions Act [Act 63 of 1982]

**'the Act'** may include any regulation, rule or order made or issued in terms of the Act;

**'therapist'** means a person registered as a therapeutic aromatherapist, therapeutic massage therapist or therapeutic reflexologist in terms of the Act and any reference to 'practitioner' includes 'therapist'; and

**'unprofessional conduct'** means improper, disgraceful, dishonourable or unworthy conduct or conduct which, when regard is had to the profession of a person who is registered in terms of this Act, is improper or disgraceful or dishonourable or unworthy.

**SECTION 2: SCOPE OF PRACTICE**

Section 2 of the Act provides as follows:

*(2) For purposes of this Act –*

*(a) a practitioner may-*

*(i) diagnose, and treat or prevent, physical and mental disease, illness or deficiencies in humans;*

*(ii) prescribe or dispense medicine; or*

*(iii) provide or prescribe treatment for such disease, illness or deficiencies in humans;*

*(b) a therapist may-*

*(i) treat or provide treatment for diagnosed disease, illness or deficiencies in humans; or*

*(ii) prevent such disease, illness or deficiencies in humans; and*

*(c) any reference in this Act, except in section 16(3), (4), (5) and (6), to practitioner includes a therapist*

## **SECTION 3: CODE OF ETHICS**

### **A. INTRODUCTION**

Registration with the Allied Health Professions Council of South Africa (AHPCSA) confers on practitioners the right and privilege to practise those allied health professions for which they have been registered in terms of the Act. Correspondingly, practitioners have moral and ethical duties to others and society given that the fundamental premise of any healthcare professional is the recognition that responsibility is owed to the patient first and foremost, as well as to society, to other health professionals, and to self<sup>2</sup>. The core values and standards referred to below in the Principles of Medical Ethics are the foundation for the general and/or aspirational ethical guidelines. It is impossible to develop a complete set of specific ethical prescriptions applicable to all conceivable practitioner/patient interaction. These guidelines are, therefore, designed to assist the practitioner in deciding what course of action would be most ethically appropriate according to each situation.

### **B. PRINCIPLES OF MEDICAL ETHICS**

#### **1. Respect for persons**

Respect patients as persons, and acknowledge their intrinsic worth, dignity, and sense of value.

#### **2. Best interest or well-being: Beneficence**

Do not harm patients or act against their best interests, even when they conflict with your self-interest.

#### **3. Human Rights and Dual Loyalty**

Act in the best interests of patients and respect their human rights, even when these rights are in conflict with state or non-state authorities.

**4. Rights of the Individual**

Recognise that some interests of individuals may be so important that they acquire the status of human rights in the form of either claims or freedoms to be respected by all.

**5. Autonomy**

Honour the patients' right to self-determination or to make their own informed choices, living their lives by their own beliefs, values and preferences.

**6. Integrity**

Incorporate core ethical values and standards as the foundation for good character and responsible practice.

**7. Truthfulness**

In professional relationships with patients, regard the truth and truthfulness as the basis of trust.

**8. Confidentiality**

In professional relationships with patients, treat personal and/or private information as confidential, unless overriding reasons confer a moral right to disclosure.

**9. Compassion**

Be sensitive to and empathise with individual and social needs for comfort and support in a manner becoming of a healthcare professional.

**10. Justice**

Treat all individuals and groups in an impartial, fair and just manner.

**11. Recognition of Diversity**

Respect the rights of people to be different and to have different beliefs.

**12. Professional competence and self-improvement**

Continually endeavour to attain the highest level of knowledge and skills required within your area of practice.

### 13. Community

Consistent with your professional abilities and standing in the community, strive to contribute to the betterment of society.

## C. DUTY AND OBLIGATION

**A duty is an obligation or responsibility to act or withhold action and may be ethical, legal, or both. Duties are inherent to the personal, social, professional and political spheres of our lives. Accordingly, there are different kinds of duties:**

**For human beings there are “natural duties”,** namely un-acquired general duties simply because we are members of the human community. These are the natural duties to refrain from doing harm, to promote the good, or to be fair and just;

**For practitioners there are “moral obligations”,** namely general duties we acquire by being qualified and registered as healthcare professionals. These are the professional duties to provide healthcare, relieve pain, gain informed consent, respect confidentiality and be truthful, for example;

**For practitioners working in specific institutions or settings there are** acquired duties specific to the particular institutionalised role or position. These are the duties of a health professional employed by a hospital and/or a single-practice health professional. These duties are circumscribed in employment contracts, job descriptions, conventional expectations, and the like; and

**Legal duties,** are duties imposed by the common law and by statute law (for example, the Act that requires alternative healthcare practitioners to follow certain procedures and to use particular skill and care when dealing with patients).

