

THE MEDICAL COUNCIL OF JAMAICA

***A GUIDE TO ETHICAL PRACTICE IN
JAMAICA***

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FOREWORD

This ethics manual contains many of the ethical principles and standards that should provide the foundations for medical practice. The ethical tenets contained herein should therefore serve to guide all graduating medical students and registered medical practitioners in Jamaica.

THE AUTHORITY OF THE MEDICAL COUNCIL OF JAMAICA

Section 14 of the Medical Act, 1972, establishes and confers powers on the Medical Council of Jamaica. It describes the functions of the Council, the appointment of the Registrar and other Officers, the Medical Register, disciplinary procedures, and the circumstances for censure, suspension, and striking off medical practitioners from practicing in Jamaica.

The Medical Regulations of 1976 proscribes the terms for the registration of medical practitioners in Jamaica. The Amendments of the Medical Act in 1996 added the requirement that a medical practitioner shall only practice in Jamaica when in possession of a valid practicing certificate issued by the Medical Council. The Amendment of the Act in 2004 added the requirement for continuing medical education (CME) for practicing medical practitioners.

Doctors should reply promptly to any communication from the Medical Council. Failure to do so will result in disciplinary measures.

THE COMPOSITION OF THE MEDICAL COUNCIL

The Medical Council comprise:

- (i) Eight (8) members elected by the medical profession;
- (ii) Two (2) registered medical practitioners nominated by the Minister of Health;
- (iii) The chief Medical Officers (CMO) of Jamaica (or his/her nominee);
- (iv) The Dean of the Faculty of Medicine, University of the West Indies;
- (v) Three lay members appointed by the Minister of Health, as follows:
 - 1) One member selected by the Minister
 - 2) One member on the advice of the Medical Council
 - 3) One member on the advice of the Medical Association of Jamaica.

The Council also has the services of a Registrar (Secretary to the Council) who conducts the business of the Council, an Administrator, a Secretary, and an Accountant. Members of the Council are appointed to serve for three (3) years, and are eligible for re-election and re-nomination by the Minister of Health at the end of their term of office.

THE FUNCTIONS & DUTIES OF THE MEDICAL COUNCIL

The Medical Act of Jamaica proscribes the functions of the Council to be:

- (a) To register medical practitioners;
- (b) To appoint examiners to conduct examinations in respect of persons applying for registration as medical practitioners as may from time to time be necessary under the provision of the Act; and
- (c) To ensure the maintenance of proper standards of professional conduct by registered medical practitioners

The primary duty of the Medical Council is to protect the public by regulating the conditions of medical practice across Jamaica. The Council therefore has the duty to investigate appropriately when any alleged case of professional misconduct by medical practitioners is reported, preferably (but not exclusively) in writing. Disciplinary proceedings and action will follow if appropriate.

An updated Medical Register is kept and published in the Jamaica Gazette by the Registrar to the Council from time to time. The Medical Register helps the general public to distinguish between qualified and unqualified practitioners. No person is regarded as legally qualified to practice medicine in Jamaica unless his or her name appears on the most recent list of this Register, and only such persons are permitted by law to prescribe drugs and give valid certificates of death and other statutory certificates.

All registered medical practitioners should inform the Registrar of the Medical Council of their most recent address and other contact information. If the Registrar writes to a practitioner at his or her last known address on the Medical Register and receives no reply to the query, the practitioner's name may be lawfully removed from the Medical Register. Medical practitioners should also inform the registrar of any attainment of higher qualifications for the Medical Register.

Further, in keeping with the Amendments of the Medical Act (1996, 2004), the Council has the duty to issue a practicing certificate annually to a registered medical practitioner if the Council is satisfied that the practitioner has complied with prescribed requirements for continuing medical education (CME) and has paid the appropriate renewal fee.

