

CODE OF MEDICAL ETHICS

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**CODE OF MEDICAL ETHICS (THE CODE)
THE MALAYSIAN MEDICAL ASSOCIATION**

CONTENTS

SECTION I : GOOD MEDICAL PRACTICE

Individual Responsibility
The MMA and Medical Ethics
Summary of Duties of Doctors to the Patient,
Profession and Oneself

SECTION II : ETHICAL OBLIGATION OF DOCTORS TO THE PATIENT

Consent for Medical Examination and Treatment
Fees
Professional Confidence
The Doctor and the Law Courts
Dying Patient
Statutory Requirements as to Disclosing
Medical Records and Reports
Medical Certificates
Privileged Communication
Medical Research
Doctor and Non-Orthodox Forms of Healthcare
Telemedicine
Transplantation
Intimate Examination
Termination of Pregnancy

SECTION III : DOCTORS AND HIS COLLEAGUES

Examination in Consultation

Acceptance of Patient

Examining Medical Officers

Doctor in Relationship with Third Party Payers

Panel Doctors

The Doctor and the Managed Care Organization

Fee Splitting and/or Any Form of Incentive as an Inducement for Referring a Patient

SECTION IV : RELATIONSHIP OF DOCTORS WITH OTHER PROFESSIONALS

Dental Surgeon

Ministers of Religion

Pharmaceutical Chemists

Nurses and other Health Professionals

SECTION V : RELATIONSHIP OF DOCTORS WITH COMMERCIAL UNDERTAKINGS

Pharmaceutical Services, Products and Medical Equipment

Commercial Enterprises

Reprints

Medical Instruments

Nursing Homes and Medical Institutions

SECTION VI : ADVERTISING AND CANVASSING

Indirect Methods of Advertising

SECTION VII: SETTING UP PRACTICE

Setting up Practice
Notices
Nameplates
Signboards
24-Hour Clinics
Maternity Homes
Telephone Directories
Professional Calling Cards

SECTION VIII: ETHICS COMMITTEE OF MMA

Disputes between Doctors
Disputes between a Doctor and his Patient

APPENDIXES

- Appendix I : Perspectives in Medical Ethics
- Appendix II : Code of Professional Conduct
 - Malaysian Medical Council
- Appendix III : Guidelines on Public Information by Private Hospitals, Clinics,
 Radiological Clinics and Medical Laboratories
- Appendix IV : Declarations
- Appendix V : Rules of Ethics Committee
 (Appendix 1 of the MMA Constitution)

MALAYSIAN MEDICAL ASSOCIATION

THE CODE

SECTION I : GOOD MEDICAL PRACTICE

The medical profession since time immemorial has conducted itself with a high level of ethical behaviour that has earned the trust that patients have in doctors today. Medical ethics is defined, as a civil code of behaviour considered correct by members of the profession for the good of both the patient and profession. This trust goes beyond written words and leads the public at large to expect of the doctor to have not only a high standard of medical ability and skill but also impeccable behaviour. The need for patient's trust in his doctor is the basis for ethical codes from many centuries ago as manifested in the traditions of all the major civilizations. In recent times, national, regional and world associations of doctors as well as other health care professionals have revised existing codes of ethics and formulated new ones to keep up with advances in medical knowledge, medical practice and research as well as changes in society. All doctors subscribe to the spirit of caring and confidentiality that regulate the doctor-patient relationship and these values continue to be accepted by all those who practice the art of medicine.

A new doctor entering the profession of medicine joins a fraternity dedicated to the service of humanity. He will be expected to subordinate his personal interests to the welfare of his patients, and, together with his fellow practitioners seek to raise the standard of health in the community where he practices. He inherits traditions of professional behaviour on which he must base his own conduct, and which he must pass on untarnished to his successors.

Malaysia is a multiracial, multireligious and culturally diverse nation with "belief in God" being the first tenet of the country guiding principles (Rukunegara). There are many core values running through the ethical beliefs of the various communities in Malaysia, which are worthy of emulation. Some of these values are extracted here for the guidance of our doctors.

- ◆ The Physician must maintain the utmost respect for human life and the human person.
- ◆ The Physician must stay abreast and practice in accordance with current medical knowledge, continually improve his skills and seek help whenever needed.
- ◆ The Physician should not recommend nor administer any harmful material and should render help regardless of the financial ability, ethnic origin or religious belief of the patient.
- ◆ The Physician should protect the patient's confidentiality and adopt an appropriate manner of communication. He should examine a patient of the opposite sex in the presence of a third person whenever feasible.
- ◆ He should not criticize another Physician in the presence of patients or health personnel.

He should adhere to these core values and seek guidance whenever in doubt.

Individual Responsibility

Formulation of rules is one thing, observance of them in the rough and tumble of professional practice is quite another. A measure of the integrity of the medical profession can be found in the degree to which each practitioner recognizes his personal responsibility for the preservation, through his own example, of the honour and dignity of the profession, and the fact that serious breaches of The Code are relatively rare.

The value of mutual goodwill in the fellowship of medicine cannot be over-emphasized.

The Malaysian Medical Association and Medical Ethics

While a formal code of ethics may provide the doctor with a standard, problems will always arise in the course of his professional work on which he needs specific guidance. They may occur, for example, in the doctor-patient relationship, in contacts with the general public, setting up of a practice, relationship with colleagues, dealings with official bodies and in numerous other ways. One of the most important functions of the Malaysian Medical Association is to advise and assist its members on ethical problems.