## D. DUTY TO THE PATIENT

### 1. Patients' well-being or best interests

- a. Always regard concern for the best interests or well-being of your patients as your primary professional duty.
- b. Be aware of the possibility of conflict of interest with regard to human rights and dual loyalties.
- c. Honour the trust of your patients.
- d. Be mindful that a practitioner is in a position of influence and authority over a patient and avoid abusing your position.
- e. Within the normal constraints of your practice, be accessible to patients when you are on duty, and make arrangements for access when you are not on duty.
- f. Make sure your personal beliefs do not prejudice your patients' care. Beliefs that might prejudice care relate to patients' race, culture, ethnicity, social status, lifestyle, perceived economic worth, age, gender, disability, communicable disease status, sexual orientation, religious or spiritual beliefs, among other.
- g. If you feel your beliefs might affect the treatment you provide, explain this to your patients, and inform them of their right to see another professional.
- h. Do not refuse or delay treatment because you believe that patients' actions have contributed to their condition, or because you may be putting your health at risk.
- i. Apply your mind when making assessments and considering appropriate treatment.
- j. Act quickly to protect patients from risk if you believe yourself to be impaired.
- k. Respond to criticism and complaints promptly and constructively.
- l. Inform your patients if you are in the employ of, in association with, linked to, or have an interest in any organisation or facility that could be interpreted by an average person as potentially creating a conflict of interest or dual loyalty in respect of your patient care.
- m. Provide healthcare in emergency situations within the limits of your practice, experience and competency. If unable to do so, refer the patient to a colleague who can provide the required care.

**2. Respect for patients**

- a. Respect patients' privacy and dignity.
- b. Treat patients politely and with consideration.
- c. Listen to your patients and respect their opinions.
- d. Avoid improper relationships (for example sexual relationships or exploitative financial arrangements) with your patients, their friends or family members.
- e. Guard against human rights violations of patients, and do not allow or participate in any actions that lead to the violations of the rights of patients.

**3. Informed consent**

- a. Treatment may not be provided to a patient without his informed consent.
- b. Informed consent to the treatment must be obtained before a treatment commences and the principle of informed consent during the treatment must also be applied.
- c. You are required to explain to the patient in language and terminology that is easily understood by the patient:
  - i. the description of the treatment and procedures;
  - ii. the number and frequency of treatments;
  - iii. the possible reactions after the treatment and
  - iv. the fee which will be charged for the treatment.
- d. The practitioner must respect the patient's autonomy and self-determination in that, on receiving sufficient information regarding the treatment, the patient can decide whether or not to continue with the treatment.
- e. The practitioner should respect the right of the patient to seek another medical opinion before continuing a follow-up treatment.

**4. Patient confidentiality**

- a. Recognise the right of patients to expect that you will not breach the confidentiality of any information you acquire in the course of your professional duties, unless they agree to disclosure, or unless you have a legal obligation to do so as, for example, the statutory obligation to report any breach of children's rights in terms of the Children's Act, 2005.

**5. Patient participation in their own healthcare**

- a. Respect the right of patients to be fully involved in decisions about their treatment and care.
- b. Respect the right of patients to refuse treatment or to take part in teaching or research.
- c. Inform your patients that they have a right to seek a second opinion without prejudicing their future treatment.

**6. Impartiality and justice**

- a. Be aware of the rights and laws concerning unfair discrimination in the management of patients or their families on the basis of race, culture, ethnicity, social status, lifestyle, perceived economic worth, age, gender, disability, communicable disease status, sexual orientation, religious or spiritual beliefs, among other or such as may be prescribed in legislation.

**7. Record keeping**

Accurate record-keeping must include:

- a. Personal particulars of the patient.
- b. History of the patient's health conditions.
- c. The time, date and concise information of every consultation.
- d. The assessment of the patient's condition.
- e. The proposed health care management of the patient.
- f. Details of referrals to other health professionals, if any.
- g. The patient's reaction to treatment, including adverse effects.
- h. Self-serving or disapproving comments should be avoided in patient records.
- i. Written proof of informed consent, where applicable.
- j. Records must be retained for the period of time as prescribed by legislation.
- k. Billing records must be kept separately from patient care records.

**8. Access to care**



Promote access to healthcare. If you are unable to provide a service, refer the patient to another practitioner or other health professional or to a healthcare facility, which can provide the required service.

#### **9. Potential conflicts of interest**

- a. Always seek to give priority to the investigation and treatment of patients solely on the basis of clinical need.
- b. Avoid over-servicing. Recommend or refer your patients for necessary investigations and treatment only. Prescribe only treatment, drugs or appliances that serve patients' needs.
- c. Declare any potential conflict of interest to your patients.
- d. Refrain from placing pressure on patients or their family to give you gifts or any other undue benefit.

### **E. DUTY TO COLLEAGUES AND OTHER PROFESSIONALS**

#### **1. Referrals to colleagues and potential conflicts of interest**

- a. Act in your patients' best interest when making referrals and providing or arranging treatment or care. Do not ask for or accept any inducement, gift, or hospitality because it may affect or be seen to affect your judgment. Do not offer such inducements to colleagues.
- b. Treat patients referred to you in the same manner in which you treat your own patients.

#### **2. Working with colleagues**

- a. Work with and respect other practitioners or registered health professionals in pursuit of the best health care possible for all patients.
- b. Support colleagues who uphold the core values and standards embodied in these guidelines.
- c. Do not discriminate against colleagues, including professionals applying for posts, because of your views on their race, culture, ethnicity, social status, lifestyle, perceived economic worth, age, gender, disability, communicable disease status, sexual orientation, religious or spiritual beliefs, or any condition of vulnerability.

