



MEDICAL COUNCIL OF NEW ZEALAND

October 2010

Beliefs and medical practice

Introduction

1. Beliefs and values, and cultural and religious practices are central to the lives of doctors and patients and the practice of medicine. Some doctors' personal beliefs may prevent them carrying out or recommending particular procedures for patients. Patients' personal beliefs may be fundamental to their sense of well-being and may help them to cope with their illness or treatment. Personal beliefs may also lead patients to ask for procedures that others may not feel are in their best clinical interests, or to refuse treatment.
2. This statement explores some of the issues arising from personal beliefs. It attempts to balance doctors' and patients' rights – including the right to freedom of thought, conscience and religion, and the entitlement to care and treatment to meet clinical needs – and advises doctors on what to do when those rights conflict.
3. This statement provides general advice on beliefs and medical practice, and specific advice on: contraception, sterilisation and abortion; male infant and pre-pubescent circumcision; and female genital mutilation.
4. While the Council does not impose unnecessary restrictions on doctors, a doctor's personal beliefs should not compromise objective, patient-centred decision-making and the provision of care in line with the principles outlined in *Good medical practice*.
5. This statement may be used by the Health Practitioner's Disciplinary Tribunal, the Council and the Health and Disability Commissioner as a standard by which a doctor's conduct is measured.

Respecting patients' beliefs

6. The care of the presenting patient should be your first concern, whatever their medical need. Patients are entitled to expect good quality care based on your clinical knowledge and in accordance with this statement.
7. Trust and good communication are essential components of the doctor-patient relationship. You must respect patients' rights to hold religious or other beliefs and be respectful of their dignity and views. You should take their beliefs into account where they may be relevant to treatment options. However, if patients do not wish to discuss their personal beliefs with you, you must respect those wishes.
8. Demonstrate the ability to work with the patient's cultural beliefs, values and practices in developing a relevant management plan¹. Work in partnership with patients by:
 - Listening to them and responding to their concerns and preferences.
 - Respecting their right to reach decisions with you about their treatment and care².
 - Making sure the patient agrees before you provide treatment or investigate their condition.
9. Personal views that you hold about patients should not prejudice your assessment of their clinical needs, negatively affect your relationship with them or delay or restrict their access to care. This includes where you believe that the patient's actions have contributed to their condition as well as your views about their age, culture, disability, ethnic or national origin, gender, lifestyle, marital or parental status, race, religion or

¹ Statement on cultural competence, clause 15d

² Good medical practice, foreword

beliefs, sexual orientation, or social or economic status³. It also includes where a patient withdraws, or does not agree to participate in, a clinical trial.

- 10. Take steps to ensure the patient's privacy is respected and protected.
- 11. You should not normally discuss your own personal beliefs with patients. You must not impose your personal beliefs on patients, or cause distress by the inappropriate or insensitive expression of religious, political or other beliefs or views. Recognise when your actions might not be acceptable or might be offensive to patients⁴.

Patients' personal beliefs and their care

- 12. Respect the patient's right to decline treatment⁵.
- 13. When people are unable to consent or refuse to consent to treatment and there is not unanimity between the views of the doctor and the patient (or the patient's family) you may need to seek advice from peer groups, senior medical staff or an ethics committee before proceeding. In rare cases you may need to obtain a legal opinion on whether to seek authority from the High Court. Such cases may include:
 - (a) a blood transfusion or caesarean section to save life; or
 - (b) termination of treatment to allow the patient to die peacefully, for example patients in permanent vegetative states; or
 - (c) sterilisation of a patient who is unable to consent but for whom the family and other carers, supported by medical opinion, request the operation to enhance the quality of life of the patient and prevent deterioration in his or her physical or mental health⁶; or
 - (d) a dispute between parents based on religion or beliefs about the treatment to be provided to a child.

