



28 January 2020

**Submission to the New Zealand Medical Association:
Updated Code of Ethics**

The New Zealand College of Public Health Medicine would like to thank the New Zealand Medical Association (the NZMA) for the opportunity again to make a submission on the updated Code of Ethics for the New Zealand Medical Profession (the Code).

The New Zealand College of Public Health Medicine (the College) is the professional body representing the medical specialty of public health medicine in New Zealand. We have 223 members, all of whom are medical doctors, including 178 fully qualified Public Health Medicine Specialists with the majority of the remainder being registrars training in the specialty of public health medicine.

Public Health Medicine is the branch of medicine concerned with the assessment of population health and health care needs, the development of policy and strategy, health promotion, the control and prevention of disease, and the organisation of services. The NZCPHM partners to achieve health gain and equity for our population, eliminating inequities across socioeconomic and ethnic groups, and promoting environments in which everyone can be healthy.

When reading our submission below, please note that suggested content modifications and insertions has been provided in **red text with yellow highlight**, along with the number of the section where the modification should be made.

General points

The New Zealand Medical Association (NZMA) has requested a second round of feedback on proposed revisions to the NZMA Code of Ethics. We provided our feedback in the first round of submissions, and note and support the following changes that have subsequently been incorporated: ¹

1. Explicit reference to 'te Tiriti o Waitangi' (the Māori version of the document, as used in the NZMA Constitution) in the list of statutory provisions and codes that doctors must be aware of (section 25).
2. Inclusion of a requirement that doctors should respect and acknowledge the role family members and care givers play in the achievement of best health outcomes for some patients (section 26).
3. The inclusion of reference to patient tissue and health information in the section regarding the scrutiny of proposed research by an appropriately constituted ethics committee (section 49).
4. The inclusion of a section providing guidance for situations in which a doctor's moral obligations conflict with legal requirements (section 73).

5. The extension of the profession's responsibility towards society to include the environmental issues that have a bearing on the health of individuals and populations (section 74). This is important because climate change presents a serious threat to global public health but also an unprecedented opportunity to improve health and achieve equity. Health professionals should advocate for climate action that is fast, fair, firm and founded in te Tiriti O Waitangi.²

Recommendations

6. We strongly suggest that partnerships referred to in the section on moral principles in the preliminary statement should be expanded to include reference to partnership obligations between the profession (where part of the Crown) and Māori under te Tiriti o Waitangi (paragraph 4, page 2). This is particularly important given the recent findings and ongoing investigations into health of the Waitangi Tribunal,³ which have since superseded the previous draft of the Code of Ethics that NZMA consulted on earlier last year.

The part of the profession who are part of the Crown is sizable – it includes for example all employees of District Health Boards, where each of the 20 DHBs is a Crown entity/agent under the Crown Entities Act 2004 S.7.⁴ This will include at least half of all medical professionals – as all employed by DHBs as doctors in training, MOSSs, and clinical, diagnostic, pathology and public health medicine specialist medical staff.

We therefore call for that final sentence of paragraph 4, page 2 to be:

*In New Zealand, we also recognise the principle of partnership – between doctor and patient; profession and society; **the profession (as part of the Crown when district health board and other State sector employees) and Māori under te Tiriti o Waitangi;** and different cultures – as an important aspect of the ethos of professional practice.*

7. We call for section 55, referring to the doctor's responsibilities when prescribing new drugs or treatments, to include that the doctor must advise the patient about the funding status of the drug or treatment, i.e.:

*In all such cases the doctors must fully inform the patient about the drug or treatment, including the fact that such treatment is new-~~of~~, unorthodox **or unfunded**, if that is so.*

8. We note the insertion of the text 'with communities' in the section on achieving health equity within the 'Doctors in a just and caring society' section (section 75). However, we believe that greater prominence should be given the concept of partnership, and to obligations under te Tiriti o Waitangi. We propose the addition of the following sections after section 75:

*a. **In order to achieve health equity, doctors should partner with those most affected. Good engagement and partnership are essential with tāngata whenua and other groups experiencing health inequity.***