- d. Refrain from speaking ill of colleagues or other health professionals.
- e. Do not make a patient doubt colleagues' knowledge or skill by making comments about them that cannot be fully justified.

### **3. Duties to other professionals' patients**

- a. Act quickly to protect patients from risk if you believe a colleague to be impaired.
- b. Report violations and seek redress in circumstances through appropriate channels where you have good or persuasive reason to believe that the rights of patients are being violated, or are required to do so in law.

## **F. DUTY TO YOURSELF**

### **1. Knowledge and skills**

- a. Maintain and improve the standard of your performance by keeping your professional knowledge and skills up to date throughout your working life. In particular, regularly take part in educational activities that relate to your branch or discipline of healthcare, over and above any obligation as prescribed by the AHPCSA Continuing Professional Development policy requirements.
- b. Acknowledge the limits of your professional knowledge and competence. Do not pretend to know everything.
- c. Since there are laws that govern aspects of professional healthcare practice, observe and keep up to date with those that affect your practice.

### **2. Maintaining a professional practice**

- a. Keep your healthcare equipment in good working order.
- b. Maintain proper operating procedures and hygiene in your working environment.
- c. Keep accurate and up-to-date patient records.
- d. Refrain from engaging in activities that may affect your health and lead to impairment.

## **G. DUTY TO SOCIETY**

### **1. Access to scarce resource**

Deal responsibly with scarce healthcare resources. Refrain from providing a service that is not needed, whether it provides financial gain or not. Refrain from unnecessary wastage, and from participating in improper financial arrangements, especially those that escalate costs and disadvantage individuals or institutions unfairly.

### **2. Healthcare policy development**

Include ethical considerations and human rights in the development of healthcare policies, taking into consideration also environmental legal requirements and animal rights

## **H. DUTY TO YOUR PROFESSION**

### **1. Reporting misconduct**

- a. Report violations and seek redress in circumstances where you have good or persuasive reason to believe that the rights of patients are being violated.
- b. Where it is in your power, protect someone who reports misconduct from victimisation or intimidation.

### **2. Access to appropriate healthcare**

Promote access to healthcare. If you are unable to provide a service, refer the patient to another professional or healthcare facility.

## **I. DUTY TO THE ENVIRONMENT**

### **1. Conservation of natural resources**

Recognise that natural resources are limited and guard against their exploitation. Choose sustainable options wherever possible and ensure that local and international conventions, such as CITES, are respected.

### **2. Disposal of healthcare waste**

Protect the environment and the public by assuring that healthcare waste is disposed of legally and in an environmentally friendly manner.

**SECTION 4: RULES/AHPCSA POLICY SPECIFYING THE ACTS OR OMISSIONS IN RESPECT OF WHICH THE ALLIED HEALTH PROFESSIONS COUNCIL MAY TAKE DISCIPLINARY STEPS AS PROVIDED FOR IN THE ACT AND THE REGULATIONS THERETO AND AHPCSA POLICY DECISIONS AS MAY BE ISSUED FROM TIME TO TIME.**

The following acts are not permitted:

**A. ADVERTISING**

Advertising his or her services *in a manner which contravenes the provisions as stipulated in the Council Guidelines For Making Professional Services Known.*[see Section 5] or permitting, sanctioning or acquiescing in such advertising.

**B. CANVASSING AND TOUTING**

Directly or purposefully canvassing or touting for patients in whatever manner.

**C. ITINERANT PRACTICE**

An itinerant practice may not be pursued unless a practitioner, on a regular basis, which shall be at least once a month, provides a full and satisfactory service to his patients, similar to the service which he provides in the place where he pursues his main practice, with such itinerant consulting rooms also meeting the requirements prescribed by the Regulations.

**D. PRACTICE NAME**

The use of a name for a private practice by a practitioner of -

- (a) Any name or expression, except the practitioner's own name or where practitioners practise in partnership or as a juristic person, as the name of such partnership or as a juristic person, the names of such practitioners; and
- (b) The expression "*hospital*" or "*clinic*" or any other special term that could create the impression that such a practice forms a part of, or is in association with, a hospital, clinic or similar institution.

### E. INFORMATION ON PROFESSIONAL STATIONERY

A practitioner is allowed the printing or commissioning of printing on stationery for the purposes of the practice, limited to the following information:

- the name of the practitioner, partnership or juristic person
- an ideogram or logo
- professional designation granted by the AHPCSA
- registered qualifications, professional qualifications or academic qualifications and honorary degrees in abbreviated form
- membership of any professional association
- addresses (including e-mail and website addresses)
- telephone numbers
- hours of consultation
- council registration number and practice number, and dispensing license number or compounding and dispensing license number,
- other legal financial requirements, such as a VAT registration number;
- practice banking details

### F. FEES AND COMMISSIONS

- (a) The acceptance by a practitioner of commission from a person or another practitioner in return for the purchase, sale or supply of any goods, substances or materials used by him or her in the conduct of his or her professional practice.
- (b) Paying commission to any person for recommending patients.
- (c) Sharing fees with any person or practitioner who has not taken a commensurate part in the services for which the fees are charged.
- (d) Charging or receiving fees for services not personally rendered, except for services rendered by another practitioner with whom he or she is associated as a partner or *locum tenens*.
- (e) The rendering of accounts for services rendered to a practitioner's own spouse/partner or dependents; Provided that accounts may be rendered in

respect of laboratory fees and other special investigations.

