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CODE OF PROFESSIONAL CONDUCT

THE AUSTRALIAN REGISTER OF HOMOEOPATHS LIMITED
A company limited by guarantee not having a share capital

ABN 69 088 314 818

Last revised 29 November 2015.

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Code of Professional Conduct

Application of Code of Professional Conduct

This Code of Professional Conduct applies to the provision of health services by health practitioners who have registered or are seeking registration with AROH.

Definitions

In this Code of Professional Conduct:

AROH Registrant(s) or Registrant(s) has the same meaning as in the AROH Constitution ie. a homoeopathy practitioner in Australia who is currently registered with AROH.

AROH Register has the same meaning as in the AROH Constitution ie. a Register of homoeopaths maintained by AROH.

Health Practitioner has the same meaning as in the NSW Code of Conduct for unregistered health practitioners ie. “a natural person providing a health service whether or not the person is required to be registered under the Health Practitioner Regulation National Law”

Health Service or Health Care includes homoeopathic services.

Practice means the conduct of the business of homoeopathy.

Unprofessional conduct of an AROH Registrant means professional conduct that is of a lesser standard than that which might reasonably be expected of the practitioner by the public or the practitioner's professional peers, and includes:

(a) a contravention by the practitioner of applicable laws whether or not the practitioner has been prosecuted for, or convicted of, an offence in relation to the contravention;

(b) a contravention by the practitioner of :

(i) a condition to which the practitioner's registration was subject; or

(ii) an undertaking given by the practitioner to the Board

(c) the conviction of the practitioner for an offence under another Act, the nature of which may affect the practitioner's suitability to continue to practise the profession;

(d) providing a person with health services of a kind that are excessive, unnecessary or otherwise not reasonably required for the person's well-being;

(e) influencing, or attempting to influence, the conduct of another registered health practitioner in a way that may compromise patient care;

(f) accepting a benefit as inducement, consideration or reward for referring another person to a health service provider or recommending another person use or consult with a health service provider;

(g) offering or giving a person a benefit, consideration or reward in return for the person referring another person to the practitioner or recommending to another person that the person use the health services provided by the practitioner; or

(h) referring a person to, or recommending that a person use or consult, another health service provider, health service or health product if the practitioner has a pecuniary interest

in giving that referral or recommendation, unless the practitioner discloses the nature of this interest to the person before or at the time of giving the referral or making the recommendation.

Professional misconduct of an AROH Registrant includes:

- (a) conduct that is substantially below the standard reasonably expected of a Registrant;
- (b) more than one instance of unprofessional conduct; or
- (c) any conduct of the practitioner, that is inconsistent with the practitioner being a fit and proper person to hold registration in the profession.

Unsatisfactory professional performance of an AROH Registrant, means the knowledge, skills or judgment possessed, or care exercised by the practitioner in their health professional practice is below the standard reasonably expected of a Registrant.

Impairment of an AROH Registrant means the person has a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect the person's capacity to practise in the homoeopathic profession.

Legal Context of registration with AROH

It is a requirement of registration with AROH that practitioners familiarise themselves with all AROH's rules and by-laws including eg. this Code, Standards of Practice, Constitution, Complaints and Disciplinary Procedures and Penalties.

Practitioners registered with AROH or seeking registration with AROH may be subject to other statutory or legal requirements which relate to their provision of health services - such as public health legislation in the State or Territory in which they practise, statutory requirements about performing skin penetration procedures and spinal manipulations, provisions of Fair Trading legislation in the State and Territories in which they practise their profession, Commonwealth legislation eg. Competition and Consumer Act 2010, Therapeutic Goods Act and Therapeutic Goods Advertising Code and associated regulations, and relevant state legislation and Code of Conduct for unregistered health practitioners in jurisdictions where they apply, and the Criminal Laws applicable to Australia and in the respective Practitioner's State or Territory.