The Code of the Malaysian Medical Association sets guidelines for the proper conduct of the doctor practicing in Malaysia. The Code is not, and cannot be, exhaustive. Its statements are general in nature, to be interpreted and applied in particular situations. The conduct of the physician should find inspiration in the equilibrium and interplay between science and practice, a middle ground conducive to the fulfillment of the patient's best interests and to responsible medical performance.

Physicians may experience conflict between different ethical principles, between ethical and legal or regulatory requirements, or between their own ethical convictions and the demands of patients, proxy decision makers, other health professionals, employers or other involved parties. The doctor should study the Code to make decisions, which are in the best interest of the patient. In cases of doubt, consultation with senior colleagues, the Malaysian Medical Council, the Ethics Committee of the Malaysian Medical Association or others who have expertise in these matters is recommended.

Summary of Duties of Doctors to the Patients, Profession and Oneself

Patients trust doctors with their lives and well being. To justify the trust, we as a profession have a duty to maintain a good standard of practice, care and behaviour. The principles you must observe for good medical practice are as follows :

Duties to Patient

- ◆ make the care of your patient your first concern
- ◆ treat every patient politely and considerately
- ◆ respect patients' dignity and privacy
- ◆ listen to patients and respect their views
- ◆ give patients information in a way they can understand
- ◆ be responsible for whatever form of therapy given to patients
- ◆ respect the rights of patients to be fully involved in decisions about their care.

Duties to Profession and Oneself

- ◆ keep your professional knowledge and skills up-to-date
- ◆ recognize the limits of your professional competence
- ◆ be honest and trustworthy
- ◆ respect and protect confidential information
- ◆ make sure that your personal beliefs do not prejudice your patients' care
- ◆ act to protect patients from risk if you have good reason to believe that you or a colleague may not be fit to practice
- ◆ avoid self-publicity in any matter relating to your professional practice
- ◆ work with colleagues in ways that best serve patients' interests

- ◆ build a professional reputation based on integrity and ability
- ◆ refrain from making comments which may needlessly damage the reputation of a colleague or cause a patient anxiety
- ◆ report to the appropriate body of peers any unethical or unprofessional conduct by a colleague
- ◆ where a patient alleges misconduct by another doctor, ensure that the patient is fully informed about the appropriate steps to take to have that complaint investigated
- ◆ be aware that your personal conduct may affect your reputation and that of your profession.

A member of the Association who has an ethical problem or who has any doubt on the line of conduct he should adopt in any professional matter is urged to seek advice from the Ethics Committee of the Malaysian Medical Association. A full and frank written statement of the facts of the problem will be of great assistance to the Ethics Committee in formulating and issuing a suitable reply.

All doctors should also be conversant with the Code of Professional Conduct issued by the Malaysian Medical Council (see Appendix II) and the Guidelines on Public Information by Private Hospitals, Clinics, Radiological Clinics and Medical Laboratories. (See Appendix III).

SECTION II : ETHICAL OBLIGATION OF DOCTORS TO THE PATIENT

1. Consent for Medical Examination and Treatment

Good communication between the doctor and patient is essential for consent. Patients should be given adequate information in a way they can understand to enable them to make decisions about their medical care. It is a general rule that doctors should examine and treat patients only with their consent. No consent is valid if obtained under the following conditions :

- (i) when there is coercion or threat or force
- (ii) when the party giving consent is not aware of the full implications of consent.

When the patient is incompetent and therefore cannot give a valid consent, then consent should be obtained from the next-of-kin.

In a grave situation where consent cannot be obtained at all, it is difficult to lay down any general principle. The matter is within the discretion of the individual doctor who should never hesitate to exercise his discretion having regard to his duty as the protector of the life and health of his patient. Under such circumstances, consultation with a colleague is advisable.

2. Fees

Reasonable charges can be made for services provided and it is in the best interest of the practitioner to discuss this with the patient prior to investigation or treatment. Doctors should abide by the MMA Schedule of Fees.

3. Professional Confidence

The basis of the relationship between a doctor and his patient is that of absolute confidence and mutual respect. The patient expects his doctor not only to exercise professional skills, but also to observe secrecy with respect to the information he acquires as a result of his examination and treatment of the patient. On the doctor's

side, an awareness of the patient's trust serves to invoke the observation of ethical standards and the need to act always in the best interests of the patient.

Professional confidence implies that a doctor shall not disclose voluntarily without the consent of the patient, preferably in writing, information that he has obtained in the course of his professional relationship with the patient.

Where the medical condition of the patient is likely to pose a risk to others, the doctor should seek to persuade the patient to discontinue all such behaviour which put others at risk or to disclose the information to parties at risk or to consent to the doctor so doing. If the patient refuses, the doctor may exercise discretion to breach confidentiality in order to protect other people.

When in doubt concerning matters that has legal implications, or especially when the patient specifically forbids a breach of confidentiality, a doctor may also wish to consult the medical indemnity organization of which he is a member or seek advice from colleagues or professional bodies. Doctors who decide to disclose confidential information must be prepared to explain and justify their decision.

However, where possible, doctors should seek to persuade the patient to discontinue all behaviour, which put others at risk, give permission to disclose the information or to provide consent to the doctor so doing.

Modern medical practice usually involves teams of doctors, other healthcare workers, and sometimes people from outside the healthcare profession. To provide patients with the best possible care, it is often essential to convey relevant information to members of the team. If a patient does not wish the doctor to share particular information with the other members of the team, the doctor must respect those wishes. All medical members of a team have a duty to make sure that other team members understand and observe confidentiality.