*b. **For Māori in particular, achieving health equity will require Treaty partnerships, as well as partnering and power sharing with community groups, and intersectoral and whole-of-government approaches that align with Tiriti o Waitangi principles.⁵ Doctors should be aware of their obligations to Māori under Tiriti o Waitangi, and***

*commit to the principles of partnership, protection and participation inherent in the treaty.*⁶

c. *Doctors should commit to advocating for policies and practices that advance the health of all New Zealanders, in accordance with te Tiriti o Waitangi.⁵ This includes leading and advocating for equitable access to high-value care delivered in culturally safe ways; and committing to improving living conditions and eliminating inequities in the social determinants of health, including power and resource imbalances.*⁵

9. The Medical Council of New Zealand has recently released its 'Statement on Cultural Safety'.⁷ There is an important shift in discourse in this document from 'cultural competence' which largely focusses on acquisition of knowledge about other cultures, to cultural safety, which includes an understanding of power differentials in the doctor/patient relationship, and on the importance of the doctor's reflection on their own views and biases and how these could affect patient outcomes. We strongly recommend that the NZMA similarly adopt this terminology. This applies to section 19 in the code:

Doctors should recognise the needs of patients to receive culturally sensitive and culturally ~~competent safe~~ care.

Further, we propose the following insertions into the section on 'Responsibilities to the Patient':

Achieving health equity will require all doctors to practice in a culturally safe manner. The NZMA expects doctors to be familiar with the Medical Council Statement on Cultural Safety and with the cultural safety standards for doctors in that document. Doctors must reflect on how their own views, biases and the inherent power-difference in the doctor-patient relationship may impact clinical interactions and the care they provide to patients.

10. We propose the following modification to the final sentence of section 60:

*Particular sensitivity is required when patients are disabled, ~~or~~ disempowered, ~~or~~ **vulnerable** eg, children or those with impaired states of consciousness.*

The example of children provided in section 60 isn't adequately captured by the terms 'disabled' or 'disempowered'. Adding 'vulnerable' better captures children and the full spectrum of patients who may require sensitivity during teaching involving patient contact.

Thank you for the opportunity for the NZCPHM to submit on the Code of Ethics for the New Zealand Medical Profession. We hope our feedback is helpful and are happy to provide further clarification on matter covered in this submission.

Sincerely,



Dr Felicity Dumble, President, NZCPHM

References:

1. New Zealand College of Public Health Medicine. Submission to the New Zealand Medical Association: Updated Code of Ethics. Wellington: NZCPHM, 2019.
(https://www.nzcpm.org.nz/media/127370/nzcphm_submission_to_the_new_zealand_medical_association.pdf)
2. New Zealand College of Public Health Medicine. Submission to the Environment Select Committee: Climate Change Response (Zero Carbon) Amendment Bill. Wellington: NZCPHM, 2019.
(https://www.nzcpm.org.nz/media/129315/2019_zero_carbon_amendment_bill_submission_final.pdf)
3. Waitangi Tribunal. Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry Wai 2575. Lower Hutt: Waitangi Tribunal, 2019.
(https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_152801817/Hauora%20W.pdf)
- 4 New Zealand Public Health and Disability Act 2000 S.21(1),(2).
(<http://www.legislation.govt.nz/act/public/2000/0091/latest/whole.html#DLM80805>);
State Services Commission. New Zealand's State sector – the organisations. Wellington: SSC, 2019 [internet].
(<https://ssc.govt.nz/our-work/state-sector-organisations/>)
5. New Zealand College of Public Health Medicine. Choosing Wisely - Recommendations and explanatory statements. (pg. 1). Wellington: NZCPHM, 2019.
(https://www.nzcpm.org.nz/media/119034/choosing_wisely_2019_reviewed_final.pdf)
6. New Zealand Medical Association. Constitutional Rules of the New Zealand Medical Association Incorporated. (pg. 2). Wellington: NZCPHM, 2018.
(https://www.nzma.org.nz/_data/assets/pdf_file/0020/83630/Constitutional-Rules-May-2018-FINAL-02.pdf)
7. Medical Council of New Zealand. Statement on cultural safety. Wellington: MCNZ, 2019.
(<https://www.mcnz.org.nz/assets/standards/b71d139dca/Statement-on-cultural-safety.pdf>)