

オーストラリア・ニュー・サウス・ウェールズ州における 医師免許制度と患者安全への配慮

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オーストラリア・ニュー・サウス・ウェールズ州における医師免許制度と患者安全への配慮

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オーストラリア New South Wales 州における医師の医療行為の監査、評価、医師免許取り消しに関する web site には以下のものがある。

Guide to the medical practice act <www.medeserv.com.au/nswmb>

特に professional conduct, performance assessment program, draft code of professional conduct に適正な医師の行動倫理と不適切な行いのあった場合の対処法が述べられている。Medical Practice Act 自体は、

<http://www.austlii.edu.au/au/legis/nsw/consol_act/mpa1992128/>

で見ることかできる。これは、医療行為に関する法律で、特に Division 4 - Disciplinary powers of Committees and Tribunal の中の

- 61 General powers to caution, reprimand, counsel etc
- 62 Power to fine in certain cases
- 63 Committee can recommend suspension or deregistration on grounds of lack of physical or mental capacity
- 64 Tribunal can suspend or deregister in certain cases

が処分制度を扱っている。

一方、ニューキャッスル大学に留学中で、現在 Royal Newcastle Hospital の Centre for Clinical Epidemiology and Biostatistics において高齢女性の飲酒と QOL の longitudinal study に参加している東海大学医学部基盤診療学系古屋博行講師によると、オーストラリア患者安全財団 (APSF) のホームページが有用である。<<http://www.apsf.net.au/journals.html>>

この中で、Iatrogenic Injury in Australia というレポートでは、P 81-88 に麻酔事故と疼痛管理の事故に対する症例検討が掲載されていて p87 の 2 2 10 9 credentialing, 2 2 10 10 registration に医師の処分について、若干の記載がある。

p14 の Recommendation 2 には、医学生に対する educational packages ' health

care as a complex system' の紹介がある。

これらのサイトから得られる情報だけからも、オーストラリアでは、同じ英語圏である米英を中心に提唱されてきた患者安全思想に基づく安全管理システムが大幅に取り入れられていて、大いに参考にすべきである。

Royal Australian College of Surgeons の生涯学習の site
<[http //www surgeons org/access/index html](http://www.surgeons.org/access/index.html)>

も充実している。

CPPS publications の surgical audit and peer review guide も同様に役にたつ。

Draft

NEW SOUTH WALES MEDICAL BOARD

CODE OF PROFESSIONAL CONDUCT

GOOD MEDICAL PRACTICE
*DUTIES OF A DOCTOR REGISTERED WITH THE NEW SOUTH WALES
MEDICAL BOARD*

SECTION 99A MEDICAL PRACTICE ACT 1992 (AS AMENDED)

MARCH 2004

CODE OF PROFESSIONAL CONDUCT**GOOD MEDICAL PRACTICE
THE DUTIES OF A DOCTOR REGISTERED WITH THE NEW SOUTH WALES
MEDICAL BOARD****EXECUTIVE SUMMARY**

The aim of this Code of Professional Conduct is to set out general principles in relation to the practice of medicine. These principles complement the requirements of the Medical Practice Act 1992 and the Health Care Complaints Act 1992 and case law. However, they are not a substitute for the provisions of law and case law and in the event of any doubt, the legislative provisions take precedence. All patients are entitled to good standards of practice and care from their doctors, both in the public and private health care systems.

This summary should be read in conjunction with the detailed Code of Professional Conduct (**Good Medical Practice - Duties of a Doctor Registered with the New South Wales Medical Board**)

Standard 1

All practitioners must be clinically competent i.e. possess adequate knowledge and skill and be able to apply this knowledge and skill in practice through their clinical performance