4. The Doctor and The Law Courts

The doctor's usual course when asked in a court of law for medical information concerning a patient in the absence of that patient's consent is to demur on the ground of professional secrecy. The presiding judge however may overrule this contention and direct the medical witness to supply the required information. The doctor has no alternative but to obey unless he is willing to accept imprisonment for contempt of court.

5. The Dying Patient

Where death is deemed to be imminent and where curative or life-prolonging treatment appears to be futile, ensure that death occurs with dignity and comfort. Such futile therapy could be withheld, withdrawn or one may allow irreversible pathology to continue without active resuscitation. One should always take into consideration any advance directives and the wishes of the family in this regard. In any circumstance, if therapy is considered to be life saving, it should never be withheld.

6. Statutory Requirements as to Disclosing

Generally speaking, the State has no right to demand information from a doctor about his patient save when some notification is required by statute, as in the case of infectious disease.

7. Medical Records and Reports

Good medical records are an indication of good practice. The doctor is encouraged to record all relevant details of his management of a patient. Accurate, legible, comprehensive and contemporaneous notes are advised. Doctors have obligations relating to the storage, access and use of health information available in the patients' records.

The patient is entitled to a written report of the care that has been given to him. The doctor is obligated to provide him such a report speedily, without any unreasonable delay. The withholding of information of the care given to the patient is unethical.

The doctor can be held responsible for any breaches of confidentiality of medical records. Medical information can be released to a third party only when written consent has been given by or on behalf of the patient. Third parties who frequently seek information from a doctor are employers who request reports on the medical condition of absent or sick employees, insurance companies requiring particulars about the history of proposers for life assurance or deceased policy holders, medical boards and other agencies seeking medical information about individuals associated with it as well as solicitors to consider and assess claims. Fees may be charged for medical reports or opinions requested by third parties.

Where medical information is sought, the doctor should make it a rule to refuse to give any information in the absence of the written consent of the patient or the competent relative.

8. Medical Certificates

Medical practitioners are constantly asked for certificates of various kinds and should be continually on their guard against carelessness and inaccuracies in certifying. Medical certification should not be subjected to any form of pressure but should be carried out purely on medical grounds. The practitioner should never certify a statement which he does not personally know to be a fact; he should never put hearsay information into a certificate, unless expressly so stated. He should exercise the most scrupulous care in issuing medical certificates especially in relation to any statement that a patient has been examined on a particular date. The nature of the patient's illness should not be put on the certificate without the permission of the patient. The patient should be advised about the implication of revealing the diagnosis.

It must be stressed that the giving of sick certificates to patients without a medical examination is unethical and may lead to disciplinary action by the Malaysian Medical Council.

The practice of countersigning or endorsing another medical practitioner's certificate is unnecessary and inappropriate.

9. Privileged Communication

The Malaysian Medical Association considers that the exchange of medical information concerning patients should take place only between doctors looking after the same patient. This shall be regarded professionally as privileged communication and no prior consent of patient is necessary. Such communication can be made in the interest of the care of the patient.

10. Medical Research

In any research on human beings, each potential subject must be adequately informed of the aims, methods, anticipated benefits and potential hazards of the study and the discomfort it may entail. He or she should be informed that he or she is at liberty to abstain from participation in the study and that he or she is free to withdraw from the study at any time. The practitioner should then obtain the subject's informed consent in writing.

A medical practitioner shall use great caution in divulging discoveries or new techniques or treatment through non-professional channels. A practitioner should ensure that research results are first communicated to appropriate peer groups so that a balanced view can be obtained before communication to the public.

Communication of such a discovery and new techniques to the public should be through a professional body after they have been reviewed and generally accepted by the profession. The results of any research on human subjects should not be suppressed whether adverse or favourable.

11. Doctor and Non-Orthodox Forms of Healthcare

Non-Orthodox (traditional) medicine is healthcare that lies for the most part outside the mainstream of orthodox or conventional medicine. There are many modalities of traditional medicine including herbal medicines. Many patients resort to traditional medicines for a wide variety of conditions. It is also known that there are many patients who take both conventional and traditional medicine at the same time. The majority of

traditional medicine practitioners is not trained and is not subject to any regulations to guide their practice.

The doctor is responsible for the management of his patient including knowing about the safety and efficacy of the modalities of treatment or medication that he prescribes. A doctor should not practice or prescribe any form of traditional therapy unless he has undertaken recognized training and be sanctioned by registration with any future regulatory body that may be set up under the laws of this country.

It is unethical for a doctor to care for his patient jointly with a traditional medicine practitioner or share premises with a traditional medicine practitioner. Any registered medical practitioner who, either by administering anesthetics or otherwise, assists an unqualified or unregistered person to attend, treat or perform an operation upon any other person in respect of matters requiring professional discretion or skill will be liable to disciplinary punishment by the Malaysian Medical Council (refer to no. 1.4.3 of the Code of Professional Conduct, MMC). Attention is also drawn to Section V para 5 of this Code in relation to the association of a medical practitioner with a traditional medicine practitioner.

