



**THE ALLIED HEALTH PROFESSIONS COUNCIL OF SOUTH
AFRICA**

**CODE OF ETHICS, INCLUDING GUIDELINES FOR GOOD
PRACTICE AND GUIDELINES FOR MAKING
PROFESSIONAL SERVICES KNOWN: A SYNOPSIS**

**PRESENTED BY
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2016**

legislation

- Section 54(9): 2001 Regulations to the Allied Health Professions Act, Act 63 of 1982, as amended
- *The professional boards shall draw up a code of ethics for each profession and such code shall be binding on all practitioners registered in the profession concerned in terms of the Act.*
- Published at <http://ahpcs.co.za/legislation/> > Government Gazette Notices; promulgated on 18 December 2015 in Government Gazette No. 39531 under Board Notice 268 of 2015.

medical law

- Body of rules that relate directly to the care of health and is the concern of a complex group of professions dealing not only with patients and diseases, but also with healthy people and public health (*vide* access to health care, Section 27 of the Constitution of the RSA)

medical law

- Body of rules relating to:
 - The medical profession
 - The relationship between doctor/patient/hospital
 - Relationship between medical profession and other health care workers
 - The doctor and health care legislation

statutes affecting health

- National Health Act, the Mental Health Care Act, the Health Professions Act, the Allied Health Professions Act, the Nursing Act, the Pharmacy Act, the Traditional Health Practitioners Act, the Human Tissue Act, the Choice on Termination of Pregnancy Act, the Sterilisation Act, the Births and Deaths Registration Act, the Children's Act, the Older Persons Act, the Medical Schemes Act

statutes affecting healthcare

- The Boxing and Wrestling Act, the Inquests Act, the Medicines and Related Substances Act, the Criminal Procedure Act, the SA Research Council Act, the Prevention and Treatment of Drug Dependency Act, the Academic Health Centres Act, the Compensation for Occupational Injuries and Diseases Act, the Occupational Health and Safety Act, The National Road Traffic Act, the Institute for Drug-Free Sport Act, the Correctional Services Act, the domestic Violence Act, the Promotion of Access to Information Act, the Promotion of Administrative Justice Act, the Promotion of Equality and Prevention of Unfair Discrimination Act, the Council for Medical Schemes Levies Act

ethics and bioethics

- Ethics – a division of ‘moral philosophy’ and is concerned with the moral choices people make and includes the study of right and wrong actions – thus the study of morality
- Bioethics – reflection on a wide array of moral issues concerning all living things which arise from the application of biomedical science to human affairs and the whole biosphere
- Under this umbrella falls the practice of ethics in health care
- Various bioethical models: Utilitarianism, Kantian deontology, virtue ethics, social contract theory and Principlism

principlism

- Respect for autonomy (no right to impose treatment on a patient, including informed consent)
 - Beneficence (do good for patients)
- Non-maleficence (do not cause harm – *primum non nocere*)
- Justice (fair treatment, equitable and reasonable)

ethics

- **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.**
- **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.**
- **These guidelines are, therefore, designed to assist the practitioner in deciding what course of action would be most ethically appropriate according to each situation.**

principles of ethics

- **Respect for persons**

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

- **Best interest or well-being: Beneficence**

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

- **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.

principles of ethics cont

- **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.

- **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.

- **Integrity**

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

principles of ethics cont

- **Truthfulness**

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

- **Confidentiality**

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

- **Compassion**

Be sensitive to and empathise with individual and social needs for comfort and support, and seek and create opportunities to translate emotions, such as feelings of sympathy or empathy, into action.

principles of ethics cont

- **Justice**

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

- **Recognition of Diversity**

Respect the rights of people to have different beliefs.

- **Professional competence and self-improvement**

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

principles of ethics cont

- **Community**

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

duty and obligation

A duty is an obligation 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

duty and obligation cont

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

duty and obligation cont

For professionals 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.

duty to the patient

- **Patients' well-being or best interests**

Always regard concern for the best interests or well-being of your patients as your primary professional duty.

Be aware of the possibility of conflict of interest with regard to human rights and dual loyalties.

Honour the trust of your patients.

Be mindful that a health practitioner is in a position of power over a patient and avoid abusing your position.

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.

duty to the patient cont

- **Patients' well-being or best interests cont**

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, or any condition of vulnerability.

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.

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.

duty to the patient cont

- **Patients' well-being or best interests cont**

Apply your mind when making assessments and considering appropriate treatment.