- (f) Charging for services whether retrospectively or not where the practitioner did not render such services fully himself or herself: Provided that a reduced rate may be charged where the practitioner physically supervised another practitioner who rendered such services.
- (g) The charging by a practitioner for telephone consultations, email or any other electronic communications: Provided that a fee may be charged for telephonic consultation, email or other electronic communications where the patient has been informed prior to said consultation or at beginning of said communications and provided that the patient has agreed to such charges; the charging of a fee commensurate to a fee charged for a full face-to-face consultation is disallowed.
- (h) Retainers, contract servicing and/or over-servicing and/or overcharging.
- (i) Provide a service or perform or direct certain procedures to be performed on a patient that are neither indicated nor appropriate or refer a patient to another healthcare practitioner for a service or a procedure that is neither indicated nor appropriate.

#### **G. PARTNERSHIPS AND JURISTIC PERSONS**

- (a) Practising in a partnership or juristic person with a person not registered in terms of the Act.
- (b) Practising in association with any person not registered in terms of the Act or in terms of the Health Professions Act, 1974, the Pharmacy Act, 1974, the Nursing Act, 1978, the Social Work Act, 1978, or the Dental Technicians Act, 1979.
- (c) Practising in or as a juristic person not exempted from registration in terms of section 38C of the Act or exempted from registration in terms of section 38C of the Act, but not complying with the conditions of such exemption.
- (d) Where a practitioner who is practising in a partnership, association or juristic person, practises a profession or practises outside the scope of the profession in

respect of which he or she is registered with the council.

#### **H. COVERING**

- (a) Employing as a *locum tenens* any person not registered as a practitioner of the same profession(s) for which he or she is registered with the council or employing as a professional assistant any person not registered as a practitioner in terms of the Act, the Health Professions Act, 1974 or the Nursing Act, 1978.
- (b) In any way helping or supporting a person registered in terms of the Act, the Health Professions Act, 1974, the Pharmacy Act, 1974, the Nursing Act, 1978, the Social Work Act, 1978, or the Dental Technicians Act, 1979, in any illegal practice or illegal conduct by such person.
- (c) Employing, in a professional capacity, a person whose name has been removed from any register kept by the council in terms of the Act, the Health Professions Council, Nursing Council or Pharmacy Council in terms of the Acts governing such councils, or who has been suspended from practising his or her profession.
- (d) Employing any other unregistered professional health service personnel or referring patients to such unregistered persons.

#### **I. SUPERSESSION**

In cases where he or she is, or should be, aware that a patient is under treatment by another practitioner, superseding such other practitioner, by deliberately canvassing, convincing or coercing such patient into treatment by him or herself rather than the practitioner originally in charge of the case.

#### **J. IMPEDING A PATIENT**

Impeding a patient, or someone acting on behalf of a patient, from obtaining the opinion of another practitioner or from being treated by another practitioner.

#### **K. PROFESSIONAL REPUTATION OF COLLEAGUES**

Unjustifiably casting reflection on the integrity, honesty, or professional reputation or skill of a person registered under the Act or any other healthcare legislation.



## **L. PROFESSIONAL CONFIDENTIALITY**

Divulging any information regarding a patient which ought not to be divulged, except when required to do so by law or with the express consent of the patient or, in the case of a minor under the age of 14 years, with the written consent of his or her parent or guardian, or in the case of a deceased patient, with the written consent of his or her next-of-kin or the executor of his or her estate. It should also be noted that a practitioner is at all times personally responsible to a patient in respect of matters relating to confidentiality.

## **M. CERTIFICATES AND REPORTS [SECTION 23 OF THE BASIC CONDITIONS OF EMPLOYMENT ACT, ACT 75 OF 1977]: THE ISSUANCE OF SUCH CERTIFICATES ONLY PERMISSIBLE TO THE PROFESSIONS OF ACUPUNCTURE, AYURVEDA, CHINESE MEDICINE, CHIROPRACTIC, HOMEOPATHY, NATUROPATHY, OSTEOPATHY, PHYTOTHERAPY OR UNANI-TIBB**

- (a) Granting a certificate of illness without such certificate containing the following information, namely -
- (a) The name and address of the practitioner, juristic person or partnership;
  - (b) The name of the patient;
  - (c) The employment number of the patient (if applicable);
  - (d) The date and time of the examination;
  - (e) Whether the certificate is being issued as a result of personal observations by the practitioner during an examination, or as the result of information received from the patient and which is based on acceptable medical grounds;
  - (f) A description of the illness, disorder or malady in layman's language;
  - (g) Whether the patient is totally indisposed for duty, or whether the patient will be able to perform less strenuous duties in the work situation;
  - (h) The exact period, in days, of recommended sick leave;
  - (i) The date of issue of the certificate of illness;
  - (j) A clear indication of the identity of the practitioner who issued the certificate; and
  - (k) The clear signature of the practitioner who issued the certificate.