12. Telemedicine

Telemedicine provides the tool to exchange medical information as part of the consultation with distant medical experts, be it foreign or local, in the course of treatment of patients. It is a rapidly evolving area of medical practice. However, most clinical applications of telemedicine have not been subjected to systematic comparative studies that assess their impact on the quality, accessibility, acceptability and cost of healthcare. The onus is on the medical practitioner to ensure that the principles of good ethical conduct should apply in the area of telemedicine as well. These would include :

- (i) The doctor requesting the consultation should be responsible for the professional care of the patient.
- (ii) Any consultation using this modality should be with the consent of the patient.
- (iii) Ensuring confidentiality of patient information.

- (iv) Ensuring that the appropriate choice of treatment is based on sound scientific evidence.
- (v) Guarding against self-laudatory activities as well as advertising.
- (vi) Not associating with commercial concerns in such a way as to let it influence or appear to influence the treatment of patient.
- (vii) The use of email should not diminish the quality of care patients receive.
- (viii) Consultation and prescribing by email may seriously compromise standards of care where :
 - a) The patient is not previously known to the doctor.
 - b) There is little or no provision for appropriate monitoring of the patient or follow-up care.
 - c) The patient cannot be examined.

Doctors who wish to provide online services should consider carefully whether such a service will serve their patients' interests, and if necessary, seek advice from their professional association or Medical Defence Society.

The practitioner should strive to benefit from telemedicine's potential while avoiding its pitfalls.

13. Transplantation

Ethical issues have been associated with organ transplantation from the beginning and will continue to be a major consideration in this field. Doctors practicing in this field must be aware of all the issues and ensure that they do not transgress any ethical principles.

If you are caring for a donor, you must provide to the donor, and/or their relatives where appropriate, a full disclosure of the intent of transplant organs, the purpose of the procedure and, in the case of a living donor, the risks of the procedure. In facilitating the potential donor to make a free and informed decision on organ donation, the institution should provide him/her with adequate information on all aspects of donor

surgery including short and long term risks. Many institutions provide "donor advocates" who are physicians independent of the team looking after the recipients or the transplant team. These donor advocates help the potential donors with their decision-making by providing independent and objective advice. Potential donors should have access to other members of team such as nurses and social workers to whom they may find easier to relate. Finally, the potential donor should be assured that at any time he changes his mind on donating an organ, his wishes would be respected. Persons who are mentally incompetent to decide should not be allowed to donate.

In cadaver organ transplantation, definition of death is crucial as organs are best removed when the heart is still beating but the patient is already brain dead. It is important that pronouncement of brain death is done using rigid criteria and persons performing tests to determine brain death are independent of the transplant team as well as the team looking after the recipient.

Donor families have made an important contribution to the health of others in very difficult circumstances. They must be offered on-going counseling and appropriate support.

In deciding on organ allocation, the principles of utility, justice and autonomy must be used. The utility principle may make use of medical indicators, which predict better outcome as justification for giving an organ to a particular recipient. The principle of justice attempts to ensure equitable access of patients to an organ sharing system. The principle of autonomy may be applied when a patient refuses to receive an organ allocated to him, in which case it can be given to the next suitable candidate. In general, in any given situation, all the principles should be considered together and a consensus achieved.

14. Intimate Examination

When conducting an intimate examination, the doctor should :

- a) Explain to the patient that an intimate examination needs to be done and why.
- b) Explain what the examination will involve.

- c) Ensure that the patient has agreed for an examination.
- d) Always have a chaperon present.
- e) Give the patient privacy to undress and dress.
- f) Keep the discussion relevant.
- g) Avoid unnecessary comments.

15. Termination of Pregnancy

The Penal Code (Amendment) Act 1989 effected a change in the law relating to abortion. It would not be an offence to carry out a miscarriage if :

- a) a medical practitioner registered under the Medical Act 1971 undertakes the procedure; and
- b) such practitioner is of the opinion, formed in good faith, that the continuance of the pregnancy would involve risk to the life of the pregnant woman, or injury to the mental or physical health of the pregnant woman, greater than if the pregnancy were terminated.

A doctor procuring a miscarriage may lawfully do so only if he acts in good faith, and exercises sound clinical judgement in accordance with the principles imposed by the law.

The Malaysian Medical Council regards induced non-therapeutic abortion a serious infamous conduct and if proved to the satisfaction of the Council, a practitioner is liable to disciplinary action. A criminal conviction in Malaysia or elsewhere for the termination of pregnancy in itself affords grounds for disciplinary action.

SECTION III : DOCTOR AND HIS COLLEAGUES

Modern medicine cannot be practiced by a doctor in isolation. He is in continual contact with his colleagues for many purposes. He may need to have a patient examined by a consultant; it may be necessary for a patient to be examined by a medical officer representing some third party, or if the patient is in industrial employment, a medical officer at his place of work may have a continuing interest in his health. Whenever two doctors are simultaneously concerned with a patient, each is under certain ethical obligations and is expected to observe certain ethical rules of conduct.

A code of recommendations to guide the practitioner who may be called upon to examine another doctor's patient is as follows.

A. Examination in Consultation

The custom of consultation is very old and through the years, the profession has evolved a mode of conduct that should be followed meticulously. Failure to observe the established procedure may lead to difficulties or unpleasantness between doctors.