Penalties for Infringement

A breach or allegation of breaches of this Code and any amendments that may from time to time be made to it, may result in immediate sanctions being imposed eg. suspension of registration pending investigation, and the practitioner being subject to disciplinary proceedings under AROH's Complaints and Disciplinary Procedures. The Professional Conduct Committee or a Disciplinary Tribunal convened for these purposes may impose penalties, eg: caution, reprimand, the requirement to undertake further education or counselling, practice supervision by an appointee of the Registrar, other conditions or restrictions on registration, suspension or de-registration. Where the Registrar has had to resort to suspension or de-registration the Register has the right to advertise this generally, and in the area in which the practitioner engages in practice. A breach or allegation of breach of legislative provisions and laws may also fall within the provisions of this Code, and may result in any of the above noted penalties. AROH may also refer any complaint or matter involving an allegation of a practitioner breaching legislation to the relevant authorities for investigation and prosecution.

Each AROH Registrant shall abide by the following provisions:

1. Provide safe and competent health care
2. Practice in accordance with relevant laws
3. Support (present and potential) patients to make informed decisions
4. Preserve confidentiality
5. Place the welfare of patients above self-interest
6. Maintain and develop professional knowledge and skills
7. Maintain required Standards of Practice
8. Engage in practice only while in a fit condition
9. Observe professional boundaries
10. Maintain professional integrity and personal conduct
11. Observe duty of disclosure

1. Provide Safe, Ethical and Competent Health Care

1.1. Registrants must provide their health services in a safe, ethical and competent manner.

1.2 Without limiting or derogating from 1.1 above, Registrants shall fulfill their duty of care toward patients and must:

- apply their professional capacity as a practitioner to improve the health and well-being of their patients, and attempt to minimise physical or emotional harm.
- interact with patients (and related parties), diligently, honestly, fairly, and in good faith, subject to confidentiality considerations, bearing in mind the patient's position of dependence and the high degree of trust a patient places in the Registrant.
- practice in accordance with the National Competency Standards for Homoeopathy when practising homoeopathy.
- not provide health care of a type that is outside his or her experience and training.
- not provide health services that he or she is not qualified to provide.
- not use his or her qualifications to mislead, or otherwise to deceive clients as to his or her competence or ability to provide treatment or cure conditions. Such claims, made directly or indirectly by advertising or promotional material, may be made only when they are truthful and can be substantiated. This applies especially in regard to treating cancer and other terminal illnesses.
- recognise the limitations of the treatment that he or she can provide and discuss with clients as they require, the evidence and clinical basis of the treatment. Homoeopaths must not attempt to diagnose or treat an illness or condition without an adequate clinical basis.
- refer patients to another health practitioner in appropriate circumstances, eg the diagnosis of the patient's condition has not been adequately established, the diagnosis indicates that another practitioner would be more appropriate, or the practitioner can no longer help the patient as evidenced by the patient not responding to treatment over a reasonable period of time.
- recommend to clients to seek additional opinions and health services from other health practitioners where appropriate and assist patients to find other health practitioners.
- not discourage their patients from informing their other health practitioners (if any) of the treatments they are receiving from their homoeopath.
- respond to any emergency and render such assistance as possible and as required until a suitable practitioner has assumed responsibility for the patient.
- consider adverse reactions and interactions between the treatments he/she prescribes or uses to treat his/her client and any other medications or treatments the client may be using.

2. Practice in Accordance with Relevant Laws

Registrants shall be familiar with all applicable laws relevant to the practice of homoeopathy and associated activities, to ensure that they do not engage in practices prohibited by such laws, or delegate to others, practices that are prohibited by those laws.

Registrants must not use the title 'Dr' without being registered with the Australian Health Practitioner Regulation Agency (AHPRA) as a medical practitioner. This rule does not apply if the registrant has a qualification bestowing the 'Dr' title, AND it is clarified that the person is not an AHPRA registered medical practitioner whenever the title is used.

3. Support (present and potential) Patients to Make Informed Decisions

Registrants shall provide patients with reliable information and professional opinions, and must not conduct their practice, or the advertising thereof, in a way that might reasonably be expected to mislead or deceive a person, as to the nature and identity of the provider, or as to the nature or quality of the services offered. In particular, Registrants:

- making any claim concerning the efficacy or effectiveness of treatment should ensure, that the strength and quality of the evidence across the published literature, supports the specifics of the claim, so as not to be misleading.
- shall not proceed with a course of treatment unless he/she is sure that the patient understands the purpose, nature and fee basis of the course of treatment.

