

Guidelines for Professional Conduct v 1.4

1. Introduction

- 1.1 The Council of the New Zealand Association of Plastic Surgeons (the Association), under its Rules, is responsible for maintaining acceptable standards of professional conduct and advising Members of the standards of professional conduct to which the Association adheres. The following Guidelines are there to inform Members of those professional standards to which the Association requires them to adhere.
- 1.2 Members, whilst they should observe the Guidelines set out in this document, must also comply with all regulations and guidelines of Medical Council of New Zealand (MCNZ) and the Royal Australasian College of Surgeons.

2. General Principles

- 2.1 The Member shall not bring the membership of the Association into disrepute or promote himself or herself as better than his or her peers
- 2.2 The Association supports advertising by Members where the purpose of advertising is:
 - (a) to disseminate information about advances in medical science and therapeutics;
 - (b) to provide specific information in relation to the services offered by the Member.
- 2.3 In general terms, a Member may advertise the availability of professional services if such advertising:
 - (a) is not false;
 - (b) is not misleading or deceptive or likely to mislead or deceive
 - (c) is not vulgar or sensational or in poor taste;
 - (d) does not claim or suggest that a Member is superior to other Members;
 - (e) does not contain testimonials or endorsements relating to a Member;
 - (f) is not likely to bring the Association into disrepute.
- 2.4 An advertisement shall be regarded as false, misleading or deceptive amongst other things, if:
 - (a) it contains a material misrepresentation of fact including a misrepresentation by omission;
 - (b) it is likely to create an unjustified expectation.

- 2.5 The Council may at any time request a Member to cease or amend any forms of advertising. A Member failing to comply with such direction may face disciplinary action, under the Rules of the Association.
- 2.6 Personal advertisements which conform to Association Guidelines may make mention of Association Membership and use an approved Association Logo.
- 2.7 It is an expectation of NZAPS membership that any member who performs breast surgery involving the placement or removal of breast devices is registered with the New Zealand Breast Device Registry, informs patients of the Registry and fully participates in and contributes to the Registry by uploading data to the Registry in a timely manner.

3. Stationery

- 3.1 Subject to any Medical Council of New Zealand (MCNZ) guidelines or regulations, stationery may contain:
- (a) name (and logo if applicable) including the names of other registered medical practitioners actually practicing and in regular attendance at the same address as the Member;
 - (b) degrees and registered qualifications;
 - (c) address and telephone numbers;
 - (d) days and hours of practice;
 - (e) availability of, and arrangements for after hours services;
 - (f) information about billing practices in use;
 - (g) subspecialty, including:
 - Reconstructive Plastic Surgery
 - Burns Surgery
 - Hand Surgery
 - Head and Neck Surgery
 - Aesthetic Plastic Surgery/Cosmetic Surgery
 - Breast Reconstruction Surgery
 - Microsurgery
 - Laser Surgery
 - Pediatric Plastic Surgery Cranio-Maxillofacial Surgery Skull Base Surgery
 - Skin Cancer Surgery
 - Oculo-Plastic Surgery;
 - (h) details of hospital appointments;
 - (i) membership of the Association.

4. Brochures, Pamphlets, Etc.

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4.1 Members wishing to use personalised brochures or pamphlets:

- (a) should be careful to ensure that they conform to the guidelines laid down in this document;

4.2 The Council will advise on acceptable standards in individual circumstances.

5. **Media Exposure**

5.1 The official spokesman for the Association is the President (or if unavailable, Vice President).

5.2 If giving any media interview in his/her professional capacity, where possible the Member shall notify the President of the Association, or in his absence the Vice President, prior to giving such media interview that may influence the Association's position in respect of that issue.

5.3 In media interviews a Member may, in his professional capacity:

- (a) be identified by name, town or suburb;
- (b) give particulars of academic qualifications and publications written or edited by him or the fields of practice of the Member directly relevant to the subject matter of the interview.

5.4 The Member shall not:

- (a) identify a patient without the patient's written consent;
- (b) make public media statements for promotional purposes which imply that a particular person or corporation is the exclusive provider of any medical service.

5.5 Members communicating with the media should not consider themselves as Association spokespersons unless holding approval from the President to that effect.

5.6 The Member shall make available to the Association President relevant copies of tapes/videotapes or electronic versions of articles/interviews.

6. **Lectures to Lay Groups**

6.1 In taking part in lectures to lay groups the Member may in his/her personal capacity:

- (a) be identified by name, town or suburb;
- (b) give particulars of any academic qualifications; and
- (c) publications written or edited by him or the fields of practice of the Member directly relevant to the subject of the lecture.