Standard 2

***All practitioners must observe professional and ethical obligations
These include***

- ***Education, teaching and training responsibilities***
- ***Providing honest assessment of the performance of colleagues***
- ***Maintaining trust with patients through the practitioner's interaction with patients***
- ***Putting patients first while putting aside one's own personal views***
- ***Responding appropriately to situations in which a complaint is made about a practitioner's treatment or where treatment is unsuccessful***
- ***Dealing appropriately with the next of kin of deceased patients***
- ***Arranging appropriate alternative treatment when the doctor/patient relationship deteriorates***
- ***By ensuring a practitioner's professional position is not abused or compromised through improper financial or personal dealings with patients***
- ***By ensuring that the practitioner's own health or that of another practitioner does not put patients at risk***
- ***Ensuring other practitioners do not place patients at risk through their health, conduct or performance***
- ***Providing factual information about the practitioner's services***

Standard 3

Each practitioner must ensure that the practitioner enjoys a good relationship with all colleagues in health care teams,

- ***Through treating colleagues with respect regardless of the practitioner's personal views***
- ***By working constructively with health care teams***
- ***By ensuring patient treatment is covered during the practitioner's own absence or unavailability***
- ***Ensuring that a patient's care is co-ordinated***
- ***Ensuring appropriate delegation and referral of care of a patient***

Standard 4

All practitioners must display probity in their professional practice in respect of

- ***Financial and commercial dealings***
- ***Financial interests in hospitals, nursing homes and other medical organisations***
- ***Not accepting gifts or other inducements***
- ***Not entering into financial agreements with patients which benefit the practitioner***
- ***Ensuring that any documents signed by the practitioner are not false or misleading***
- ***Ensuring that research in which the practitioner is engaged is conducted ethically and according to protocol and that the practitioner reports fraud or misconduct in research to the appropriate authority***

**DUTIES OF A DOCTOR REGISTERED WITH THE NEW SOUTH WALES
MEDICAL BOARD****A INTRODUCTION**

Section 99A of the Medical Practice Act, 1992 (as amended), provides that the Medical Board may establish a Code of Professional Conduct. The provisions of such a Code are a relevant consideration in determining what constitutes proper and ethical conduct by a registered medical practitioner.

In August 2003, the Board determined to prepare a Code of Professional Conduct pursuant to Section 99A of the Medical Practice Act, adopting the guidelines adopted in February 2000 by the NSW Medical Board entitled “**The duties of a doctor registered with the NSW Medical Board – Good Medical Practice**”

The aim of this Code of Professional Conduct is to set down standards of care to be observed by medical practitioners in their treatment of patients, their dealings with other practitioners and health care workers and registration and other authorities.

This Code sets out general principles in relation to the practice of medicine. It is not exhaustive, and cannot cover all forms of professional practice or conduct which may bring a practitioner’s registration into question.

The Code complements legislation, but is not a substitute for the legislative provisions and case law that has developed in the area and in the event of any doubt, the legislative and case law provisions take precedence.

Guidance on specific issues and areas of practice is contained in a number of policy statements in other documents displayed on the Board’s website.

All medical practice requires medical competence and high standards of individual patient care, and adherence to this Code is no guarantee of clinical competence in managing individual patients. However, departure from this Code will constitute prima facie evidence of unsatisfactory professional conduct.

The reasons for a Code of Professional Conduct

Practitioners, patients, medical administrators and other members of the public frequently seek guidance from the NSW Medical Board on issues of ethical conduct for medical practitioners. Each situation needs to be considered on its individual merits with reference to the standards set out in the Code of Professional Conduct – Good Medical Practice - The Duties of a Doctor Registered with the NSW Medical Board.

Legislative requirements and the principles set out in case law must also be considered when judging the obligations of a practitioner in any given situation.

This Code of Professional Conduct has been developed to assist both practitioners and members of the public to understand the duties of a practitioner registered by the NSW Medical Board in respect of patients, their colleagues and medical authorities.

The Code is based on a set of guidelines adopted with permission from the General Medical Council's (UK) publication *Good Medical Practice*. Those Guidelines were adopted by the NSW Medical Board in February 2000. It is recommended that all medical students and medical practitioners consult these guidelines in defining their ethical obligations in relation to patients, colleagues and medical authorities.