Doctors' personal beliefs and patient care

- 14. Your personal beliefs should not affect your advice or treatment⁷. Investigations or treatment should be provided on the basis of the assessment you and the patient make of his or her needs and priorities, and on your clinical judgement about the likely effectiveness of the treatment options⁸.
- 15. All patients have a right to be fully informed about their condition and treatment options⁹. This includes advice about all the options available, including an assessment of the expected risks, side effects, benefits and costs of each option.
- 16. You must not withhold information because it conflicts with your personal beliefs.
- 17. If you feel your beliefs might affect the advice or treatment you provide, or if you choose not to provide a service because of a conscientious objection, you must explain this to patients and advise them of their right to see another doctor. You must ensure that the patient has sufficient information to exercise that right¹⁰.
- 18. If you object on the grounds of conscience to providing a service, and you work in a field where you are likely to encounter patients requesting that service, you should provide the patient with the names and contact details of doctors in the area who can provide that service.
- 19. If a patient cannot reasonably make their own arrangements to see another doctor you must take all reasonable steps to ensure that arrangements are made, without delay, for another doctor to take over his or her care. You must not obstruct patients from accessing services or leave them with nowhere to turn. You must ensure that your staff understand and comply with this guidance.
- 20. If you provide the patient with a colleague's name and contact details or arrange for the patient to be seen by another doctor, you should have a reasonable basis for confidence in the competence of that doctor, and in their ability to provide objective information and the care requested with appropriate care and skill.

³ s.21 of the Human Rights Act specifically prohibits refusing treatment or providing it on less favourable terms because of sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability or age

⁴ Statement on cultural competence, clause 15c

⁵ Good medical practice, clause 15

⁶ Council's statement on Information and consent, clause 18. Also refer to s.10 of the Bill of Rights Act 1990 and Right 7(7) of the Code of Health and Disability Services Consumers' Rights.

⁷ Good medical practice, clause 20

⁸ Good medical practice, clause 21

⁹ Right 6 of the Code of Health and Disability Services Consumers' Rights and Good medical practice, clause 13. For more information, refer to the Council's statement on Information and consent.

¹⁰ Good medical practice, clause 20

21. If no other practitioner in the area can provide the service and funding is available to assist the patient to travel outside the area, you should advise the patient how to access that funding.

22. If your role involves providing services which conflict with your personal beliefs, you should explain your objection to your employer or contracting body. You should explore constructively with them how to resolve the difficulty without compromising patient care, and without placing an unreasonable burden on colleagues¹¹.

23. Challenge colleagues if their own behaviour does not comply with the guidance outlined in this statement.

Specific requirements relating to contraception, sterilisation and abortion

24. The Contraception, Sterilisation and Abortion Act 1977 sets out the procedures and requirements for contraception, sterilisation and abortion as well as the responsibilities of medical practitioners; the Crimes Act 1961 sets out the legal grounds for abortion; the Care of Children Act 2004 outlines access for young women; and the Health Practitioners Competence Assurance Act 2003 addresses what doctors are required to do if they have a conscientious objection. You should make yourself familiar with the requirements of these Acts.

Legal requirements

25. You have a legal right not to:

- perform or assist in the performance of an abortion, or sterilisation;
- fit or assist in the fitting, or supply or administer or assist in the supply of administering, of any contraceptive, or to offer or give any advice relating to contraception

If you object to doing so on the grounds of conscience¹².

26. If you object on the grounds of conscience to providing advice or other services with respect to contraception, sterilisation, abortion or other reproductive health matters you must, under section 174 of the Health Practitioners Competence Assurance Act 2003, inform the person requesting the service that he or she may obtain that service

¹¹ Refer to the Council's statement on A doctor's duty to help in an emergency for guidance on what your responsibilities are when urgent care is required.

¹² Section 46 of the Contraception, Sterilisation and Abortion Act

from another health practitioner or a family planning clinic¹³.

27. Section 32 of the Contraception, Sterilisation and Abortion Act 1977 sets out the procedure to be followed where a woman seeks an abortion. Section 32(1) provides that every medical practitioner who is consulted by, or in respect of, a female who wishes to have an abortion shall, if requested to do so by or on behalf of the female, arrange for the case to be considered and dealt with in accordance with the requirements of Sections 32 and Sections 33 of the Act.

28. Access to abortion is not restricted on grounds of age¹⁴. The consent of a parent or guardian is not required in order for a child or young person to access abortion information or services. However, that young person must receive the same counselling and approval by a certifying consultant as any other woman seeking an abortion. Ultimately the only consent required is that of the woman¹⁵, however a certifying consultant may (with the woman's consent) consult with any other person in order to assist him or her in consideration of the case¹⁶.