6.2 The Member shall not:

- (a) identify a patient without the patient's consent;
- (b) make statements for promotional purposes which imply that a particular person or corporation is the exclusive provider of any medical service.

7. Lectures to Medical Groups

7.1 The Association's Council supports teaching and dissemination of knowledge by Members to the wider medical community. However, the Council is concerned by inappropriate teaching of surgical technique and skills to other practitioners lacking in appropriate background knowledge and basic training where unskilled practitioners may inappropriately use such skills and techniques to the detriment of the patients in particular.

- (a) except for minor surgical procedures (eg, excision of skin lesions), lectures to non-surgical groups should highlight principles rather than detail of technique;
- (b) detailed discussion and teaching of technique should be restricted to surgeons. Lectures to other surgical groups should ensure the content is appropriate to the training and skill level of that group.

8. Provision of second opinions

8.1 When requested to provide a second opinion on a clinical case by another member of the Association (and colleague), it is expected that the member will provide a second opinion. This subject of fees for the second opinion will be determined via discussion between the requestor and the provider.

8.2 The provision of a second opinion should be on the grounds of determining a fair outcome of procedure or intended procedure, and not to support a patient looking for 'better options'.

9. Guidelines for Social Media Use

9.1 These Guidelines for social media use have been prepared to assist Members in understanding the requirements which the Council of the Association has imposed upon Members with respect to advertising their services on the internet.

9.2 Members, in addition to complying with these Guidelines for Social Media, must also comply with the Association's Guidelines for Professional Conduct as published from time to time which may also impact upon advertising.

9.3 Members must comply with Medsafe regulations about advertising Scheduled products such as dermal fillers and Botulinum Toxin. It is allowable to advertise APPROVED medicines for APPROVED INDICATIONS. Further information is available from www.medsafe.govt.nz

9.4 Live surgery demonstrations broadcast on social media is not appropriate. Video

recordings that are edited are a much more effective way of teaching.

- 9.5 Use of social media Influencers to promote individual cosmetic surgery practice should be discouraged. If a patient has received free or discounted treatment, that information should be disclosed to the public when the outcome of the treatment is promoted.
- 9.6 Linking to the Association website is permitted, preferably by the use of the Association Logo.
- 9.7 Privileges of membership of the Association which are of particular relevance to internet advertising by Members include the following:
- (a) use of the Association's Brand or Logo on the Members' website
 - (b) the entitlement to link a Members' website with the website of the Association
 - (c) the Association establishing and maintaining a link from its website to a Members' website.
- 9.8 The Council of the Association, in establishing these Guidelines for Social Media use, has been mindful of the Objects of the Association and its responsibility to promote, maintain and develop the highest standards of surgical practice and ethics in Plastic Surgery in New Zealand. It has sought to strike a balance between a Members' freedom to advertise their services as they think fit and conduct in the nature of advertising which may be harmful to patients or which is unprofessional or which is likely to bring the profession into disrepute.
- 9.9 As these Guidelines for social media use facilitate both the granting and removal of various membership privileges associated with social media advertising, they also provide a mechanism for appeal in the event that privileges are withdrawn.

Attribution of Relationship

- 9.10 The purpose of a Member being entitled to use the Association's Logo is to highlight the fact that the Member is a Member of the Association and for no other purpose.
- 9.11 Members must not position the Association's Logo on their website in sufficiently close proximity to the logos of any other organisation or body so as to give rise to any inference that the Association has a connection or affinity with that other body.
- 9.12 Members must not use the Association's Logo in such a manner as to suggest or imply that a Member is authorised to make representations on behalf of the Association.
- 9.13 "*Deep-linking*" into the Association's website is not permitted. Deep-linking occurs where a Member makes it appear that the Association's website is part of a Members' website. It must be clear to the internet user that the Association's website has been accessed and action must be taken by the user in order to return to the Member's website.

Links from Members' Websites to Other Websites

- 9.14 Members may link their websites to other websites provided that the third-party websites have a contextual link to the Members' websites and their association with the Members' websites is not one which is likely to bring the Association into disrepute.

Use of Models

- 9.15 Care should be taken to ensure that "*before and after shots*" satisfy any MCNZ criteria with respect to such use. Further, with respect to "*before and after shots*", Members are to only use depicting images and photographs and pictorial descriptors of their own work – no models.

- 9.16 No images of an "*inappropriate sexual nature*" should be used. An image will be considered to be of an inappropriate sexual nature:

"Where it is apparent from the pose, any apparel worn, the context in which the image appears and any other relevant fact or circumstance, that the image is designed or intended or predominantly designed or intended to stimulate sexual desire rather than to illustrate or advance any particular cosmetic surgical procedure."