- (b) If pre-printed stationery is used, neglecting to delete words not relevant.
- (c) Refusing to issue a brief, factual report to a patient where such patient, on reasonable grounds, requires information concerning him / herself.

#### **N. PROFESSIONAL APPOINTMENTS**

- (a) Accepting any professional appointment, which had not been advertised, which is not in accordance with a written contract of appointment that is available to the council on request, and which is drawn up on a basis, which is detrimental to the interests of the public or the profession.
- (b) A practitioner holding a full-time post in a private hospital while also conducting a private practice from that same private hospital: Provided that this rule shall not prevent a practitioner in full-time employment from also conducting a private practice provided that -
  - (a) the Code of Ethics is complied with;
  - (b) the contract of employment in terms of which the practitioner is appointed makes provision for private practice; and
  - (c) the relevant full-time post was advertised and was re-advertised if the contents of the contract of employment were amended.
- (c) A practitioner holding a professional post outside of his or her scope of practice or in a profession other than that of the profession for which he or she is registered with the council: Provided that this rule shall not prevent the appointment of a practitioner -
  - (a) not registered with the relative professional council in a post created on the joint staff establishment of a teaching institution and which is allocated to non-clinical departments; or
  - (b) in a post other than that which requires registration in terms of the Act, the Health Professions Act, 1974, the Pharmacy Act, 1974, the Nursing Act, 1978, the Social Work Act, 1978, or the Dental Technicians Act, 1979.

**O. SECRET REMEDIES**

- (a) Making use in the conduct of his or her practice of any form of treatment or remedy, which is secret or is claimed to be secret.
- (b) Making use of any diagnostic or therapeutic apparatus or device, unless so approved by the relevant professional board and ratified by council.

**P. CONSULTING ROOMS**

- (a) Sharing consulting or waiting rooms with a person not registered in terms of any Act regarding health professions or having an entrance through, or a nameplate at the entrance of such a person's consulting or waiting rooms or business.
- (b) The rendering of any non-medical services to patients in the waiting rooms or on the premises of a practitioner's consulting rooms.
- (c) A practitioner having a private clinic as part of his or her practice where his or her own patients can be admitted for hospitalization or close observation, unless such clinic has been approved by the AHPCSA in terms of Section 4(1)(gA) of the Act.

**Q. TAKING OF RADIOGRAPHS**

For a practitioner, except for a chiropractor, to take radiographs for, or on behalf of, any person not registered in terms of the Act or in terms of the Health Professions Act, 1974, or to request the taking of such radiographs, or to report on, or discuss, such radiographs with such unregistered person.

**R. COUNCIL'S STATUTORY DUTIES**

- (a) Performing an act, which prevents, or is calculated to prevent, the council, any office-bearer thereof, or the Registrar, from carrying out any duty granted by or imposed under the Act.
- (b) Communicating with a person whom a practitioner knows or should reasonably know to be a witness at a disciplinary inquiry to be held into the conduct of the practitioner concerned, on any aspect of evidence to be given by such witness at the inquiry, or on any aspect pertaining to the character, training, education or

experience of such witness, or permitting, sanctioning or acquiescing in such communication on his or her behalf.

#### **S. PERFORMANCE OF PROFESSIONAL ACTS**

- (a) The performance of a professional act for which he or she is inadequately trained or insufficiently experienced.
- (b) The performance of a professional act under improper conditions or surroundings.

#### **T. MEDICINES**

Subject to the provisions of Section 32A(f) of the Act a practitioner in active practice may not -

- (a) In any way distribute, sell, advertise or promote any medicine or medical device as defined in terms of the Act or as defined in the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), or any other activity which amounts to trading in medicines or medical devices, other than those used in the course of the practitioner's practise or prescribed for patients; or
- (b) engage in or advocate the preferential use or prescription of any medicine or medical device, if any valuable consideration is derived from such preferential use or prescription: Provided that the provisions of this subparagraph shall not prohibit a practitioner from owning shares in a listed public company manufacturing or marketing medicines or medical devices, or, subject to the provisions of the Pharmacy Act, 1974, from being the owner or part-owner of a pharmacy, or, whilst in the fulltime employment of a pharmaceutical concern in any particular capacity, from performing such duties as are normally in accordance with such employment; or prohibit a practitioner from partaking for educational purposes in lecturing on any medicine or medical device to persons registered in terms of the Act, the Health Professions Act, Nursing Act or the Pharmacy Act as the case may be.

#### **U. FINANCIAL INTEREST IN HOSPITALS**

Where a practitioner has a financial interest in a private clinic or hospital, referring a patient to such clinic or hospital without displaying a conspicuous notice in his or her waiting room indicating that he or she has a financial interest in such clinic or hospital.

## V. IMPAIRMENT

Failure on the part of a student or practitioner to -

- (a) report impairment in another student or practitioner to the council if he or she were convinced that such other practitioner student or practitioner was impaired as described in terms of section 30(1)(a) or (b) of the Act;
- (b) self-report his or her own impairment or alleged impairment as described in section 30(1)(a) or (b) of the Act to the council if he or she was aware of his or her impairment or had been publicly informed of being impaired or had been seriously advised by a colleague to act appropriately to obtain help in view of an alleged or established impairment.