B BACKGROUND

The NSW Medical Board was set up in 1838 to provide registration for medical practitioners in NSW to ensure only those who had the qualifications, skills and experience to work as medical practitioners in NSW, were registered to do so. It has always been the role of the Board to protect the public. The Medical Practice Act 1992 (as amended) requires that the Board exercise its functions under the Act consistently with the object of the Act to protect the health and safety of the public by providing mechanisms designed to ensure that

- (a) medical practitioners are fit to practise medicine, and
- (b) medical students are fit to undertake medical studies in clinical placements

Functions of the Board include

- Promoting and maintaining high standards of medical practice in NSW,
- Advising the Minister on matters relating to the registration of medical practitioners and standards of medical practice,
- Publishing and distributing information concerning the Medical Practice Act to registered medical practitioners and other interested persons, and
- Providing counseling services for registered medical practitioners and medical students

The Board publishes policies and guidelines for practitioners to ensure that medical practice is carried on in NSW such that the public are protected.

The Board works in a system of co-regulation with the Health Care Complaints Commission in dealing with complaints of unsatisfactory professional conduct and professional misconduct against practitioners. The Board seeks to establish this Code of Conduct to assist practitioners to ensure that they do not breach their ethical requirements but also to provide clear principles for the determination of complaints against practitioners.

Section 99A of the Medical Practice Act provides that the provisions of this Code of Professional Conduct will be a relevant consideration in determining what constitutes proper and ethical conduct by a registered medical practitioner. It is expected that the principles set out in this Code of Conduct will provide a basis for the determinations of the Medical Board, the Health Care Complaints Commission and any quasi-judicial or judicial body dealing with complaints against medical practitioners.

C CODE OF PROFESSIONAL CONDUCT

The key components of ethical medical practice for practitioners are

- make the care of the patient your primary concern,
- treat every patient politely and considerately,
- respect patients' dignity and privacy,
- listen to patients and respect their views,
- give patients information in a way they can understand,
- respect the right of patients to be fully involved in decisions about their care,
- keep your professional knowledge and skills up to date,
- recognise the limits of your professional competence,
- respect and protect confidential information,
- make sure that personal beliefs do not prejudice your patients' care,
- act quickly to protect patients from risk if there is good reason to believe that you or a colleague may not be fit to practise,
- avoid abusing your position as a doctor,
- work with colleagues in ways that best serve patients' interests, and
- be honest and trustworthy

STANDARD 1**Clinical Competence/Performance**

All practitioners must be clinically competent i.e. possess adequate knowledge and skill and be able to apply this knowledge and skill in practice through their clinical performance

Clinical Competence / Performance**1.1 Good clinical care includes**

- an adequate assessment of the patient's condition, based on the history and clinical signs and appropriate examination,
- where appropriate, providing or arranging investigations or treatment,
- when necessary, taking suitable and prompt action, and
- when indicated, referring the patient to another practitioner

1.2 In providing care you should

- recognise and work within the limits of your clinical competence when making diagnoses and when giving or arranging treatment,
- be willing to consult colleagues,

- keep clear, accurate, and contemporaneous patient records which report the relevant clinical findings, the decisions made, the information given to patients and any drug or other treatment prescribed,
- keep colleagues well informed when sharing the care of patients,
- pay due regard to effectiveness of care and the use of resources,
- prescribe only the treatment, drugs, or appliances that serve the needs of patients, and
- offer anyone at risk the treatment you could reasonably be expected to provide in an emergency

1.3 In order to maintain your competence (knowledge and skill) you must

- participate in educational activities, relevant to your area of practice which develop and maintain your competence and performance throughout your working life, and
- observe and keep up to date with the laws and statutory codes of practice which affect your work

1.4 In order to maintain your performance you should

- work with colleagues to monitor and maintain your awareness of the quality of the care you provide,
- take part in regular and systematic medical and clinical audit, and record all data carefully and honestly,
- respond to the results of audit to improve your practice, for example, by undertaking further training, and
- respond constructively to assessments and appraisals of your professional competence and performance

STANDARD 2

Professional/Ethical Obligations

All practitioners must observe professional and ethical obligations These include