Council's expectations of you when complying with the law

29. In complying with section 174 of the Health Practitioners Competence Assurance Act 2003 and section 32 of the Contraception, Sterilisation and Abortion Act 1977, you must act in a timely manner and in accordance with the guidance outlined in paragraphs 14-23 of this document.

30. While the Council recognises that you are entitled to hold your own beliefs, it remains your responsibility to ensure that a woman who comes to you for medical care and seeks contraceptive advice, or expresses doubt about continuing with a pregnancy, is provided with or is offered timely access to objective information or assistance to enable her to make informed decisions on all available options for her including, if she is pregnant, both continuation of pregnancy and abortion.

31. If the patient cannot reasonably make her own arrangements to see another doctor,

¹³ Section 5 of the Contraception, Sterilisation and Abortion Act 1977 requires a medical practitioner who is consulted by a woman who complains of sexual violation to, at the very least, advise her of her right to obtain contraceptive precaution to avoid the risk of pregnancy, which will be supplied by another doctor or Family Planning clinic. Conscientious objection on the part of the medical practitioner does not limit or affect this obligation.

¹⁴ The Care of Children Act 2004

¹⁵ Refer to Right 7 of the Code of Health and Disability Services Consumers' Rights

¹⁶ Section 32(7) of the Contraception, Sterilisation and Abortion Act

you must take all reasonable steps to ensure that arrangements are made, without delay, for another doctor to take over her care.

32. Your obligations under paragraph 28 of this statement mean that if you have a conscience objection to abortion and you are consulted by or on behalf of a pregnant woman who wishes to have an abortion, you must, if requested to do so by or on behalf of that woman, arrange for the woman's case to be considered by another medical practitioner who is able to consider whether an abortion may lawfully be performed and take the appropriate steps required by the Contraception, Sterilisation and Abortion Act 1977.

33. You must not refuse to provide unrelated medical care to a patient who is awaiting or has undergone an abortion, because you have a conscience objection. Furthermore, you are expected to provide emergency care to a patient who has suffered an injury or infection during the procedure. The same principle applies to the care of patients before or following any other procedure from which you have withdrawn because of your beliefs.

34. If a funder or employer decides to fund an abortion or contraception service, you should not obstruct others from implementing or delivering that service.

35. Legally you are permitted to provide contraceptive advice and prescribe contraception to people under the age of 16 (providing that they are competent), without consent from their parents. If you object to providing contraceptive advice or prescribing contraception you should comply with the advice outlined in paragraphs 14-23 of this statement. Minors requesting these services have the same right to privacy and confidentiality as any other person.

Male infant and pre-pubescent circumcision

36. You should not allow your personal beliefs to override your professional judgement when a request is made for routine infant and pre-pubescent male circumcision. While the preference of the parents and their cultural and religious beliefs are important, factors like the best available evidence regarding potential benefits and complications, alternatives to this intervention and the child's best interest should be discussed with the parents. Doctors must also comply with any relevant policy published by their college.

Female circumcision

37. Female genital mutilation – sometimes referred to as female circumcision – is a serious crime and also a child protection issue, whether undertaken in New Zealand or abroad. You must decline to perform these procedures and must refuse to refer the patient to any other person for the purpose of having these procedures performed. If you learn that such a procedure has been performed or is being contemplated you must notify appropriate child protection or law enforcement agencies. If you treat a patient who has undergone these procedures, treat them with sensitivity and compassion.

Other relevant resources

- *Good medical practice*
- *Statement on cultural competence*
- *Information and consent*
- *Complementary and alternative medicine*
- *Confidentiality and public safety*
- *Cole's Medical practice in New Zealand*
- *The NZMA Code of Ethics*
- *The Code of Health and Disability Services Consumers' Rights.*

The Medical Council of New Zealand also acknowledges the work done by the General Medical Council in this area, particularly its resource booklet "Personal beliefs and medical practice".

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This statement is scheduled for review by February 2015. Legislative changes may make this statement obsolete before this review date.