



Code of Conduct for Members

INTRODUCTION

The Medical Council of NSW (the Council), its committees and associated regulatory bodies are established under the *Health Practitioner Regulation National Law (NSW)* (the Law).

The Council and these bodies exercise functions as prescribed in Part 5A of the Law and the provisions of Schedule 5C relating to Council members and procedures. Regulatory bodies are established and exercise their functions as prescribed in Part 8 of the Law.

SCOPE

The Code of Conduct for Members applies to all members of the Council, its committees and associated regulatory bodies.

PURPOSE

The Code of Conduct for Members outlines the fundamental values and principles that define expected standards of behaviour and operation. The Council has endorsed the Code to guide members in fulfilling their obligations and statutory requirements.

DEFINITIONS

Council means the Council, its committees or regulatory bodies established under the Law to regulate medical practitioners or medical students in NSW.

Regulatory body means, Professional Standards Committees, Impaired Registrants Panels, Performance Review Panels, Tribunals, section 150 Inquiry delegates and interview panels.

Member includes any member of the Council, a Council committee or an associated regulatory body such as a Professional Standards Committee, Impaired Registrants Panel, Performance Review Panel members or non-judicial members of a Tribunal, section 150 Inquiry and interviewers, panellists, assessors, experts and other ad hoc participants in Council activities.

VALUES

The Council endorses the NSW public sector values of integrity, service trust and accountability and the NSW Health CORE values – collaboration, openness, respect and empowerment.

PERSONAL AND PROFESSIONAL BEHAVIOUR

In performing the duties attached with their office, members shall:

1. *Exercise and maintain* the highest possible standards of integrity and independence
2. *Avoid* using their office to serve their own interests or promote any particular or individual interest(s) of their constituents where the member has been nominated or elected to office
3. In making decisions *have regard to and uphold* the principle that all persons have a right to natural justice and fairness
4. *Respect* as paramount confidences at all times where the interests so require
5. *Comply* with any relevant legislative or administrative requirements in carrying out their functions
6. *Observe* any official guidelines concerning the performance of their office
7. *Avoid* waste and extravagance in the use of resources
8. *Be aware* at all times that the Council is a statutory corporation whose authority vests in its collective membership and not in the individual member's office.

PRINCIPLES OF CONDUCT

Public confidence means that the public has the right to expect the highest integrity and competence in the fair, reasonable and equitable treatment of all people in the community.

Members are expected to perform their functions with integrity, impartiality, honesty, conscientiousness, care, skill, diligence and loyalty to the public interest.

ACCOUNTABILITY

Members must adhere to standards of conduct and ethics that maintain public confidence and trust. A high standard of accountability, transparency and fairness is essential.

RESPECT FOR THE LAW AND THE SYSTEM OF GOVERNMENT

Members must comply with, and operate within, the provisions of the Law and other relevant legislation, Government policy and administrative requirements, and always apply the law equally and without bias.

They should have an understanding of their public duty and must act for the proper purpose and without exceeding their powers. They should understand their role, and the role of the Minister and other regulatory and stakeholder authorities in relation to the functions of the Council and the Health Professional Councils Authority (HPCA).

FAIRNESS AND RESPECT FOR PEOPLE

Members of the public, colleagues, fellow members and HPCA staff are to be treated fairly and consistently, in a non-discriminatory manner with proper regard for their rights and obligations.

Members should perform their duties in a professional and responsible manner, avoiding inappropriate conduct, discrimination and bullying, and contributing to an environment which is courteous and respectful of all participants.

HONESTY, INTEGRITY AND PUBLIC INTEREST

Members should always act honestly and in the public interest, rather than in their private interest. In performing their duties they must promote confidence in the integrity of public administration.

IMPARTIALITY

Although members may be nominated by a specific organisation, professional association or other body, they are not appointed to represent the views of any stakeholder or interest group but must represent the interests of the Council, committee or regulatory body.

CONFIDENTIALITY AND COMMUNICATION OF OFFICIAL INFORMATION

Members must not use or disclose official or confidential information or documents acquired as a consequence of membership of the Council or committee other than as required by law or when the member has been given proper authority to do so. They must not misuse official information for personal or commercial gain for themselves or for another, and must respect the privacy and confidentiality of all information as it pertains to individuals.