Act quickly to protect patients from risk if you believe yourself to be impaired.

Respond to criticism and complaints promptly and constructively.

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.

duty to the patient cont

- **Patients' well-being or best interests cont**

Provide health care 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.

duty to the patient cont

- **Respect for patients**

Respect patients' privacy and dignity.

Treat patients politely and with consideration.

Listen to your patients and respect their opinions.

Avoid improper relationships (for example sexual relationships or exploitative financial arrangements) with your patients, their friends or family members.

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.

duty to the patient: informed consent

- Flows from Section 12(2)(b) of the Constitution of the RSA:

Section 12 Freedom and security of the person

.....

(2) Everyone has the right to bodily and psychological integrity, which includes the right -

- (a) to make decisions concerning reproduction;
- (b) to security in and control over their body; and
- (c) not to be subjected to medical or scientific experiments without their informed consent

- Encompassed in Sections 6 – 9 of the National Health Act, 2003

duty to the patient: informed consent

- Ethical and legal considerations of a valid consent process are (Bioethics, Human Rights and Health Law, Dhai A and McQuoid-Mason D, Juta 2011):
 - Disclosure;
 - Understanding;
 - Capacity; and
 - Voluntariness

duty to the patient cont

- **Informed consent**

The National Health Act stipulates that health services may not be provided to a patient without his informed consent.

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.

The patient must be informed in a language that is reasonably understandable to the patient of:

- the description and of the treatment and procedures;
- the number and frequency of treatments;
- the possible reactions after the treatment and
- the fee which will be charged for the treatment.

duty to the patient cont

- **Informed consent cont**

The allied health professional 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.

The allied health professional should respect the right of the patient to seek an opinion before continuing a follow-up treatment.

duty to the patient cont

- **Patient confidentiality**

Recognise the right of patients to expect that you will not pass on any personal and confidential information you acquire in the course of your professional duties, unless they agree to disclosure, or unless you have good and overriding reason for doing so. (Examples of such reasons may be any probable and serious harm to an identifiable third party, a public health emergency, or any overriding and ethically justified legal requirements.)

Do not breach confidentiality without sound reason and without the knowledge of your patient.

Ask your patients' permission before sharing information with their spouses, partners or relatives.

duty to the patient cont

- **Patient participation in their own health care**

Respect the right of patients to be fully involved in decisions about their treatment and care.

Respect the right of patients to refuse treatment or to take part in teaching or research.

Inform your patients that they have a right to seek a second opinion without prejudicing their future treatment.

duty to the patient cont

- **Impartiality and justice**

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, or any condition of vulnerability such as contained in health rights legislation.

duty to the patient cont

- **Record keeping**

Accurate record-keeping must include:

- Personal particulars of the patient.
- History of the patient health conditions.
- The time, date and concise information of every consultation.
- The assessment of the patient's condition.
- The proposed health care management of the patient.
- Details of referrals to other practitioners and allied health professional, if any.
- The patient's reaction to treatment, including adverse effects.
- Self-serving or disapproving comments should be avoided in patient records.
- Written proof of informed consent, where applicable
- Records should be stored for a period of not less than five (5) years as from the date they became dormant.
- Billing records separate from patient care records.

duty to the patient cont

- **Access to care**

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

duty to the patient cont

- **Potential conflicts of interest**

Always seek to give priority to the investigation and treatment of patients solely on the basis of clinical need.

Avoid over-servicing. Recommend or refer your patients for necessary investigations and treatment only. Prescribe only treatment, drugs or appliances that serve patients' needs.

Declare to your patients – verbally and by notice displayed – any financial interest you may have in institutions, diagnostic equipment, or the like to which you make referrals.

Refrain from placing pressure on patients or their family to give you gifts or any other undue benefit.

duty to colleagues and other professionals

- **Referrals to colleagues and potential conflicts of interest**

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.

Treat patients referred to you in the same manner in which you treat your own patients.

duty to colleagues and other professionals cont

- **Working with colleagues**

Work with and respect other health professionals in pursuit of the best health care possible for all patients.

Do not discriminate against colleagues, including professionals applying for posts, because of your views of 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.

Refrain from speaking ill of colleagues or other health professionals.

Do not make a patient doubt colleagues' knowledge or skill by making comments about them that cannot be fully justified.

Support colleagues who uphold the core values and standards embodied in these guidelines.

duty to colleagues and other professionals cont

- **Duties to other professionals' patients**

Risk of harm to others' patients

Act quickly to protect patients from risk if you believe a colleague to be impaired.

