



*A Submission to*

*Fiji Medical Council*

*on the*

*Draft Medical Practitioner Code of Professional*  
*Conduct 2015*

**February 2015**

## **1.0 Introduction**

The Consumer Council of Fiji (CCF) as the statutory representative of consumers in Fiji is required by the Consumer Council of Fiji Act Cap. 235 to *do all such acts and things that it may consider necessary or expedient to ensure that the interests of consumers of goods and services are promoted and protected* (Section 6 (1)). The Council is obliged to make representations to the Government or to any other organisations/persons on any issues affecting the interests of consumers. Health is an important issue for the Council and this is reflected in its Strategic Plan 2015-2018.

## **2.0 Consumer Council of Fiji and Health/Medical Issues**

The Council has recorded a total of 88 complaints on medical and dental services in both the public and private sector from 2008 to 2014. This figure does not reflect the seriousness of these cases where patients have been faced with life and death situations or suffering from illnesses with life-long consequences to their health and wellbeing. Also the figure is conservative as it does not include incidents where the affected patients or consumers have lodged their complaint with the medical practitioner or had approached other agencies such as Ministry of Health etc. Many consumers also raise their complaints by approaching the media to highlight their cases. Some express their frustrations via letter-to-the-editor or in other public forums.

The complaints against practitioners and health centres (public and private) range from non-disclosure of information to professional negligence. These are some of the issues that consumers have faced with medical and dental practitioners:

- No or improper disclosure of fees and charges – for example fees not disclosed before treatment, actual fees/charges different from displayed/disclosed fees/charges;
- Patient denied choice over product or outlet – for example medication, medical accessories;
- Excessive charges imposed by some practitioners;
- Practitioners not maintaining proper records – in one case a practitioner did not keep a folder for a patient;
- Services fully paid, but practitioner/hospital did not provide the full service;
- Rude, insensitive practitioners – some with condescending attitude towards patients;
- Unsatisfactory services;
- Practitioners making unsubstantiated claims;
- A practitioner continuing to provide services without a license and engaging unlicensed staff;
- Lack of or very slow response by respondents on complaints cases at Consumer Council of Fiji and other authorities – for example, practitioners taking days to acknowledge an email or letter.

We hope the Medical Code of Professional Conduct will curb some of the issues raised by the patients which are listed above.

### 3.0 Draft Medical Code of Professional Conduct

A Code of Professional Conduct is long overdue and the Consumer Council welcomes this undertaking by the Fiji Medical Council & Fiji Dental Council. The Council suggests that the Code recognises and ensures provisions for patients' rights. Some of the key patient's rights we wish to highlight are:

- the right to health care
- access to information
- choice
- participation and representation
- respect for human dignity and the right to humane care
- the right to confidentiality
- the right to redress for grievances

The following are some of our comments in regards to the Draft from the consumers' perspective. We hope these are taken into consideration to ensure that patients' rights are factored into the Code.

#### 4.1 Clarification

- **Revision of the Code.** We note that there is provision for a "Review Date" and "Expiry Date" however there is no statement in the Draft to say how often the Code should be reviewed. If period is not mentioned then the efforts are not made to review the document to take into account new or emerging issues and problems.

#### 4.2 Comments on the Draft

- **Reference to the Decree.** We submit that the Code must make reference to the *Medical and Dental Practitioner Decree 2010*. This should be included in *1.1 Purpose of the Code*. It is very important to make it apparent that the Code has the support of law and that its establishment is included under Section 121 of the *Decree*.
- **Reference to other laws that may be applicable.** The Code should include at least a list of other laws and standards that may be relevant.
- **1.3 Professional Values.** The Council suggests that the Code should also emphasize "patients' rights". Most of these rights are akin to consumer rights as provided for in consumer protection legislation such as the *Consumer Council of Fiji Act* and the *Commerce Commission Decree 2010*.
- **1.5 Breach of Code.** There is reference to "Section 2 sub-section 2", but does not state which law or document this is from. If it is the *Medical and Dental Practitioner Decree 2010*, then this should be clearly stated.
- **2.2.3.** We suggest including "up to date" in addition to "proper records". This is to ensure that practitioners continually keep their records up to date for the benefit of patients and other relevant parties.