1. A practitioner consulted is a practitioner who, with the acquiescence of the practitioner already in attendance, examines a patient under this practitioner's care and, either at a meeting of the two practitioners or by correspondence, co-operates in the formulation of diagnosis, prognosis, and treatment of the case. The term "consultation" means such a co-operation between practitioners. In domiciliary consultations, it is desirable that both practitioners should meet and in other circumstances similar arrangements should obtain wherever practicable.
2. It is the duty of an attending practitioner to propose a consultation where indicated, or to acquiesce in any reasonable request for consultation expressed by the patient or his representatives.
3. The attending practitioner should nominate the practitioner to be consulted and should advise accordingly, but he should not unreasonably refuse to meet a registered medical practitioner selected by the patient or the patient's representatives, although he is entitled, if such is his opinion, to urge that the

practitioner has not the qualifications or the experience demanded by the particular requirements of the case.

4. The arrangements for consultation should be made or initiated by the attending practitioner. The attending practitioner should acquaint his patient of the approximate expenses, which may be involved in specialist consultation.
5. In cases where the consultant and the attending practitioner meet and personally examine the patient together, the following procedure is generally adopted and should be observed, unless in any particular instance there is substantial reason for departing from it.
 - (i) All parties meeting in consultation should be punctual, and if the attending practitioner fails to keep the appointment, the practitioner consulted, after a reasonable time, may examine the patient, and should communicate his conclusions to the attending practitioner in writing and in a sealed envelope.
 - (ii) If the consultation takes place at the patient's residence, the attending practitioner should, on entering the room of the patient, precede the practitioner consulted, and after the examination, the attending practitioner should be the last to leave the room.
 - (iii) The diagnosis, prognosis and treatment should be discussed by the practitioner consulted and the attending practitioner in private.
 - (iv) The opinion on the case and the treatment as agreed should be communicated to the patient or the patient's representatives, where practicable, by the practitioner consulted in the presence of the attending practitioner.
 - (v) It is duty of the attending practitioner loyally to carry out the measures agreed at, or after, the consultation. He should refrain from making any radical alteration in these measures except upon urgent grounds or after adequate trial.

6. If for any reason the practitioner consulted and the attending practitioner cannot examine the patient together, the attending practitioner should send to the practitioner consulted a brief history of the case. After examining the patient, the practitioner consulted should forward his opinion, together with any advice as to treatment, in a sealed envelope addressed to the attending practitioner. He should exercise great discretion as to the information he gives to the patients or the patient's representatives and, in particular, he should not disclose to the patient any details of any medications, which he has advised.

In cases where the attending practitioner accepts the opinion and advice of the practitioner consulted, he should carry out the measures which have been agreed between them; however, if the attending practitioner finds he is in disagreement with the opinion and advice of the practitioner consulted, he should by suitable means communicate his disagreement to the practitioner consulted.

7. Should the practitioner consulted and the attending practitioner hold divergent views, either on the diagnosis or on the treatment of the case, and should the attending practitioner be unwilling to pursue the course of action advised by the practitioner consulted, this difference of opinion should be communicated to the patient or his representatives by the practitioner consulted and the attending practitioner jointly, and the patient or his representatives should then be advised either to choose one or other of the suggested alternatives or to obtain further professional advice.
8. In the following circumstances, it is especially desirable that the attending practitioner should endeavour to secure consultation with a colleague.
 - (i) When the propriety has to be considered of performing an operation or of adopting some course of treatment which may involve considerable risk to the life of the patient or may permanently prejudice his activities or capacities and particularly when the condition which it is sought to relieve by the treatment is not itself dangerous to life;
 - (ii) When any procedure likely to result in death of a foetus or of an unborn child is contemplated, especially if labour has not commenced;

- (iii) When continued administration of any drug of addiction is deemed desirable for the relief of symptoms of addiction;
 - (iv) When there is reason to suspect that the patient :
 - (a) has been subjected to an illegal operation; or
 - (b) is the victim of criminal poisoning or criminal assault.
9. Arrangements for any future consultation or additional investigation should be effected only with the fore knowledge and cooperation of the attending practitioner.
10. The practitioner consulted should not attempt to secure for himself the care of a patient seen in consultation. It is his duty to avoid any word or action, which might disturb the confidence of the patient in the attending practitioner. The practitioner consulted should not communicate with the patient or the patient's representatives subsequent to the consultation except with the consent of the attending practitioner.
11. The attending practitioner should carefully avoid any remark disparaging the skill or judgement of the practitioner consulted.
12. Except by mutual consent, the practitioner consulted shall not supersede the attending practitioner during the illness with which the consultation was concerned (see also next Section).
13. The consultant is normally obliged to consult the referring practitioner before other consultants are called in.

B. Acceptance of Patient

14. When a doctor in practice is planning to be away on other business or on vacation, he should formally appoint another doctor who will agree to look after his patients during his absence.

15. The examination of another doctor's patient may occasionally result in the patient being attracted to the examiner's own practice. Members are advised that the willful enticement of patients from a fellow practitioner, or the employment of touts, or agents to attract patient to one's practice, are most unethical.
16. When a practitioner is called to attend a patient whose regular medical attendant is temporarily unavailable, the practitioner should render whatever treatment may for the time be required, and should subsequently notify the patient's regular doctor of the steps he has taken in the treatment of the patient.