PRINCIPLES OF PRACTICE & PATIENT CARE

All medical practitioners should complete the prescribed number of hours for continuing medical education (CME) each year. Practitioners should also embrace the following ethical principles that are fundamental to medical practice:

- Respect for every human being and their dignity
- Recognize that persons have the same rights and obligations, and all should be treated with compassion and understanding
- Reduction and elimination of pain and human suffering whenever possible
- Involve patients in decision-making regarding their health care, and ensure confidentiality of their personal information.
- Adopt a human rights approach to health care, acknowledging patients' rights to information and education regarding their health, to privacy, and to non-discrimination

Desirable Traits in Health Care:

- ❖ *Sympathy and compassion*
- ❖ *Responsibility in the care of patients*
- ❖ *Loyalty to patients and the profession*
- ❖ *Discernment to clearly judge when and how to act in health care*
- ❖ *Sensitivity to issues surrounding the care of patients*
- ❖ *Love for patients and their care.*

ETHICAL DUTIES

Always remember that the word “doctor” comes from the Latin word meaning “teacher and leader”. As a medical practitioner practicing in Jamaica, you have the following obligations and responsibilities:

To Patients:

- To make the care of your patient your first concern;
- To treat every patient politely and considerately, respecting them and their dignity, being patient in listening to them and respecting their views;
- To give patients information in a way they can understand;

- To respect the rights of patients to be fully involved in decisions regarding their health care, actively involving them in discussions, and to seek consent for procedures only after adequately informing the patient;
- To provide appropriate and adequate treatment and care for patients;
- To practice in a clean and safe work environment, and practice universal precautions;
- To have appropriate knowledge and skills commensurate with your area of practice, and to keep your professional knowledge and skills up to date;
- To recognize the limits of your professional competence;
- To effectively manage personal bias, and ensure that your personal beliefs do not prejudice your patient's care;
- To respect a patient's cultural and religious beliefs;
- To respect a patient's privacy, and maintain confidentiality and safety of his/her medical records;
- To allow for and facilitate second opinions, if requested;
- To make appropriate referrals in a confidential manner, in order to provide the best care possible for the patient.

To the Profession:

- To be honest and trustworthy;
- To display good personal deportment and attire at all times;
- To work with colleagues in the ways that best serve patients' interests;
- To act quickly to protect patients from risk if you have good reason to believe that you or a colleague may not be fit to practice, or may be endangering the interest of patients;
- To maintain high standards of personal and professional conduct, and avoid abusing your position as a medical practitioner in Jamaica;
- To ensure that altruism and beneficence, and not the generation of profit, is the motivating force behind the performance of your duties.

As a medical practitioner, you should be aware that your ethical obligations should be ranked in the following order of priority:

1. Obligations to the patient in front of you
2. Obligations to other patients not in front of you
3. Obligations to professional colleagues
4. Obligations to other members of the health care industry
5. Obligations to the community and the society at large

You should therefore always adopt a positive attitude towards patients and colleagues, and should never be abusive or disrespectful to any person.

Also remember-good communication is fundamental to good health care. Poor communication can result in mis-understanding, complaints, and litigation. Patients need to talk and unburden themselves, and should be invited to ask questions.

PROFESSIONAL CONDUCT & LIABILITY

The Medical Act of Jamaica states that if a medical practitioner does or fails to do any act or thing, the doing of which or the failure to do which, in the opinion of the Medical Council, is unprofessional or discreditable conduct, he or she shall be deemed to be guilty of conduct that is disgraceful in a professional respect.

Professional or personal misconduct may be grouped under the following headings:

- 1) Disregard or neglect of the practitioner's professional responsibilities to patients for their treatment and care;
- 2) Abuse of professional privileges or skills;
- 3) Improper personal behaviour or conduct derogatory to the reputation of the members of the medical profession;
- 4) Other professional offences

1. **Disregard or neglect of professional Responsibilities**

(a) The medical practitioner's responsibility for standard of medical care:

In pursuance of its primary duty to protect the general public, the Medical Council may institute disciplinary proceedings when a medical practitioner appears to have disregarded or neglected his or her professional duties to his/her patients (for example, by failing to visit or to provide or arrange treatment for a patient when necessary). In addition to their personal responsibilities to patients, medical practitioners who undertake to manage or direct or perform clinical work for organizations or institutions offering medical services should satisfy themselves that those organizations or institutions provide adequate clinical and therapeutic facilities for the services offered.

The Medical Council is not ordinarily concerned with the kind of matters that give rise to action in the civil courts for negligence, unless the medical practitioner's conduct in the case involves a disregard of his/her professional responsibilities to his/her patients or neglect of his/her professional duties. However, a question of serious professional misconduct may arise from information or a complaint about the conduct of a medical practitioner which suggests that she or he has endangered the welfare of patients by persisting in independent practice of a branch of medicine or alternative medicine in which she or he does not have the appropriate knowledge and skill and has not acquired the experience that is necessary.