Report violations and seek redress in circumstances where you have good or persuasive reason to believe that the rights of patients are being violated.

duty to yourself

- **Knowledge and skills**

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.

Acknowledge the limits of your professional knowledge and competence. Do not pretend to know everything.

Since there are laws that govern aspects of professional health care practice, observe and keep up to date with those that affect your practice.

duty to yourself cont

- **Maintaining a Professional Practice**

Keep your healthcare equipment in good working order.

Maintain proper hygiene in your working environment.

Keep accurate and up-to-date patient records.

Refrain from engaging in activities that may affect your health and lead to impairment.

duty to society

- **Access to Scarce Resources**

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.

- **Health-care policy development**

Include ethical considerations and human rights in the development of health care policies.

duty to your profession

- **Reporting Misconduct**

Report violations and seek redress in circumstances where you have good or persuasive reason to believe that the rights of patients are being violated.

Where it is in your power, protect someone who reports misconduct from victimisation or intimidation.

- **Access to appropriate health care**

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

duty to the environment

- **Conservation of Natural Resources**

Recognise that natural resources are limited and guard against their exploitation.

- **Disposal of health care waste**

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

acts or omissions: disciplinary action

- **Carstens, P and Permain D *Foundational Principles of South African Law (2007)***

The concept of “unprofessional conduct” is defined as “improper or disgraceful or dishonourable or unworthy conduct which, when regard is had to the profession of a person who is registered in terms of the Act, is improper or disgraceful or dishonourable or unworthy”.

It would also appear that it is exclusively in the professional board’s power/discretion to determine what conduct would be regarded as “improper or disgraceful conduct”.

- THE FOLLOWING ACTS ARE **NOT** PERMITTED

acts or omissions: disciplinary action cont

- **ADVERTISING**

Advertising his or her services in a manner or permitting, sanctioning or acquiescing in advertising which contravenes the provisions as stipulated in the Council Guidelines For Making Professional Services Known.

- **CANVASSING AND TOUTING**

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

- **ITINERANT PRACTICE**

A practitioner who carries on a recurring itinerant practice at a place where another practitioner is established: Provided that no disciplinary steps shall be taken against such practitioner, if, in such itinerant practice, he or she renders the same service to his or her patients, at the same cost, as the service he or she would render in the area in which he or she is resident

acts or omissions: disciplinary action cont

- **PRACTICE NAME**

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

- 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;
- 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.

acts or omissions: disciplinary action cont

- **INFORMATION ON PROFESSIONAL STATIONERY**

A practitioner is allowed the printing or commissioning of the printing on letterheads and account forms, but the information is limited to the name of the practitioner, partnership or juristic person, ideogram/logo, profession, registered qualifications, professional qualifications or academic qualifications and honorary degrees in abbreviated form, addresses (including e-mail addresses), telephone numbers, hours of consultation, council registration number and practice number: Provided that a juristic person which is exempted from registration in terms of section 38C of the Act or a group of practitioners practising in partnership may indicate such fact on their letterheads and account forms; and

acts or omissions: disciplinary action cont

- **INFORMATION ON PROFESSIONAL STATIONERY CONT**

(a) Where accounts rendered by or on behalf of a practitioner contains contact particulars other than that of the practitioner; and

(b) The use by a practitioner of prescription forms or envelopes bearing the name and address of a pharmacist or health shop.

(c) Where members of Professional Associations print or have words similar to the following words printed on their stationery and letterheads: (e.g. "Member of the Homoeopathic Association of South Africa")

(d) Where accounts rendered by a practitioner do not comply with the requirements of the Medical Schemes Act.

(e) Provided that in cases where accounts are rendered by computer or other firms on behalf of the practitioner the said practitioner shall remain personally responsible for his or her practice and for the consequent correctness of such accounts; and such account shall contain no reference to such computer or other firm.

acts or omissions: disciplinary action cont

- **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, shareholder or *locum tenens*.

acts or omissions: disciplinary action cont

- **FEES AND COMMISSIONS CONT**

(e) The rendering of accounts for services rendered to a practitioner's own 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.

acts or omissions: disciplinary action cont

- **FEES AND COMMISSIONS CONT**

(g) The charging by a practitioner for telephone consultations or email communications: Provided that a fee may be charged for telephonic consultation or email where the patient has been informed prior to the telephonic consultation or at the beginning of email communications and provided that the patient has agreed to such charges; the charging of a fee for a telephone consultation or email communication commensurate to a fee charged for a full face-to-face consultation is disallowed.