- Undertaking education, teaching and training responsibilities,
- Providing honest assessment of the performance of colleagues,
- Maintaining trust with patients through the practitioner's interaction with patients,
- Putting patients first while putting aside one's own personal views,

- Responding appropriately to situations in which a complaint is made about a practitioner's treatment or treatment is unsuccessful,
- Dealing appropriately with the next of kin of deceased patients,
- Arranging appropriate alternative treatment when the doctor/patient relationship deteriorates,
- Ensuring a practitioner's professional position is not abused through improper dealings with patients,
- Ensuring that the practitioner's health does not put patients at risk,
- Ensuring other practitioners do not place patients at risk through their health, conduct or performance, and
- Providing factual information about the practitioner's services

2.1 Education, Teaching and Training

- You should encourage members of the public to be aware of and understand health issues and contribute to the education and training of other doctors, medical students and colleagues
- If you have special responsibilities for teaching you should develop the skills, attitudes and practices of a competent teacher
- You should make sure that students and junior colleagues are properly supervised
- You should be honest and objective when assessing the performance of those you have supervised or trained. Patients may be put at risk if you confirm the competence of someone who has not reached or maintained a satisfactory standard of practice

2.2 References

- When providing references for colleagues, your comments should be honest and include all relevant information which has a bearing on the colleague's competence, performance, reliability and conduct

2.3 Maintaining trust

Successful relationships between doctors and patients depend on trust. To establish and maintain that trust you should

- listen to patients and respect their views,
- treat patients politely and considerately,
- respect the patient's privacy and dignity,
- Observe professional boundaries with patients. This includes not engaging in personal relationships or sexual behaviour with patients. This principle is subject

of a specific policy in relation to Sexual Misconduct issued by the NSW Medical Board. See the Board's website (www.nswmb.org.au)

- treat information about patients as confidential (There may be circumstances where the public interest requires that confidentiality be breached. You should seek appropriate advice in these circumstances.)
- give patients full information about their condition, treatment and prognosis. You should provide this information to those with parental responsibility where patients lack the maturity to understand what their condition or its treatment may involve, provided you judge it to be in the child's best interests,
- give information to patients in a way they can understand,
- wherever possible, be satisfied that the patient has understood what is proposed, and consents to it, before you provide treatment or investigate a patient's condition,
- respect the right of patients to be fully involved in all decisions about their care,
- respect the right of patients to decline treatment or decline to take part in teaching or research,
- respect the right of patients to a second opinion, and
- be readily accessible to patients and colleagues when you are on duty

2.4 Putting Patients First

- You should recognise the fundamental role of the patient in the treatment of the patient
- You should give priority to the investigation and treatment of patients on the basis of clinical need, bearing in mind the needs of other patients
- The investigations or treatment you provide or arrange should be based on your clinical judgment of the patient's needs and the likely effectiveness. You should not allow your views about a patient's lifestyle, culture, beliefs, race, colour, gender, sexuality, age, social, economic or insurance status, to prejudice the treatment you provide or arrange
- If you feel that your beliefs might affect the treatment you provide, you should explain this to patients, tell them of their right to see another doctor, and where appropriate, refer them to another doctor
- You should not refuse or delay treatment because you believe that a patient's actions have contributed to the patient's condition, or because you may be putting

yourself at risk. If a patient poses a risk to your health or safety, you may take reasonable steps to protect yourself before investigating their condition or providing treatment.

- You must act in your patient's best interests when making referrals and providing or arranging treatment or care. You must not ask for or accept any inducement, gift or hospitality which may affect or be seen to affect your judgment. You must not offer such inducements to colleagues.