Illegal or unnecessary operations may also lead to disciplinary action by the Medical Council. Under the current law in Jamaica, termination of pregnancy is an illegal act (embodied in sections 72 & 73 of the Offences against the person Act, 1864), but if a practitioner performs such an act where the pregnancy is a serious threat to the life or health (physical or mental) of the mother, this act of beneficence might be accepted by a Court of Law. It is prudent that medical practitioners obtain written corroboration of this decision by a colleague of experience and in good standing.

(b) Improper delegation of medical duties:

The Medical Council recognizes and welcomes the growing contribution made to health care by nurses and other health care professionals who have been trained to perform specialized functions. However, medical practitioners should ensure that persons to whom they delegate responsibilities for treatment or other procedures are competent and appropriately registered to carry them out. The medical practitioner should retain ultimate responsibility for the management of his or her patients.

Breaches of these duties may result in disciplinary proceedings.

2. Abuse of professional Privileges or skills

(a) Abuse of privileges conferred by law or misuse of professionals skills

(i) The prescribing of drugs

Every prescription written by registered medical practitioners should have all of the following contents:

- ❖ NAME and ADDRESS of the patient
- ❖ The DATE
- ❖ The NAME and QUANTITY of the substance prescribed
- ❖ Adequate DIRECTIONS for its use
- ❖ The SIGNATURE of the prescribing doctor AND his/her PRINTED NAME
- ❖ The ADDRESS, telephone number, and REGISTRATION NUMBER of the Doctor
- ❖ LEGIBILITY All the above mentioned should be readable

The prescribing of narcotics and similar drugs is reserved to members of the medical profession and certain other professions, and is subject to statutory restrictions. The prescription or supply of drugs of dependence other than in the course of bona fide medical treatment constitutes serious professional misconduct.

Medical practitioners should not use their knowledge, skills or training to provide services that are illegal or dishonourable. If in doubt, you should seek the advice of the Medical Council.

(ii) Ethics in certification / Medical Certificates

By statute law, a medical practitioner's signature is required on certificates for a variety of purposes on the presumption that the truth of any statement that a medical practitioner may certify can be accepted without question. This is not a right but a privilege granted by the society, and so can be withdrawn if abused. The society assumes, and practitioners should ensure that all forms of certification are done with competence, in good faith, and with a clear conscience. Ethical considerations should underpin all forms of certification. Accordingly, you have the duty to exercise due care issuing certificates and similar documents, and should not certify statements which you have not taken appropriate steps to verify.

Scrupulous accuracy and honesty are particularly important in all documents relating to:

- (i) Birth
- (ii) Death
- (iii) Cremation
- (iv) Sick leave / Unfitness to work
- (v) Certification of health / Accident / Motor vehicle drivers' sight-testing
- (vi) Jury duty / Excuses from court attendance
- (vii) Giving evidence in Courts
- (viii) Examination and certificates for the purpose of insurance

All written medical records should be legible, have the date and time, and the name and signature of the practitioner writing the records. Any abbreviations used should be initially spelt out, and alterations or additions made should be signed and dated. Inappropriate personal comments should not be made.

The society depends on the professional integrity of such documents, and the signing of any certificate or similar documents containing statements which are untrue, misleading or otherwise improper renders the offending practitioners liable for disciplinary proceedings.

b) Abuse of privileges conferred by custom

i) Personal relationships

Personal relationships between medical practitioners and their patients are discouraged as they may undermine professional confidence or lead to undue influence. Patients often grant medical practitioners privileged access to their homes and confidences, and some patients may become emotionally dependent on their medical practitioners. However, good medical practice depends upon the maintenance of trust between medical practitioners and patients and their families, with the understanding by all that

proper professional relationships will be strictly observed. Medical practitioners should therefore exercise great care and discretion in order not to damage this crucial relationship.

Situations where trust may be breached include:

- a) A medical practitioner may improperly disclose information which she or he obtained in confidence from or about a patient;
- b) A practitioner may exert improper influence upon a patient to lend him or her money or to alter the patient's will in his or her favour, or similar actions;
- c) Practitioners may enter into an emotional or sexual relationship with a patient or with a member of the patient's family, which may serve to disrupt the patient's family life or otherwise damages or causes distress to the patient or his or her family.

Any action by a medical practitioner which breaches this trust may raise the question of serious professional misconduct.

ii) Ethics in fee structure

Charges to the patient should be commensurate with the service provided. Where medical practitioners suggest surgical or other interventions to the patient, he or she should receive communication (preferably written) of the breakdown of the fees and associate charges for his or her consideration prior to embarking on the interventions. (Also see Government Private Practice Guidelines).