Withdrawal of Privileges

- 9.17 If the Ethics Subcommittee of the Association is asked to consider whether a Member may be advertising in contravention of these Guidelines, the Member will be advised in writing of the matters which are of concern, and the Member's written response sought. Upon receipt of the Member's written response, or if no response is forthcoming within twenty-one (21) days, the Ethics Subcommittee shall then make a decision as to whether or not the Member is contravening these Guidelines.

- 9.18 In the event that the Ethics Subcommittee determines that these Guidelines have been infringed, then it may:

- (a) make an order requiring the Member to take action to remedy the matters giving rise to the infringement; and
- (b) make an order suspending the Member's entitlement to some or all of the privileges referred to in paragraph 8.7 for such period as it considers appropriate and require a Member to take any necessary action to give effect to any such order; or
- (c) without imposing any sanction, provide the Member with an opportunity to remedy the matters giving rise to the infringement.

- 9.19 A Member, the subject of an adverse decision from the Ethics Subcommittee, may appeal that decision within twenty-one (21) days of notification of the decision by requiring the Council of the Association to refer the matter to the Internet Appeal Subcommittee of the Association.

- 9.20 The Appeal Subcommittee shall comprise two (2) Members of the Association, duly

appointed by the Council (who may be Members of the Council if they have had no previous direct involvement in hearing or determining this matter), and a Fellow of the College nominated by the College who is not a Member of the Association.

- 9.21 The Appeal Subcommittee shall convene, adjourn and otherwise regulate its proceedings as it thinks fit. It shall, however, at all times abide by the principles of natural justice and shall give the Member who has appealed a full and sufficient opportunity to make written or oral submissions to the Internet Appeal Subcommittee.
- 9.22 Unless the Appeal Subcommittee otherwise determines, neither it nor the Member who is appealing the decision, are entitled to legal representation or assistance at any hearing of the Appeal Subcommittee.
- 9.23 The Appeal Subcommittee shall act expeditiously in relation to any appeal made to it. Upon considering all relevant material, together with any oral or written submissions from the Member who is appealing, it shall make a decision either adopting the decision of the Ethics Subcommittee or substituting for that decision any decision that it had power to make.

Disciplinary Process

- 9.24 In some circumstances, the Council of the Association may have to determine whether the alleged conduct in question should be dealt with administratively under paragraphs 8.17 to 8.34 of these Guidelines for Internet Use, or dealt with under the disciplinary process set out in the Constitution of the Association. The Council of the Association shall, at all times, have a complete discretion as to which process it wishes to engage in these circumstances. However, if it proceeds to refer the matter to the Ethics Subcommittee under paragraphs 8.17 to 8.34 of these Guidelines for Internet Use, it shall not in respect of the same set of facts giving rise to such alleged conduct, be entitled to pursue the disciplinary process under its Constitution unless a Member fails to comply with an order of the Ethics Subcommittee or Internet Appeal Subcommittee.
- 9.25 Failure by a Member to comply with an order of the Ethics Subcommittee made pursuant to paragraphs 8.18 or the Appeal Subcommittee made pursuant to paragraph 8.34 may constitute grounds for disciplinary proceedings being brought against the Member.

Linking the Association's Website to Member's Websites

- 9.26 Members who wish the Association to link its website to the Member's website should make an application in writing. The Association shall consider such an application, having regard to its review of a Member's website.
- 9.27 If such review of a Member's website does not disclose any possible infringement of these Guidelines for Internet Use or the Association's Guidelines for Professional Conduct, then it shall link its website to the Member's website.

9.28 If it considers that the Member's website may not comply with these Guidelines for Internet Use, or the Association's Guidelines for Professional Conduct, then it may refer the matter to the Council of the Association, for the Council to make a determination as to whether such possible infringement should be dealt with under these Guidelines for Internet Use or under the disciplinary process set out in the Constitution of the Association.

9.29 No link will be provided to the Member's website pending the outcome of any process under paragraphs 8.17 to 8.34 of these Guidelines for Internet Use or any disciplinary process.

10. Commercial Enterprise

10.1 Members are advised that any clinical practice association with a commercial enterprise which allows that organisation to enjoy commercial benefit and legitimacy because of the association is likely to be considered unethical. The Association reserves the right to protect its image, reputation and ethical standing by any reasonable means, including legal action.

10.2 The Association cautions Members against entering into any association with a commercial enterprise, whereby there is some form of fee splitting or reward or benefit for patient referrals. Whilst Members must determine for themselves those persons with whom they contract, the Association considers that such arrangements do not enhance the reputation of either the Member or the Association.

10.3 Association Members should further note New Zealand Legislation and the rules of the MCNZ, which may restrict or prohibit the referral of patients for reward or benefit.