USE OFFICIAL RESOURCES WITH ECONOMY AND EFFICIENCY

Members are accountable for official expenditure, and should ensure the efficient and responsible expenditure of public funds. Publicly funded resources, including office facilities and equipment, vehicles, cab charge vouchers and other entitlements should be used diligently and efficiently and in accordance with Government policy.

In managing business activities members should resolve matters in a timely manner to ensure that meetings and proceedings are efficient and effective.

PARTICIPATION

Members should attend all meetings as far as possible, and allow the necessary time to prepare for meetings. Members should be proactive and make a positive contribution to discussions and decision-making, and abide by the majority decision once it has been taken.

The Executive Officer or relevant chair should be advised of unplanned absences as soon as possible. Leave of absence for planned absences of less than four Council meetings should be sought in advance from the President. For planned absences of four or more consecutive Council meetings, members must obtain a grant of leave from the Minister for Health, or will be deemed to have vacated their office.

DECISION-MAKING

Decisions and actions should be reasonable, fair and appropriate to the circumstances, based on a consideration of the relevant facts, and supported by adequate documentation.

Where possible members should ensure that decisions are consistent with previous decisions, providing detailed reasons where they are not followed; and be aware of the objectives of the legislation or policy being applied.

EXPERTISE

Members must maintain and exercise a high level of skill and knowledge relevant to the discharge of their duties. To achieve this, members should undertake and participate in professional development and training programs aimed at enhancing knowledge and skills relevant to their duties; regularly review and evaluate their own performance and capacity as a member; engage actively in the objective assessment and evaluation of the Council's effectiveness and efficiency, and support and encourage the development of colleagues.

RECORD KEEPING AND USE OF INFORMATION

Decisions, reasons for decision and processes must be documented to ensure transparency, and minutes of all official meetings prepared and retained as official records.

Members must ensure the secure storage of sensitive or confidential information in all formats; and comply with record keeping and information access legislation and policies.

GIFTS AND BENEFITS

Acceptance of gifts and benefits can place a public official in a position where they feel obliged to act contrary to rules of integrity, impartiality and honesty.

Members must not accept gifts or benefits that could place them under an actual or perceived financial or moral obligation to other organisations or to individuals. Money or gifts offered to obtain benefit is defined as a bribe and is illegal.

All offers of gifts or benefits should be advised to the President, Executive Officer or relevant chair. Refer to the Medical Council's Gifts and Benefits Policy.

CONFLICTS OF INTEREST

Members must disclose a potential, perceived or real conflict of interest. A member's interests include those of an associate or close relative. Members are to disclose in writing to the Executive Officer any memberships, consultancies, ownerships or other interests which might have the potential to conflict with the interests of the Council, its committees or regulatory bodies. Members are requested to sign a pecuniary interests declaration upon their appointment and to declare a conflict of interest at the beginning of each meeting, hearing etc.

In addition, members should if engaged in another professional occupation or business, take care to ensure that those activities do not undermine the discharge of their responsibilities as a member. Refer to the Medical Council's Conflict of Interest Policy.

CORRUPT CONDUCT

Members must not engage in corrupt conduct.

Corrupt conduct can be generally understood as the non-impartial or dishonest exercise of public official functions. It may also involve the conduct of non-public officials which adversely affects the honest and impartial exercise of a public official's functions. The *Independent Commission Against Corruption Act 1988* provides further information on reporting corrupt conduct. The *Public Interest Disclosure Act 1994* provides protection to public officials who voluntarily report suspected corrupt conduct.

The President of each Council is a Principal Officer for reporting of corrupt conduct. Refer to the Medical Council's Reporting Corrupt Conduct Policy and Public Interest Disclosures Policy and Procedures.

PUBLIC COMMENT AND PRIVATE VIEWS

"Public comment" includes public speaking engagements (including comments on radio and television), expressing views in letters or interviews with the media or in books or notices or where it is reasonably foreseeable that publication or circulation of comment will flow to the community at large.