3. Improper personal behaviour or conduct derogatory to the reputation of the profession

The reputation of the medical profession as well as medical ethics require that every member should observe proper standards of personal behaviour, not only in his or her professional activities but at all times. For this reason as well as in the interest of the medical practitioner concerned, you should not hesitate to bring to the attention of the Medical Council cases where medical practitioners have had lapses in their behaviour.

Also for this reason, the conviction of a medical practitioner for a criminal offence may lead to disciplinary proceedings even if the offence is not directly connected with the practitioner's professional responsibilities. In particular, three areas of personal behaviour can be identified which may occasion disciplinary proceedings:

I Personal misuse or abuse of alcohol or other drugs:

In the opinion of the Council, misuse of alcohol and driving a motor vehicle when under the influence of alcohol indicate habits which are discreditable to the reputation of the profession and may be a source of danger to the medical practitioner's patients. A practitioner who treats patients or performs other professional duties while under the influence of alcohol or drugs, or who is unable to perform his or her professional duties

because he or she is under the influence of alcohol or drugs, is liable for disciplinary proceedings. (Also see Dangerous Drugs/Government Guidelines).

II. Dishonest behaviour:

A medical practitioner is liable for disciplinary proceedings if she or he is convicted of criminal deception (for example, obtaining money or goods by false pretences), forgery, fraud, theft, or any other offence involving dishonesty. Medical practitioners should never be involved in any illegal activity.

The Council takes a particularly serious view of dishonest acts committed in the course of a practitioner's professional practice, or against his patients or colleagues. Such acts, if reported to the Council, May result in disciplinary proceedings.

Among the circumstances which may have this result are the improper demand or acceptance of fees from patients contrary to the statutory provisions which regulate the conduct of the Minister of Health, and in particular:

- The charging of fees to public in-patients or out-patients treated at government public hospitals
- Prescribing or dispensing drugs or appliances for improper motives. A doctor's motivation may be regarded as improper if he or she has prescribed a drug or appliance in which she or he has a direct financial interest or if he or she has prescribed a product manufactured or marketed by an organization from which she or he has accepted an improper inducement.
- Arrangement for fee-splitting under which one doctor would receive a part of a fee paid by a patient to another doctor
- The association of a medical practitioner with any commercial enterprise engaged in the manufacture or sale of any substance which is claimed to be of value in the prevention or treatment of disease but whose composition or nature is undisclosed

III. Indecent or violent behaviour

Indecent behaviour to or a violent assault by a medical practitioner on anyone would be regarded as serious professional misconduct. Any conviction for assault or indecency would render a medical practitioner liable to disciplinary proceedings, and would be regarded with particular gravity if the offence was committed in the course of a practitioner's professional duties or against his or her patients or colleagues.

Sexual or improper relations with a patient, if proved, is a grave offence which brings the threat of erasure from the medical register. Medical practitioners are therefore

warned to avoid any unnecessary attention or intimacy which may lead to serious misunderstanding and accusations.

IV. Advertising

While advertising by professionals is now legally permissible in Jamaica, the Medical Council still feels that a medical practitioner's good work is his or her best recommendation and advertisement. Care should be taken by the practitioner not to imply that he or she is specially recommended for patients to consult, or make claims beyond his or her specific training and expertise.

If a medical practitioner wishes to notify his or her patients of any removal/ change of address, two (2) insertions in a local newspaper is appropriate.

4. Other professional offences

You should never be involved in unethical business dealing. The Medical Council also regards the following as capable of rendering medical practitioners liable for charges of serious professional misconduct:

(a) Depreciation of other medical practitioners

The depreciation by a medical practitioner of the professional skill, knowledge, qualifications, or services of another medical practitioner or practitioners, is prohibited. Concerns regarding the personal behaviour or professional expertise of the medical practitioner should be reported to the Medical Council.

(b) Canvassing

Canvassing by a medical practitioner for the purpose of obtaining patients, whether the practitioner does this directly or indirectly through a third party, or is associated with or employed by persons organization which canvass patients, is liable for disciplinary proceedings. Medical practitioners should allow their good work to spread their reputation to potential patients.

Medical practitioners should avoid personal involvement in promoting the services of organizations, especially those which claims superiority over other similar facilities. They should also not allow their personal address or telephone numbers to be used as an enquiry point on behalf of any organization.