(h) Contract servicing and/or over-servicing and/or overcharging.

acts or omissions: disciplinary action cont

- **FEES AND COMMISSIONS CONT**

(j) Provide a service or perform or direct certain procedures to be performed on a patient that are neither indicated nor scientific or have been shown to be ineffective, harmful or inappropriate through evidence-based review.

[Note: Over servicing by ordering or providing more tests, procedures or care than is strictly necessary, is a common problem in modern medicine. Health care practitioners must therefore not engage in any act that would constitute over servicing of patients].

acts or omissions: disciplinary action cont

- **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 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.

acts or omissions: disciplinary action cont

- **COVERING**

(a) Employing as a *locum tenens* any person not registered as a practitioner of the same profession 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 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 where the services of registered personnel are available.

acts or omissions: disciplinary action cont

- **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.

- **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 the Health Professions Act, 1974.

acts or omissions: disciplinary action cont

- **PROFESSIONAL CONFIDENTIALITY**

Divulging any information regarding a patient which ought not to be divulged, except 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.

acts or omissions: disciplinary action cont

- **CERTIFICATES AND REPORTS**

[SECTION 23 OF THE BASIC CONDITIONS OF EMPLOYMENT ACT, ACT 75 OF 1977]

(a) Granting a certificate of illness without such certificate containing the following information, namely -

- The name and address the practitioner, juristic person or partnership;
- The name of the patient;
- The employment number of the patient (if applicable);
- The date and time of the examination;
- 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;
- A description of the illness, disorder or malady in layman's language;
- Whether the patient is totally indisposed for duty, or whether the patient will be able to perform less strenuous duties in the work situation;
- The exact period, in days, of recommended sick leave;
- The date of issue of the certificate of illness;
- A clear indication of the identity of the practitioner who issued the certificate; and
- The clear signature of the practitioner who issued the certificate.

acts or omissions: disciplinary action cont

- **CERTIFICATES AND REPORTS**

**[SECTION 23 OF THE BASIC CONDITIONS OF EMPLOYMENT
ACT, ACT 75 OF 1977]**

(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.

acts or omissions: disciplinary action cont

- **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 -

- the Ethical Rules are complied with; and
- the contract of employment in terms of which the practitioner is appointed makes provision for private practice; and
- the relevant full-time post was advertised and was re-advertised if the contents of the contract of employment were amended.

acts or omissions: disciplinary action cont

- **PROFESSIONAL APPOINTMENTS CONT**

(c) A practitioner holding a professional post outside of the 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 -

- 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
- in a post other than 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; and:
- Providing further that such appointment, as the case may be, complies with these Rules.

acts or omissions: disciplinary action cont

- **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, which proves upon investigation to be incapable of fulfilling the claims made in regard to it.

- **CONSULTING ROOMS**

(a) Sharing consulting or waiting rooms with a person not registered in terms of the Act or the Health Professions Act, or having an entrance through, or a nameplate at the entrance of such a person's consulting or waiting rooms or business.

acts or omissions: disciplinary action cont

- **CONSULTING ROOMS CONT**

(b) Having any financial interest in the health resort (or health farm) where a practitioner has consulting rooms.

(c) The rendering of any non-medical services to patients in the waiting rooms or on the premises of a practitioner's consulting rooms.

(d) 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.

acts or omissions: disciplinary action cont

- **TAKING OF RADIOGRAPHS**

For a practitioner 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.

acts or omissions: disciplinary action cont

- **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 enquiry to be held into the conduct of the practitioner concerned, on any aspect of evidence to be given by such witness at the enquiry, 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.

acts or omissions: disciplinary action cont

- **PERFORMANCE OF PROFESSIONAL ACTS**

(a) The performance, except in an emergency, of a professional act for which he or she is inadequately trained or insufficiently experienced.

(b) The performance, except in an emergency, of a professional act under improper conditions or surroundings.