4. Preserve Confidentiality

Registrants shall as far as is practicable comply with the provisions of Commonwealth and State Privacy Acts in so far as these relate to members of the Health Services industry. In the event that such laws do not apply to the Registrant, nothing should be said, shown or published, which could lead to the identification of a patient, except where the patient consents to such disclosure, or the information is demanded by subpoena.

5. Place the Welfare of Patients above Self-Interest

In relation to clinical practice and the advertising thereof, the welfare of patients, students, research subjects and the public shall take precedence over a practitioner's self-interest and the interests of employees and colleagues, in accordance with normal consulting practice. In particular, Registrants shall refrain from:

- exploiting patients financially, or misinforming them in relation to health care products or services. When providing advice in a professional capacity, Homoeopaths shall be honest, and explain the advantages and disadvantages, so that the patient can make an informed choice.
- accepting any financial or other inducements for referring clients to other health practitioners or to the suppliers of medications or therapeutic goods or devices.
- attempting to dissuade patients from seeking or continuing treatment with a registered medical practitioner, unless on substantial grounds, eg. where the registered medical practitioner is facing disciplinary charges or has had his or her registration suspended or is under investigation, and not merely on the basis of unsubstantiated rumour.

6. Maintain and develop Professional Knowledge and Skills

Registrants shall participate in educational activities that develop and maintain their competence and professional performance throughout their working lives, to the level required by AROH's Continuing Professional Development Guidelines. Such activities shall include those necessary to ensure that Homoeopaths are cognizant of and up to date with all applicable laws relevant to clinical practice.

7. Maintain Required Standards of Practice

Registrants shall at all times conduct their practice in accordance with AROH's Standards of Practice as approved and amended from time to time.

8. Engage in Practice Only When in a Fit Condition

Registrants shall not engage in practice while their judgment or performance is impaired for any reason, including while:

- under the influence of alcohol or psycho-active drugs
- of unsound mind
- unwell to the extent that their judgment or performance is impaired.

9. Observe Professional Boundaries

Registrants shall maintain professional relationships with patients and in particular shall refrain from unnecessary or inappropriate physical examination, and from engaging in sexual activity or sexual behaviour with a current patient.

10. Maintain Professional Integrity and Personal Conduct

Registrants shall at all times conduct their practice, communications and affairs in a courteous, dignified and responsible manner consistent with this Code and the AROH Standards of Practice and so as not to bring the Homoeopathic medical profession into disrepute. This provision will also be breached where a Registrant has admitted to, or been found guilty in the courts of:

- a criminal offence (as defined in the jurisdiction of the practitioner's practice), which would directly reflect on the good character of the individual in his/her capacity as a Homoeopath; Or
- of any offence where the practitioner's ability or fitness to continue practice is likely to be affected.

In particular Registrants must:

- identify themselves by name, in any communications concerned with their practice or other health related matters,
- avoid offensive, provocative or misleading statements, publications or conduct
- not offer financial inducements or gifts to other health practitioners in return for referral of clients to them from other health practitioners.
- in the event of becoming aware that a sexual relationship with a patient may occur, then cease the provision of professional services to the patient and refer to another practitioner.
- not say, show or publish anything that could be construed to imply that the Registrant has superiority over any other Registrant. This rule does not restrict a registrant from noting (if it is true) that she/he has a special interest or qualification in a particular subject area, or uses a specific technique that would not be considered common to homoeopathy practice.

11. Duty of Disclosure

A Registrant shall report to the AROH within 7 days of becoming aware of:

- possibly having breached this Code.
- practising without the cover of professional indemnity insurance.
- any circumstances that have led, or probably will lead to a claim on the practitioner's indemnity insurance, eg having been served with a summons or notice to attend court proceedings relating to the practitioner's treatment of a patient where compensation is sought for having suffered some harm, injury or death.
- being the subject of a complaint lodged with a health complaints or other regulatory entity in relation to the health services provided by the homoeopath;
- his/her professional registration being restricted, refused, suspended or cancelled by another professional register or professional association, in or outside of Australia.
- having been charged in Australia or elsewhere, with an offence punishable by 12 months imprisonment or more; or having been convicted or made subject to a finding of guilt for a criminal offence in Australia or elsewhere (other than traffic offences).
- the practitioner's billing privileges being withdrawn or restricted under the Medicare Australia Act 1973 because of the practitioner's conduct, professional performance or health.