C. Examining Medical Officers

17. It often happens that a doctor's patient has to be examined for some particular purpose by a medical officer representing an interested third party. These examinations may occur in connection with life assurance or superannuation, entry into certain employment, litigation or requests from the police. The following Code of Medical Ethics governing special situations is approved. It does not apply to examinations performed under statutory requirements. Paragraphs 19, 20, 21 and 22 do not apply to pre-employment examinations, or to those connected with superannuation, Employees Provident Fund, SOCSO or with proposals for life or sickness assistance.
18. For the purpose of this code, an examining medical officer is a practitioner undertaking the examination of a patient of another practitioner at the request of a third party with the exception of examinations under statutory requirements.
19. An examining practitioner must be satisfied that the individual to be examined consents, personally or through his legal representative, to submit to medical examination, and understands the reason for it.
20. When the individual to be examined is under medical care, the examining practitioner shall cause the attending practitioner to be given such notice of the time, place and purpose of his examination as will enable the attending practitioner to be present should he or the patient so desire. (Preferably such notice should be sent to the attending practitioner through the post, or by

telephone, but in certain circumstances a communication might properly be conveyed by the patient).

21. Exceptions to this are :
 - (i) When circumstances justify a surprise visit;
 - (ii) When circumstances necessitate a visit within a period, which does not afford time for notification.
22. Where the examining practitioner has acted under (i) or (ii), he shall promptly inform the attending practitioner of the fact of his visit and the reason for his action.
23. If the attending practitioner fails to attend at the time arranged, the examining practitioner shall be at liberty to proceed with the examination.
24. An examining practitioner must avoid any word or action which might disturb the confidence of the patient in the attending practitioner and must not without the consent of the attending practitioner, do anything which involves interference with the treatment of the patient.
25. An examining practitioner shall confine himself strictly to such investigation and examination as is necessary for the purpose of submitting an adequate report.
26. Any proposal or suggestion, which an examining practitioner may wish to put forward regarding treatment, shall be first discussed with the attending practitioner either personally or by correspondence.
27. When in the course of an examination there come to light material clinical findings, of which the attending practitioner is believed to be unaware, the examining practitioner shall, with the consent of the patient inform the attending practitioner of the relevant details.
28. An examining practitioner shall not utilize his position to influence the person examined to choose him as his medical attendant.

29. When the terms of contract with his employing body interfere with the free application of this code, an examining officer shall make an honest endeavour to obtain the necessary amendment of his contract himself or through the Malaysian Medical Association.

D. Doctor in Relationship with Third Party Payers

30. Many commercial firms, estates, mines and industries engage company doctors to supervise the health and welfare of the employees and the environmental conditions of their work. The position of the company doctor is such that without constant care, a conflict of loyalties is liable to arise, for, while he holds his appointment from the management, the object of his duties is the welfare of the workers, individually and collectively, and in the course of his duties, he will come into contact with the family doctors of individual workers. As a doctor, his paramount concern must be for the patient, and his behaviour should be guided by the customary ethical rules of his profession. To assist him in his special duties, the following set of rules are recommended.
31. Subject to statutory requirements, these rules shall, where existing ethical rules or custom fail to cover the circumstances, govern the professional relationship of industrial medical officers with their medical colleagues in other branches of medical practice, with those employees under their professional care, and with management's. The rules apply not only to whole-time officers, but also to those employed part-time or in any other capacity.
32. (i) When a company doctor renders advice or treatment to an employee at the place of employment, and when in the employee's own interests he deems it advisable, he shall inform the employee's own doctor of the material facts.
- (ii) When a company doctor finds on examination that an employee is unfit for work, he shall advise the employee to consult his own doctor or he may, in an emergency, send him direct to hospital.

- (iii) If an employee is under the care of his own doctor or of a hospital, and if at the place of employment there are special facilities and equipment for continuing treatment, the company doctor may arrange for such treatment with the approval of the doctor or hospital concerned.
33. When in the course of an examination of an employee for superannuation purposes, retirement or special duty, material clinical findings come to light, the company doctor should, with the consent of the person examined, inform his doctor of the relevant details.
34. Except in an emergency, a company doctor shall not undertake any treatment that is normally the responsibility of the employee's own doctor, unless it be with his agreement.
35. In his capacity as a company doctor, he shall not undertake treatment of any member of an employee's family who is not employed at the same place of work.
36. A part-time company doctor shall not utilize his position to influence an employee to choose him as his medical attendant.
37. A company doctor shall not, except in an emergency, or where a prior understanding with local practitioners exists, send any employee direct to hospital. When he considers that attendance at hospital is necessary or advisable, he shall refer the employee to his own doctor, to whom he may make a suggestion to this effect. When, in an emergency, a company doctor sends an employee to hospital, he shall inform the relatives (if the patient is likely to be detained) and also the employer's own doctor, where known.
38. When a company doctor is asked by his management to report on the condition of an employee who is absent from work for health reasons and under the care of his own doctor, the company doctor, before examining the patient, shall first communicate with the employee's doctor, informing him of the time of his intended examination.

39. A company doctor should whenever possible, respond to an invitation for consultation with an employee's own doctor.
40. A company doctor shall not carry out any personal preventive measure which is purely experimental without the consent of the employee, and, where desirable, the consent of the employee's own doctor.
41.
 - (i) The personal medical records of employees maintained by a company doctor for his professional use is confidential documents. Access to them must not be allowed to any other person except with the consent of the employee concerned.
 - (ii) A company doctor shall at all times be responsible for the safe custody of his records. On the termination of his appointment, he shall hand over his records only to the company doctor who shall succeed him in the appointment.
 - (iii) If there is no successor to his appointment, the company doctor retains his responsibility for the safe custody of his records or for their destruction.
42. A company doctor shall not disclose his knowledge of industrial processes acquired by virtue of his appointment except with the permission of his management or when so required in courts of law.
43. When a company doctor has examined an applicant for employment and as a result of the examination, employment is subsequently refused, the company doctor should disclose his decision to the applicant and, when authorized, may disclose the findings to the patient's doctor.
44. When a company doctor addresses a communication to the employee's own doctor and receives no reply within a reasonable time, he shall be at liberty to assume that the employee's own doctor takes no exception to the contents of his communication. It is important in the employee's interest that no opportunity of useful co-operation between the employee's doctor and the company doctor

should be neglected. Such co-operation may be of particular value when an employee is under treatment for an occupational disease of which the company doctor has special experience.