2.5 If Things Go Wrong

Patients who complain about the care or treatment they have received have a right to expect a prompt and appropriate response. You have a professional responsibility to

- deal with complaints constructively and honestly,
- co-operate with any complaints procedure which applies to your practice,
- ensure that a patient's complaint does not prejudice the care or treatment you provide or arrange for that patient, it may sometimes be wise to arrange an appropriate referral to another doctor
- act immediately to put matters right, if it is possible, if a patient under your care has suffered serious harm, through misadventure or for any other reason. You should explain fully to the patient what has happened and the likely short and long-term effects. When appropriate, you should offer an apology. If the patient lacks the maturity to understand what has happened, you should explain the situation honestly to those with parental responsibility for the child,
- co-operate fully with any formal inquiry into the treatment of a patient, subject to appropriate advice from your medical defence organisation. You should not withhold relevant information. Similarly, you must assist the coroner when an inquest or inquiry is held into a patient's death,
- maintain adequate insurance or professional indemnity cover, and
- you must not practise medicine unless you hold insurance or are exempt from doing so.

2.6 When a patient dies, you should,

- explain, to the best of your knowledge, the reasons for, and the circumstances of the death to those with parental responsibility, the patient's partner or next of kin, unless you know that the patient would have objected.

2 7 When the doctor / patient relationship deteriorates, you should:

- do your best to establish and maintain a relationship of trust with your patient
Rarely, there may be circumstances in which you find it necessary to end a professional relationship with a patient and in such cases you should tell the patient why you have made the decision, and
- ensure that arrangements are made quickly for the continuing care of the patient, should you terminate the relationship You should transfer records or other information to the patient's new doctor on request

2 8 Abuse of your professional position

You must not abuse your patient's trust You must not, for example

- use your position to establish improper personal relationships with patients or their close relatives,
- put pressure on your patients to give or lend money or to provide other benefits to you or other people,
- improperly disclose or misuse confidential information about patients,
- give patients, or recommend to them, an investigation or treatment which you know is not in their best interests,
- deliberately withhold appropriate investigation, treatment or referral,
- put pressure on patients regarding their insurance status,
- allow anyone who is not a registered doctor to carry out tasks which require the knowledge and skills of a doctor

You should disclose any pecuniary interest you may have in giving a referral or recommendation to a patient

2 9 Your duty to protect all patients

In order to protect your patients and the public, you should

- be vigilant in identifying doctors or other colleagues whose health, conduct or performance is a threat to the public, and
- do your best to find out the facts, then, if necessary, notify an appropriate person such as the hospital chief executive or the Medical Board Your comments about colleagues must be honest If you are not sure what to do, ask an experienced colleague or contact the Medical Board or your defence organisation for advice The safety of patients must come first at all times

2.10 If your own health may put patients at risk

If you have a serious condition which you could pass on to patients, or if your judgment or performance could be significantly affected by a condition or illness, you should

- take and follow advice from an appropriate medical practitioner on whether, and in what ways, you should modify your practice. Do not rely on your own assessment of the risk to patients
- have all the necessary tests and act on the advice given to you by a suitably qualified medical practitioner about necessary treatment and/or modifications to your clinical practice

If in doubt, you will find more advice on what to do if you believe that you or a colleague (including a medical practitioner for whom you are providing medical care) may be placing patients at risk in, by contacting the Medical Board

2.11 If the health of another practitioner may put patients at risk

- You should advise the practitioner to take action to avoid that risk, and
- You should advise the Medical Board, if that risk continues

2.12 Providing information about your services

If you publish or broadcast information about services you provide, you must

- ensure that the information is factual and verifiable,
- provide information in a way that conforms with advertising Regulations under the Medical Practice Act, the Trade Practices Act, and Fair Trading requirements,
- ensure that the information is not false, misleading or deceptive and that it does not create an unjustified expectation of beneficial treatment or promote the unnecessary or inappropriate use of medical services,
- avoid making claims about the quality of your services or compare your services with those your colleagues provide, and
- not offer guarantees of cures, nor exploit a patient's vulnerability or lack of medical knowledge

STANDARD 3

The practitioner must ensure that the practitioner enjoys a good relationship with all colleagues in health care teams:

- Through treating colleagues with respect regardless of the practitioner's personal views,
- By working constructively with all health care professionals in health care teams,
- By ensuring patient treatment is covered during the practitioner's own absence or unavailability,
- By ensuring that a patient's care is co-ordinated, and
- By ensuring appropriate delegation and referral of care of a patient