## **SECTION 5: GUIDELINES FOR MAKING PROFESSIONAL SERVICES KNOWN**

### **A. INTRODUCTION**

Healthcare professionals are bound by the convention that they should refrain from self-promotion, since patients (and their families) experiencing health concerns are particularly vulnerable to persuasive emotive advertising and publicity.

### **B. ETHICAL PRINCIPLES**

1. Practitioners are required to give patients comprehensive professional advice and guidance on healthcare and/or alternative treatments and allow second opinions where appropriate. Neglecting or failure to respect a patient's right in this way may erode the fundamental practitioner/patient relationship on which good professional practice is founded.
2. A practitioner is at all times responsible for his or her own professional conduct.
3. Patients are entitled to protection from misleading advertising or improper promotional and competitive activities among healthcare professionals.
4. A practitioner shall be allowed to advertise his or her services or permit sanctions or acquiesce to such advertisement: Provided that the advertisement is not unprofessional, untruthful, deceptive or misleading or causes consumers unwarranted anxiety that they may be suffering from any health condition. Where a complaint is laid concerning any advertisement, the following will be taken into account:
  - 4.1 The motive of the practitioner concerned in arranging for or agreeing to such advert or publication;
  - 4.2 The nature, content and presentation of the material;
  - 4.3 Whether the material seeks to suggest the practitioner has particular abilities as compared with other practitioners in the same field of practice;

- 4.4 Whether the material is published in such a manner that it is likely to attract patients / consumers to that particular practitioner, or to promote his or her professional/practice or advantage or financial benefit.
5. Advertising in an unprofessional manner and/or canvassing and/or touting for patients / consumers is regarded as unprofessional behaviour, and constitutes a breach of professional conduct, liable for censure.

### C. INFORMATION THAT MAY BE INCLUDED IN NOTIFICATIONS

1. A practitioner may make information about himself / herself or his or her practice known by advertising or notices (in any medium), provided that they comply with all the provisions of these Guidelines, including change of address notices.
2. There are no limitations on the size or number of times a notice may be published.
3. Direct mailing of advertising material or notices is permissible, such as mailing to post boxes or direct delivery to home owners, but practitioners are required to take cognisance of the provisions of the Consumer Protection act, Act 68 of 2008 and the Protection of Personal Information Act of 2013, with regard to the concept of direct marketing.
4. A practitioner should implement appropriate procedures to accommodate a consumer / patient's right to restrict unwanted direct marketing (Reference can be made to the Consumer Protection act, Act 68 of 2008).
5. Advertising material or notices may be made available for issue to existing patients at the rooms of the practitioner and also at local information centres such as libraries and museums to persons enquiring about a practitioner's practice or available services.
6. Bulk distribution of advertising material or notices, for example at shopping malls and to passing motorists, is not permissible.
7. The use of photographs either of the practitioner, any patient or any other person on notifications is not permissible, unless written consent has been obtained from

the patient or third party and the photo is only used for purpose as explained to the patient or third party.

8. Notices on public road signposts, dustbins, cars and the like is not permissible.
9. The publications are limited to include the following information:

9.1 Information as per Section 4: E: INFORMATION ON PROFESSIONAL STATIONERY, set out above:

Field(s) of practice: If a healthcare professional chooses to make known that he or she practises in a specific field, the healthcare professional assumes a legal and ethical responsibility for having acquired a level of professional competence within that field of expertise which must be demonstrable and acceptable to his or her peers. Note that "field of practice" is not the same as "field of interest" and that an indication of a field of practice is only permissible if a practitioner limits, or for the most part, limits his or her practice to that field of practice. You require the relevant professional board approval, as well as council ratification, prior to using any "field of practice" nomenclature;

10. Information on payment arrangements must be limited to statements relating to formal arrangements, e.g. "credit cards acceptable", "cash only", etc.
11. Reference may not be made to discounts or quantum of fees.
12. The aim of publication of notices is solely to inform patients of the whereabouts of practitioners.
13. In the case of the use of any electronic or print media, no practitioner shall make use of images of patients, whether still or interactive; no patients' testimonials may be used.
14. No claims of healing or curing may be made.

#### **D. PUBLIC DEMONSTRATIONS**

Public demonstrations on patients are not permissible.



#### **E. ADVERTISING OF EMPLOYMENT OPPORTUNITIES**

It is permissible to advertise an employment opportunity in relevant professional journals, or in any other media.