45. Company doctors should not make statements as to liability in the case of accidents at the place of work except when so required in courts of law.
46. In Malaysia, the role of a company doctor differs considerably from that in other parts of the world. The custom has evolved whereby medical officers visiting estates, mines, factories, etc., are called upon, not only to advise the management on general health matters, but also to treat the employees in a general practitioner's capacity. In view of the fact that many employees cannot afford to consult a private practitioner, it is not unethical for this practice to continue.
47. If, however, the patient is already under treatment from another doctor, it is recommended that the company doctor does not treat the patient without consulting the patient's own doctor, and that any clinical findings which come to light during routine medical examination be communicated to the patient's own doctor.

E. Panel Doctors

48. Doctors in solo or group practice are often appointed on the panel of companies or corporate bodies to provide healthcare for the employees. The contractual agreements of such doctors with the employers often stipulate certain conditions, which the doctor may accept as long as such conditions do not affect his ethical conduct.

F. The Doctor and the Managed Care Organization

49. A Managed Care Organization is defined as any organization or body contracted or arranged, or intended to contract or arrange, to provide specified types and/or quality and/or quantity of healthcare within a specified financing system through one or a combination of the following mechanisms :

- (i) delivering or giving healthcare to consumers through own or a third party healthcare provider(s) in accordance with contractual agreements between all parties concerned;
 - (ii) managing healthcare funds of payers (employers and/or financiers) to provide healthcare to employees (or enrollees) in accordance with contractual agreements between all parties concerned;
 - (iii) any other types of healthcare delivery arrangements, which the Minister of Health may, from time to time, by notification in the Gazette declare to be a managed care organization.
50. For operational purposes, the term Managed Care Organization includes all varieties and hybrids of healthcare management organizations where third parties (including private healthcare facilities and medical practitioners) are involved in an administrative control capacity in the delivery of healthcare by doctors.
51. The MMA, however, asserts that the medical practitioner, whether in solo or group practice, directly (without third party managers or financiers) providing healthcare to employees of corporate bodies (or individual enrollees), through the panel contractual system, should not be considered a managed care organization, in the context of the above definition and its specific implications.
52. Doctors participating in providing patient care with MCOs should abide by the following guidelines :
- (i) It is the medical practitioner's responsibility to ensure that, in his association with MCOs, his clinical practice does not violate the Code of Professional Conduct of the MMC and the Code of the Association.
 - (ii) Irrespective of whichever healthcare system the medical practitioner practices, he must place the interest of the patient first. In this context :

- (a) he should not enter into any contractual agreement that poses a conflict of interest between his professional practice and the provision of care for his patient;
- (b) he should not participate in schemes that encourage or require him to practice below his professional standard or beyond his clinical capability.
- (iii) Good clinical practice should be the basis of care rather than enticement with financial incentive or financial disincentive.
- (iv) Doctors should avoid actions/commitments which endanger doctor/patient relationship, and which allow for breach of confidentiality.
- (v) Doctors should not allow themselves to commit either directly or indirectly advertising in any form as a marketing strategy of managed care organizations.

G. Fee Splitting and/or any Form of Incentive as an Inducement for Referring a Patient

53. Fee splitting or any form of kickback arrangement as an inducement to refer a patient to another practitioner or facility is unethical. The premise for referral must be quality of care and the best interest of the patient. Violation of this will be considered as infamous conduct in a professional respect.

SECTION IV : RELATIONSHIP OF DOCTORS WITH OTHER PROFESSIONALS

The doctor is frequently in contact with members of other professions, e.g. nurses, dentists, pharmacists and the clergy. These relationships give rise to ethical problems. Some illustrations of how the doctor should conduct himself in such inter-professional relationships are mentioned below.

Dental Surgeon

The following rules apply for the professional conduct of doctors in relation to Dental Surgeons :

CONSULTATIONS

1. When a patient, in the opinion of his medical attendant needs dental treatment, the patient should be referred in all but exceptional circumstances to his own dental surgeon. In the event of the patient having no regular dentist, there is no objection to a doctor recommending a dental surgeon of his own choice.
2. When on behalf of one of his patients a doctor wishes to consult a dental surgeon, the doctor should communicate in the first instance with the patient's own dental surgeon. In the event of the patient having no regular dentist, there is no objection to the doctor consulting the dental surgeon of his own choice.
3. Where the dental surgeon has reason to believe that the patient has some constitutional disorders and considers some major dental procedures are necessary, he should consult the patient's doctor before carrying out such treatments.
4. Where there is a conflict of opinion between a doctor and a dental surgeon concerning the diagnosis and/or treatment of the condition of a patient, they should consult with each other to reach an agreement, which is satisfactory to both.

5. Where the conflict of opinion remains unresolved, the patient should be so informed and invited to choose one of the alternatives or assisted to obtain other professional advice.