3 1 Working with colleagues

- You must always treat your colleagues fairly, and in accordance with anti-discrimination laws. You should not allow your views of a colleague's lifestyle, culture, beliefs, race, colour, gender, sexuality, or age to prejudice your professional relationship with the colleague
- You must not make any patient doubt the knowledge or skills of colleagues by making unnecessary or unsustainable comments about them

3 2 Working in teams

Health care is increasingly provided by multi disciplinary teams, although you remain accountable for your professional conduct and the care you provide. You should

- work constructively and respect the skills and contributions of all team members,
- ensure optimal communication with other members of the health care team,
- endeavour to resolve disagreement within the team. If you believe that the decision would harm the patient, tell someone who can take action. If necessary, and as a last resort, take action yourself to protect the patient's safety or health

If you are a team leader, you should

- take responsibility for ensuring that the team provides care which is safe, effective and efficient,
- do your best to make sure that the whole team understands the need to provide a polite, responsive and accessible service and to treat patient information as confidential,
- make sure that colleagues understand their role and responsibilities in the team, and

- work to improve your skills as a team leader

3.3 Arranging cover

- You should be satisfied that when you are off duty, suitable arrangements are made for your patients' medical care. These arrangements should include effective handover procedures and clear communication between doctors.
- You should satisfy yourself that doctors who stand in for you have the qualifications, experience, knowledge and skills to perform the duties for which they will be responsible.

3.4 Coordinating a patient's care

It is in a patient's best interests for one doctor, usually a general practitioner, to be fully informed about, and responsible for maintaining continuity of a patient's medical care. You should

- be aware of the range of specialist services available to your patients, and
- actively coordinate a patient's care, or assure yourself that this task is being undertaken by another medical practitioner.

3.5 Delegation and referral

Delegation involves asking a nurse, doctor, medical student or other health care worker to provide treatment or care on your behalf. When you delegate or refer care or treatment you should

- be sure that the person to whom you delegate or refer is competent to carry out the procedure or provide the therapy involved. You should always pass on all relevant information about the patient's history and current condition, and
- unless the patient objects, tell the referring doctor the results of the investigations, the treatment provided, and any other information necessary for the continuing care of the patient.

STANDARD 4

Probity in professional practice

4.1 Financial and commercial dealings

You must be honest in financial and commercial matters relating to your work. In particular you should

- tell patients which part of your fee is not covered by a Medicare rebate,

- avoid financial involvement with patients such as loans and investment schemes
There may be a detrimental effect on a therapeutic relationship with a patient if therapeutic and financial aspects in a relationship between a doctor and patient are combined

4 2 *Financial interests in hospitals, nursing homes and other medical organisations*

- If you have financial or commercial interests in organisations providing health care or in pharmaceutical or other biomedical companies, these must not affect the way you prescribe for, treat or refer patients
- If you have a financial or commercial interest in an organisation or hospital to which you plan to refer a patient for treatment or investigation, you must tell the patient about such interest

4 3 *Accepting gifts or other inducements*

- You must not ask for or accept any material gifts or loans from companies that sell or market drugs or appliances
- You must not ask for or accept fees for agreeing to meet sales representatives

4 4 *Signing certificates and other documents*

Registered medical practitioners have the authority to sign a variety of documents, such as death certificates and sickness certificates, on the assumption that they will only sign statements they believe to be true

- You must take reasonable steps to verify any statement before you sign a document
- You must not sign documents which you believe to be false or misleading

4 5 *Research*

If you take part in clinical drug trials or other research involving patients or volunteers, you should

- ensure that the research protocol has been approved by a properly constituted research ethics committee,
- conduct all research with honesty and integrity,
- ensure that the individual has given informed, written consent to take part in the trial,
- ensure that the research is not contrary to the individual's interests,

- seek advice where your research involves children or adults who are not able to make decisions for themselves children,
- follow all aspects of the research protocol,
- accept only those payments approved by a research ethics committee, and
- report evidence of fraud or misconduct in research to an appropriate person or authority

D DEFINITIONS

For the purposes of this Code, definitions for terms as specified in the Medical Practice Act 1992 (as amended) will apply