#### **F. DUTY OF A HEALTHCARE PROFESSIONAL WHO IS IN A RELATIONSHIP WITH OR IN THE EMPLOY OF INDEPENDENT ORGANISATIONS OFFERING OR ADVERTISING CLINICAL, DIAGNOSTIC OR HEALTHCARE ADVISORY SERVICES SUCH AS A PRIVATE HOSPITAL, GYMS, OR HEALTH SPAS**

1. Any healthcare professional in relationship with or in the employ of an independent organisation as indicated above or who intends to enter into such relationship or employment:
  - 1.1 May only do so on the basis of a written contract or agreement that must be made available to the council, or professional board prior to acceptance of the appointment;
  - 1.2 Must satisfy himself or herself before entering into a contract or written agreement with such organisation that:
    - a. The advertisements of or promotional activities of the organisation concerned are factual;
    - b. Such advertisements do not promote the personal qualities or services of individual healthcare professionals connected with it;
    - c. Such advertisements do not make invidious comparisons with the services of the state or with those of other organisations or healthcare professionals;

- d. The organisation directs patients to first consult their own practitioners prior to offering services rendered by the organisation;
  - e. Patients referred to the healthcare professional are not likely to be attracted by misleading or promotional advertisements issued by the organisation, gym or health spa;
  - f. No commission or other payment has been made or will be made on behalf of the organisation for the referral of such patients;
2. Must avoid personal involvement in promoting the services of such an organisation, for example by public speaking, broadcasting, writing articles or signing circulars;
  3. Must not permit his or her qualifications and status to be used in the organisation's promotional activities;
  4. Must not allow his or her personal practice address or telephone number(s) or other electronic contact details to be used as an enquiry point on behalf of such organisation;
  5. Must satisfy himself or herself that organisations that provide specialist services are aware of these guidelines;
  6. Must ensure that his or her name and qualifications are not used on reports, notices, notepaper or other stationery of such organisation.

#### **G. PRACTICE NOTICES TO PATIENTS**

1. Practitioners may communicate with their bone fide patients via practice notices, including newsletters, but such communications may not be distributed to the public at large.

2. These notices may include information about the practitioner's change in practice arrangements, healthcare information and changes in tariff structures.

## **H. COMMUNICATION WITH COLLEAGUES**

It is permissible, common practice and should be encouraged amongst healthcare professionals to communicate the setting up of a practice or practice address changes to colleagues.

## **I. DIRECTORIES AND PUBLIC LISTS**

1. Prospective patients and other healthcare professionals should have ready access to accurate, comprehensive, and well-presented information about the practitioners practising in their area in order to make informed choices.
2. Directories and public lists, either printed or electronic, with the names of practitioners and their practice details may be distributed for the benefit of members of the public and peers.
3. All practitioners in a specific area should be eligible for inclusion in such directories or public lists.
4. The names and particulars of practitioners listed in such directories and public lists should be of the same size and format.

## **J. OUTSIDE SIGNS AND NAMEPLATES (OUTSIDE THE PHYSICAL PRACTICE)**

1. Signs and nameplates may not be larger than 1 m x 0.5 m and may contain some or all of the following information, but nothing more, namely -
  - 1.1 Names (initials) and surname of the healthcare professional;
  - 1.2 Profession (e.g. chiropractor, homeopath);

- 1.3 An indication of the location of the practice (e.g. room number, street number, name of the building);
- 1.4 Telephone number(s);
- 1.5 Consulting hours;
2. Logos may not be used on outside signs and nameplates.
3. Only one outside sign may be used, except in the case of a large complex with more than one entrance where a sign may be placed at each entrance. The sign should be placed on the premises where the practice is situated, or, at most, at the street corner closest to the premises.
4. A nameplate may be used on the door of the consulting room.
5. In the case of occupants of large complexes where special provision is made in the entrance hall and on the various floors to indicate the tenants, it shall be permissible to make use of such provision.
6. If necessary, in large complexes, a nameplate with the name of the healthcare professional only, may be used in the corridor for the direction of the patients.
7. An outside sign indicating "PRIVATE PARKING FOR ....." (indicating the street name and number only) will be permissible (for example PRIVATE PARKING FOR 23 FORD STREET).
8. In the event of a change in the membership of a company, partnership, or association, the original nameplate may be displayed for a period of six months whereafter a nameplate with the current information shall be displayed. Should a practice move to other premises, the name of the practice and the new address may also be displayed at the vacated address for six months.
9. If an illuminated sign is used, the only sources of illumination may be a constant white light.
10. Only two colours of own choice may be used on outside signs, one for background and one for lettering.

## K. PRACTICE NAMES

1. Practitioners may use as the name of a practice, their own names and/or the names of their partners, directors or associates or the name of one or of certain partners or associates or directors, together with the words “and partners”, “incorporated” or “and associates”, as the case may be.
2. Descriptive trade names for the practices may not be used;
3. The use of an expression such as “hospital”, “clinic” or “institute” or any other special term which could create the impression that a practice is, or forms part of, or is in association with a hospital, clinic or similar institution, may not be used.
4. A building occupied by healthcare professionals who are registered with the Allied Health Professions Council of South Africa may have a name indicating the profession of the occupants only if there are at least two such independent professional practices in the building. Where only one such professional practice (e.g. a chiropractor, homeopath, acupuncturist) be conducted in the building and the name of the building refers to that profession (e.g. chiropractic centre, homeopathic centre, acupuncture centre) the impression may be created that that single practice is more important than other individual practices. In the case of registered healthcare professionals of different professions such as a therapeutic aromatherapist, naturopath and homeopath practicing in the same building, the name “Health Centre”, however, may be used.
5. Personal liability companies and partnerships falling in the same category may not be indicated as “practicing as” or “trading as”.