Members must not, in an official capacity, make public comments on Council or HPCA matters unless authorised to do so. No member's individual views shall be disseminated or presented as the view of the Council.

When expressing private views, care should be taken to ensure that the target audience understands such views to be private and not the views of the Council or HPCA. Members should use an explicit disclaimer prepared by an HPCA legal officer.

POST SERVICE CONDUCT

After ceasing to be a member, it is expected that a former member should continue to uphold the principles and maintain the standards outlined in the Code of Conduct for Members and behave in a way that upholds the standing and reputation of the Council, committee or regulatory body on which they served.

ADDITIONAL REQUIREMENTS FOR MEMBERS OF TRIBUNALS AND OTHER REGULATORY BODIES

Members who participate on regulatory bodies must comply with the additional requirements outlined in Appendix 1.

RELEVANT LEGISLATION AND POLICY

Relevant legislation and policy which relates to the above principles includes:

- *Health Practitioner Regulation National Law (NSW) No 86a*
- *Health Care Complaints Act 1993*
- *Anti Discrimination Act 1977*
- *Privacy and Personal Information Protection Act 1998*
- *Health Records and Information Privacy Act 2002*
- *Government Information (Public Access) Act 2009*
- *Public Finance and Audit Act 1983*
- *Independent Commission Against Corruption Act 1989*
- *Public Interest Disclosure Act 1994*
- *Ombudsman Act 1974*
- NSW Health *Code of Conduct*, PD2012_018
- NSW Department of Premier & Cabinet, *Conduct guidelines for members of NSW Government boards and committees*, 2008
- Medical Council of NSW Gifts and Benefits Policy
- Medical Council of NSW Conflict of Interest Policy
- Medical Council of NSW Public Interest Disclosures Policy
- Medical Council of NSW Reporting Corrupt Conduct Policy

ACCESS

Copies of the Code of Conduct for Members are provided to all members. The Code is available on the Council and HPCA websites and from the Council's Executive Officer.

Document control

| Endorsed by | Date | Review date | File No. | Document No. |
|------------------------|------|---------------|----------|--------------|
| Medical Council of NSW | | December 2017 | FF10/046 | DD12/24485 |

Appendix 1**Additional requirements for non-judicial members of Tribunals and other regulatory bodies**

Members appointed to regulatory bodies must comply with the following:

- Abide by the principles of natural justice and procedural fairness, giving each party a reasonable opportunity to present their case and to answer the case against them
- Ensure accessibility by being aware of barriers such as language, cultural background literacy or disability which may impede a party in presenting their case
- Communicate in a clear, plain manner which can be understood by the parties
- Make decisions according to the law, with due regard to fairness and equity and the substantial merits of the case
- Should not appear before a Tribunal as a representative, expert witness or consultant where that appearance would compromise the ability of the Tribunal to fulfil its obligations to act impartially.

In the conduct of proceedings members must:

- Clearly identify the issues in dispute and orders sought
- Refrain, save in exceptional circumstances, from any communication (either orally or in writing) or association with a party, legal representative or witness in the absence of the other party or parties or their representatives
- Facilitate settlement of some or all the matters in dispute
- Adjourn only when necessary
- Ensure that any notice of inquiry or interim orders note the issues in dispute, the timetable for exchange of documents and allocate a realistic time for the hearing
- Ensure that evidence is given as concisely as possible, while allowing full ventilation of all relevant issues
- Provide oral reasons wherever possible
- Deliver reserved decisions and provide written responses promptly and in accordance with any conditions or orders imposed.



CODE OF CONDUCT FOR MEMBERS

DECLARATION

I have read and agree to abide by the Medical Council of NSW Code of Conduct for Members.

Name: _____
(Please print)

Council/Committee/Body
or Capacity: _____

Position: _____

Signature: _____

Date: _____

Please detach this page and return the signed and completed declaration to:

The Executive Officer
Medical Council of NSW
PO Box 104
GLADESVILLE NSW 1675
By Email: mcnsw@mcnsw.org.au
By Facsimile: 9816 5307