- **T. EXPLOITATION**

Permitting himself or herself to be exploited in a manner detrimental to the public or professional interest.

acts or omissions: disciplinary action cont

- **MEDICINES**

Subject to the provisions of Section 32A(f) of the Act a practitioner in active practice -

- In any way participating in the manufacture for commercial purposes, or the distribution, sale, advertising or promotion of 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 device; or

acts or omissions: disciplinary action cont

- **MEDICINES CONT**

- engaging in or advocating 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.

acts or omissions: disciplinary action cont

- **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

acts or omissions: disciplinary action cont

- **IMPAIRMENT**

Failure on the part of a student or practitioner to -

- 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;
- self-report his or her 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.

guidelines for making professional services known

- **ETHICS**

- Health care 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.
- A health care professional is at all times responsible for his or her own professional conduct.
- Patients are entitled to protection from misleading advertising or improper promotional and competitive activities among health care professionals.

guidelines for making professional services known cont

- **ETHICS CONT**
- Advertising and publications improperly drawing attention to the titles and/or professional attainments and/or personal qualities and/or superior knowledge and/or quality of service of a particular health care professional, or improperly drawing attention to his or her practice and/or best prices offered, is construed as unprofessional conduct
- Advertising in an unprofessional manner and/or canvassing and/or touting for patients is regarded as unprofessional behaviour, and constitutes a breach of professional conduct, liable for censure.

guidelines for making professional services known cont

- **INFORMATION THAT MAY BE INCLUDED IN NOTIFICATIONS CONT**
- A health care professional may make information about his or her practice known by publishing notices in any medium, printed or electronic, including the Internet and television, provided that they comply with all the provisions of these Guidelines, including change of address notices.
- There are no limitations on the size or number of times a notice may be published.
- Direct mailing of pamphlets is permissible, such as mailing to post boxes or direct delivery to home owners, but health care professionals are required to take cognisance of the provisions of the Consumer Protection act, Act 68 of 2008 with regard to the concept of direct marketing.

guidelines for making professional services known cont

- **INFORMATION THAT MAY BE INCLUDED IN NOTIFICATIONS CONT**
- Bulk pamphlets may be made available for issue individually to existing patients at the rooms of health care professionals and also at local information centres such as libraries and museums to persons enquiring about a health care professional's practice or available services.
- Bulk distribution of pamphlets, for example at shopping malls and to passing motorists, is not permissible.
- The use of photographs on notifications is not permissible.

guidelines for making professional services known cont

- **INFORMATION THAT MAY BE INCLUDED IN NOTIFICATIONS CONT**
- Notices on public road signposts, dustbins and the like is not permissible
- The publications are limited to include the following information:
 - First name(s) and surname;
 - Profession (only the practitioner's profession, as registered with Council, may be specified: Descriptive names, such as "iridology specialist" or "family homoeopath" are not permissible);
 - Registered qualifications;
 - AHPCSA Register and registration number;
 - Practice address and, where necessary, a map with regard thereto

guidelines for making professional services known cont

- **INFORMATION THAT MAY BE INCLUDED IN NOTIFICATIONS CONT**

- Consulting hours;
- Telephone number(s);
- Field(s) of practice: If a health care professional chooses to make known that he or she practises in a specific field, the health care 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, to prior to using any field of practice nomenclature; and

guidelines for making professional services known cont

- **INFORMATION THAT MAY BE INCLUDED IN NOTIFICATIONS CONT**

- Information on payment arrangements must be limited to statements relating to formal arrangements, e.g. "credit cards acceptable", "cash only", etc. Reference may not be made to discounts or *quantum* of fees.
- The aim of publication of notices is to inform patients of the whereabouts of practitioners. It is not intended to be an instrument for promoting individual practices.
- In the case of the use of any electronic or print media, no health care professional shall make use of images of patients, whether still or interactive; no patients' testimonials may be used.
- No claims of healing or curing may be made.

guidelines for making professional services known cont

- **PUBLIC DEMONSTRATIONS**

Public demonstrations are not permissible.

- **ADVERTISING OF EMPLOYMENT OPPORTUNITIES**

It is permissible to advertise an employment opportunity in relevant professional journals, as well as in daily and weekend newspapers.

guidelines for making professional services known cont

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

Any health care 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:

- 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;
- Must satisfy himself or herself before entering into a contract or written agreement with such organisation that:
 - ❖ The advertisements of or promotional activities of the organisation concerned are factual;
 - ❖ Such advertisements do not promote the personal qualities or services of individual health care professionals connected with it;

guidelines for making professional services known cont

- **EMPLOY OF INDEPENDENT ORGANISATIONS CONT**
- Must satisfy himself or herself before entering into a contract or written agreement with such organisation that:
 - ❖ Such advertisements do not make invidious comparisons with the services of the state or with those of other organisations or health care professionals;
 - ❖ The organisation directs patients to first consult their own practitioners prior to offering services rendered by the organisation;
 - ❖ Patients referred to the health care professional are not likely to be attracted by misleading or promotional advertisements issued by the organisation, gym or health spa;
 - ❖ Such advertisements do not make invidious comparisons with the services of the state or with those of other organisations or health care professionals;
 - ❖ The organisation directs patients to first consult their own practitioners prior to offering services rendered by the organisation;
 - ❖ Patients referred to the health care professional are not likely to be attracted by misleading or promotional advertisements issued by the organisation, gym or health spa;
 - ❖ No commission or other payment has been made or will be made on behalf of the organisation for the referral of such patients;

guidelines for making professional services known cont

- **EMPLOY OF INDEPENDENT ORGANISATIONS CONT**
- Must avoid personal involvement in promoting the services of such an organisation, for example by public speaking, broadcasting, writing articles or signing circulars;
- Must not permit his or her qualifications and status to be used in the organisation's promotional activities;
- 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;
- Must satisfy himself or herself that organisations that provide specialist services is aware of these guidelines;
- Must ensure that his or her name and qualifications are not used on reports, notices, notepaper or other stationery of such organisation.

guidelines for making professional services known cont

- **PRACTICE NOTICES TO PATIENTS**

Health care professionals may communicate with their *bone fide* patients via practice notices, but such communications may not be distributed to the public at large.

These notices may include information about the health care professional's own practice arrangements (e.g. new partners), health care information (e.g. flu vaccinations) and changes in tariff structures.

guidelines for making professional services known cont

- **COMMUNICATION WITH COLLEAGUES**

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

Despite the limitation on the information that should be included in notifications and advertisement as stated above communications to colleagues may include information on field of practice.

guidelines for making professional services known cont

- **DIRECTORIES AND PUBLIC LISTS**

Prospective patients and other health care professionals should have ready access to accurate, comprehensive, and well-presented information about the registered health care professionals practising in their area in order to make informed choices.

- **INFORMATION ON PROFESSIONAL STATIONERY**
- **OUTSIDE SIGNS AND NAMEPLATES**
- **PRACTICE NAMES**

guidelines for making professional services known cont

- **HEALTHCARE PROFESSIONALS AS AUTHORS**
- **FACEBOOK/OTHER SOCIAL MEDIA INTERACTION**

The utilisation of any communication 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.

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.

guidelines for making professional services known cont

- **FACEBOOK/OTHER SOCIAL MEDIA INTERACTION CONT**

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.

No health care 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.

guidelines for making professional services known cont

- **FACEBOOK/OTHER SOCIAL MEDIA INTERACTION CONT**

All AHPCSA professions, legally recognized complementary and alternative healthcare modalities in South Africa, are regulated by the Allied Health Professions Act, Act 63 of 1982 (as amended), as are its registered practitioners.

In exercising the right to freedom of expression, therefore, you are required to conduct yourself in a manner which is not unprofessional, or which, when regard is had to the position that practitioners / allied health professionals are professional healthcare providers, is neither improper nor disgraceful; defamation (or *contumelia*), apart from being a criminal offence, if proven, will clearly be viewed as unprofessional conduct.

guidelines for making professional services known cont

- **FACEBOOK/OTHER SOCIAL MEDIA INTERACTION CONT**

Limitations on advertising have at the core the fiduciary relationship between a healthcare professional and the patient, with protection of the patient being the overriding principle; trust between healthcare professional and patient is critical for the ultimate well-being of any patient.

It is therefore incumbent on registered practitioners to respect the legal framework within which they conduct themselves, since social media interaction might not only be construed as advertising, but, depending on the extent and manner of the interaction, also lead to the denigration of trust that any person may enjoy with his healthcare professional.

guidelines for making professional services known cont

- **FACEBOOK/OTHER SOCIAL MEDIA INTERACTION CONT**

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/allied health professionals on social media sites are subject to the provisions of this Act.

Interaction with any patient on any open or closed web- or social media site is disallowed. (PBCO)

guidelines for making professional services known cont

- **GENERAL**

Notifications about health care professionals who stand in a relationship with private hospitals, clinics, gyms and health spas, must in all respects conform to these guidelines.

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 health care professionals.

Disciplinary cases pertaining to health care 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.

guidelines for making professional services known cont

- **GENERAL**

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, health care 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.

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

THANK YOU