## L. PRACTITIONERS AS AUTHORS

1. A practitioner who is the author or co-author of books or academic articles may mention his or her own name as author or co-author, as the case may be, and

indicate his or her professional standing as this promotes the profession's duty to disseminate information about advances in health sciences.

2. Practitioners with the necessary knowledge and skills may participate in the presentation and discussion of health topics by means of public addresses or through the printed or electronic media to lay audiences, provided that no information about their standing is given which may imply that a practitioner is the only, the best, or the most experienced in his or her particular field.
3. Practitioners should not divulge details of their practices when participating in the aforementioned presentations or discussions as this may be construed as touting or canvassing for patients.
4. Practitioners acting as spokespersons for an organisation or institution may be named. It should also be stated explicitly that healthcare professionals cannot offer individual advice or see patients who heard or read the programme or article.

#### **M. FACEBOOK/OTHER SOCIAL MEDIA INTERACTION**

1. The utilization of any social media (not limited to social networks such as FACEBOOK) may take place within the provisions of the relevant laws and regulations, including, but not limited to, the laws and regulations applicable to the professions registered under the AHPCSA.
2. The AHPCSA recognizes, and respects, that freedom of expression, an entrenched right within the Constitution of the Republic of South Africa, is a necessary and fundamental tenet of democracy – this right is not absolute, however, and is therefore limited by the Constitution and other aspects of law.
3. Section 36 of the Bill of Rights provides for the limitation of a right to the extent that the limitation is reasonable and justifiable in an open and democratic society, based on human dignity, equality and freedom, taking into account all relevant

factors including among other things the nature of the right and the nature and extent of the limitation. This limitation encumbers the exercise of one's own right in terms of the constitution, while it promotes the prohibition of infringing on another person's rights.

4. No practitioner may interact on social networks in any manner which might be construed as defamatory or might fall into the lesser category of *contumelia*, or insult, either to other individual practitioners, to the profession as a whole or to the AHPCSA itself; these interactions infringe on the rights enjoyed by parties so affected.
5. Social media should never be used in a way that breaches any of the prescribed Code of Ethics, policies or regulations. Practitioners are prohibited from using social media to:
  - (a) Breach any of the prescribed policies, regulations or Code of Ethics;
  - (b) breach obligations with respect to the rules and regulations of the AHPCSA or any other organization;
  - (c) breach any obligations they may have relating to confidentiality;
  - (d) defame or disparage the AHPCSA or any of its employees or members, practitioners or patients, suppliers, vendors or other stakeholders;
  - (e) harass or bully any person in any way ;
  - (f) unlawfully discriminate against any person; and
  - (g) breach any other laws or ethical standards (for example, never use social media in a false or misleading way, such as by claiming to be someone other than yourself or by making misleading statements).
6. Practitioners should never provide references for other individuals on social or professional networking sites.
7. Practitioners who breach any of the above will be subject to disciplinary action by the AHPCSA.

8. Limitations on advertising have at the core the fiduciary relationship between a practitioner and the patient, with protection of the patient being the overriding principle; trust between the practitioner and patient is critical for the ultimate well-being of any patient.
9. The manner and extent of social media interaction also bears reflection within the paradigm of the Consumer Protection Act, Act 68 of 2008. Any claims made by practitioners on social media sites are subject to the provisions of this Act.
10. Interaction with any patient on any open web- or social media site (accessible by the public or any other third party (other than the practitioner and consumer/patient) is disallowed.

#### **N. GENERAL**

1. Notifications about practitioners who stand in a relationship with private hospitals, clinics, gyms and health spas, must in all respects conform to these guidelines.
2. The council and/or the professional board retains the final authority for deciding on the acceptability, the content and format of notifications put out by healthcare professionals.
3. Disciplinary cases pertaining to healthcare professionals who are in breach of the guidelines for making professional services known, as contained in this document, will be dealt with in a manner that will result in the finalisation of these cases within the shortest possible period of time.
4. In the case of uncertainty about the application of these guidelines or in the case of intended promotional action or notifications that are not covered within these guidelines, healthcare professionals should consult the council for appropriate guidance. Professional associations should on their part, in the case of intended promotional actions or notifications not covered in these guidelines, make appropriate recommendations to the council on how to deal with such matters.



5. The term “healthcare professional” as used in the context of these guidelines, refers to all practitioners registered with the Allied Health Professions Council of South Africa.

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<sup>1</sup> The Allied Health Professions Act, Act 63 of 1982, as amended

<sup>2</sup> Principles of Medical Ethics, American Medical Association, [www.asa-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/principles-medical-ethics.page2#](http://www.asa-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/principles-medical-ethics.page2#) , accessed 20131114

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**The Medical and Dental Professional Board’s Booklets “Guidelines for Good Practice in Medicine, Dentistry and Medical Sciences”**

The Allied Health Professions Act and Regulations

The Health Professions Act and Regulations

The Department of Health’s “National Patients’ Rights Charter”

The Physicians for Human Rights of USA document on Dual Loyalty and Human Rights













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