- **2.2.10.** In addition to “personal, moral or religious views”, we suggest adding “cultural”.
- **3.3 Good and effective communication.** We submit that a provision be included whereby practitioners are required as best as possible to relay or disclose information to a patient in a manner that is clear and unambiguous and in a format that the patient will be able to understand. This may involve deciphering medical terms and jargons so that the patient, family members or carers are able to understand the information.
- **3.4 Right to confidentiality and privacy.** The Council agrees that patient information should not be divulged to third parties unless necessitated by law or upon a written request from the patient to divulge information to the third party for redress. However, we suggest that if the divulgence of information is required by law, the patient still needs to be properly informed of this. Practitioners should not divulge information without patients’ knowledge, even if they (practitioners) are required to by law.
- **3.8.6. acknowledging that patient or their relatives, carers or partners have the right to make a complaint through the relevant medical bodies.** In addition to relevant medical bodies, patients also have the right to take their complaint to other authorities, not just medical authorities. These include the Consumer Council of Fiji, Fiji Commerce Commission, Small Claims Tribunal and the soon-to-be established Consumer Complaints and Compensation Tribunal.
- **4.2.4 (iii) use words that can be deemed to be culturally or religiously insensitive;** This should also include “ethically” insensitive words.
- **5.1.3 taking all reasonable steps to address any issues which in your reasonable professional opinion pose a risk to a patient’s safety;** We suggest to also include others – family members, relatives or carers who may also be involved in patient care.
- **7.8 Undue financial and commercial gains.** In addition to 7.8.1 – 7.8.4, there should be a requirement that practitioners must at all times give the patient/consumer the right of choice of where to go for auxiliary services such as pharmacies. Practitioners should not force patients or solicit clients to go to a particular pharmacist or laboratory.
- **9.0 Promotion of Practice.** We suggest that the Code consider existing fair trade laws as provided for under the *Commerce Commission Decree 2010*. Amongst other provisions, this *Decree* makes it illegal to make false or misleading representation about a particular product or service. Practitioners should not be making unsubstantiated claims on the services they offer. We quote the relevant provisions in Section 77(1- (b, e, f) of the *Commerce Commission Decree 2010*.

*“A person shall not in trade or commerce, in connexion with the supply of goods or services or in connexion with the promotion by any means of the supply or use of goods services – (b) represent that services are of a particularly standard, quality or grade they do not have; (e) represent that goods or services have sponsorship, approval, performance characteristics, accessories, uses or benefits they do not have; (f)*

*represent that the person has a sponsorship, approval, or affiliation that person does not have.*

The Code should emphasise these aspects of the *Commerce Commission Decree 2010* particularly for practitioners in private practice.

- **10.3 When a complaint is lodged.** We submit that this should be a separate section titled “Complaints Management”. In addition to 10.3.1 – 10.3.5, practitioners should be required to maintain a register or records of all complaints and they should ensure transparency by informing (copying) the secretariat or other authorities that they have received a complaint.

## **5.0 Other issues**

- **Online Information and Social Media** – The Council suggests that the Code also encompasses practitioners’ conduct when interacting online through standard online communications (online forums email, etc.) and social media (such as Facebook). The use of the internet or online communications is a positive development and the Consumer Council has acknowledged that services and the exchange of information on the internet have become important to consumers, businesses and service providers. Social media and online forums are being used by medical practitioners to exchange information, share experiences, learn and innovate for the advancement of their profession and health care. However, practitioners should still follow the same rules pertaining to confidentiality and privacy. They should not discuss patients’ cases, post pictures of procedures or other sensitive materials. They should also follow the same rules regarding promotion of practice, and making misleading or unsubstantiated claims.

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