(c) Misconduct in research endeavours

Medical practitioners who undertake research endeavours should receive prior training in research methodology and research ethics, including the seven ethical requirements for research. Practitioners should be aware that the aims of health care and research are divergent and are sometimes in conflict. Health care aims to benefit the individual patient, and so the doctor has a clear and singular obligation to the patient in this

setting. Research aims to increase knowledge that may benefit a wide range of persons or the general society, but does not seek to benefit the particular patient who may be enrolled in the research endeavour. The practitioner who conducts research therefore has various obligations (and incentives) that may sometimes be in conflict.

Accordingly, practitioners who provide health care as well as conduct research should ensure that independent persons are assigned to inform and answer patients' questions regarding their possible involvement in the research endeavour, and ensure that patients understand the difference between health care and research before they are invited to participate in the research endeavour by the independent persons. The seven (7) ethical requirements for research should also be met.

Misleading the patient, fabrication or falsification of data, plagiarism, misuse of research funds, or other forms of dishonesty or research misconduct are all liable for disciplinary proceedings.

CONFLICTS OF INTEREST

Due to the unequal power relationship medical practitioners have with patients, you should be very aware of situations that might lead to an abuse of privilege or a conflict of interest. For example, if you diversify your medical practice into other areas related to medicine, you should balance your financial incentive in the project against the actual value benefit to your patients. Also, you should be sensitive to issues surrounding the sale or marketing of products or services that are not essential to direct patient care or are not registered for use in Jamaica, and you should always disclose to your patients any interest you may have in pharmacies and other health care or medical establishments to which you may be referring them. In deciding where to refer patients for investigations or care, you should be guided by what quality issues may be involved in the referral.

Like any member of the general public or officer of health authority, you have the duty to declare your interest before participating in discussion which would lead to the purchase by a public authority of goods or services in which you, or a member of your immediate family, have a direct or indirect pecuniary interest. Non-disclosure of such information may, under certain circumstances, amount to serious professional misconduct.

DISCIPLINARY PROCEDURES

All convictions of medical practitioners in the Courts should be automatically reported to the Medical Council by the police authorities. The Council must take cognizance of these reports, and decide whether such convictions come within the ambit of professional misconduct and if so Council must then initiate proceedings.

Any finding of fact that has been made by the Court must be accepted by the Medical Council as conclusive evidence of the fact found, as the Council cannot upset the ruling

of the Court. The procedure to be followed by the Council in disciplinary Matters is set out in the Medical Regulations 1976 (Registration and disciplinary proceedings).

The Council draws the following sections of the Medical Act to the Attention of medical Practitioners:

II (I) If any person registered under this Act is found upon enquiry by the Council

- a) To be suffering from any habit, or any mental or physical condition rendering him or her unfit to practice medicine; or
- b) To have procured his or her registration under this Act as a result of any misleading, false or fraudulent misrepresentation, or
- c) To have been convicted of a criminal offence; or
- d) To be guilty of dishonesty, negligence, or incompetence in the performance of his or her functions as a medical practitioner or of conduct that is disgraceful in a professional respect-

- then, the Council may, if it thinks fit:

- (i) Censure him or her; or
- (ii) Suspend his or her registration for a period not exceeding two years; or
- (iii) Direct the Registrar to remove his or her name from the Medical Register.

II (2) For the purposes of subsection (I) above, a registered medical practitioner shall be deemed to be guilty of conduct that is disgraceful in a professional respect, if he or she:

- a) Wilfully and without legal justification betrays a professional confidence;
- b) Abandons a patient in danger without sufficient cause, and without giving him or her the opportunity to obtain the services of another practitioner;
- c) Knowingly gives a false certificate;
- d) Divides with another person (other than his or her professional partner) any fees or profits resulting from his or her professional practice;
- e) So indulges in the excessive or habitual use of intoxicating liquor or drugs as to affect his or her treatment of patients;
- f) Impersonates another registered medical practitioner;

- g) Does or fails to do any act or thing, the doing of which or the failure to do which, in opinion of the Council, is unprofessional or discreditable conduct, or
- h) Employs or permits a person not registered under this Medical Act, to attend or treat or perform services which require professional skill upon any patient, or by his or her presence, advice, assistance or cooperation enables that person, whether acting as an assistant or otherwise, to do any act which would constitute that practice of medicine.

In addition to the foregoing, any breach of the ethical principles and standards prescribed herein will render the offending medical practitioner liable for disciplinary proceedings.