ANAESTHETICS

6. Where an anaesthetic is advised by the dental surgeon, it is competent for him to select the anaesthetist, but if such an anaesthetist is not the patient's doctor, no objection should be taken to the patient inviting his doctor to be present. Where the operation proposed is a major one, or if it is known to the dental surgeon that the patient is under medical care, the dental surgeon should consult the patient's doctor upon the operation proposed and should invite him to be present if the patient so desires. Similarly, where the patient is under dental care and the doctor advises operative or other major treatment arising from the patient's dental condition, the dental surgeon should be consulted.
7. On the completion of any dental operation and especially if there is any reason to think that post-operative complications may ensue, the patient should be advised to consult the dental surgeon immediately if such complications arise and the dental surgeon should take all reasonable steps to facilitate such consultation.

Ministers of Religion

8. Doctors should co-operate with the clergy of the patient in the care of the patient. Indeed, such co-operation is specially desirable when the doctor believes that religious administration may be conducive to his patient's health and peace of mind, or may assist recovery.

Pharmaceutical Chemists

9. Collusion between doctors and pharmaceutical chemists for financial gain is reprehensible. A doctor should not arrange with a chemist for the payment of a commission on business transacted, nor should he hold a financial interest in a chemist's shop in the area of his practice. Professional cards should not be handed

to chemists for further distribution. It is undesirable for messages for a doctor to be received and left at a chemist's shop.

Nurses and Other Health Professionals

10. Recognizing that patient care involves a multi-disciplinary approach, it is desirable that doctors work closely with nurses and other health professionals in the delivery of patient care. Mutual understanding and respect for each other's responsibilities and capabilities will enhance the working relationship between nurses, other health professionals and doctors.

SECTION V : RELATIONSHIP OF DOCTORS WITH COMMERCIAL UNDERTAKINGS

1. A general ethical principle is that a doctor should not associate himself with commerce in such a way as to let it influence or appear to influence his attitude towards the treatment of his patient. It is improper for an individual practitioner to accept from a pharmaceutical firm monetary gifts or loans or expensive items of equipment for his personal use.

Gifts, hospitality or subsidies offered to doctors by the pharmaceutical industry ought not be accepted if acceptance might influence or appear to others to influence the objectivity of clinical judgement. A useful criterion in determining acceptable activities and relationship is, "Would you be willing to have these arrangements generally known?"

Some of the particular directions in which dangers of unethical conduct may arise are as follows.

Pharmaceutical Services Products and Medical Equipment

2. It is undesirable for a doctor to have a special direct and personal financial interest in the sale of any pharmaceutical preparation or medical equipment he may have to recommend to a patient. If such be unavoidable for any good and sufficient reason, he should disclose his interest when ordering that preparation or article. This is not held to apply to the acquisition of shares in a public company marketing pharmaceutical products.
3. Testimonials written by doctors on the value of proprietary products have often been abused by the manufacturers. A doctor should refrain from writing a testimonial on a commercial product unless he receives a legally enforceable guarantee that his opinion will not be published without his consent.

Commercial Enterprises

4. The Ethics Committee disapproves of the direct 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 and which is recommended to the public in such a fashion as to be calculated to encourage the practice of self-diagnosis and of self-medication or is of undisclosed nature or composition.
5. The Ethics Committee takes a similar view of association of a medical practitioner with any system or method of treatment which is not under medical control and which is advertised in the public press.

The practitioner is the trustee for the patient and accordingly must avoid any situation in which there is a conflict of interest with patient care.

A general ethical principle is that a practitioner should not associate himself with commerce in such a way as to let it influence, or appear to influence, his attitude towards the treatment of his patients.

The association of a 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 is unproven or of an undisclosed nature or composition may be considered as infamous conduct in a professional respect.

A practitioner has a duty to declare an interest before participating in discussion, which could lead to the purchase by a public authority of goods, or services in which he, or a member of his immediate family, has a direct or indirect pecuniary interest. Non-disclosure of such information may, under certain circumstances, amount to infamous conduct in a professional respect. Where the practitioner has a financial interest in any facility or service to which he refers patients for diagnostic tests, for procedures or for in-patient care, it is ethically necessary for him to disclose his interest in the institution to the patient.

6. In none of the above findings does the Ethics Committee pretend to interfere with the right of a medical practitioner to be associated (save as above) with any legitimate business enterprise, but if such enterprise concerns the sale of a medicine or food, the practitioner should not allow his professional status or qualifications to be used for advertising purposes outside the medical press.

Reprints

7. Issues of Reprints or Abstracts : The Committee is fully aware of the desire of a pharmaceutical house to establish authenticity for reports on its products and to support the promotion of the product in all proper ways. A possible method of achieving this is to issue a reprint or abstract of an article, bearing the name and perhaps degrees and appointment of the registered medical practitioner.

8. The Position of the doctor : The Ethics Committee considers it as unethical when names of practitioners are associated with advertising and marketing of proprietary products. It appears to the recipients of the material that the names of the authors were being placed before them unsolicited and in a prominent manner. Further it leaves the way open to firms to seize upon this method of use of doctors' names as a means of enhancing their business. On both these counts, it is felt that the practitioner author is being placed in danger of an accusation of unethical conduct.

9. Reasonable Quotations : The Ethics Committee raises no objection to reasonable quotations so long as they are not extensive and likewise raises no objection to reference to doctors' names in a bibliography of published works.

10. Whereas the Ethics Committee takes no objection to the mention of doctors' names in a bibliography, the Committee takes exception to the use of doctors' names in a prominent manner in promotion material, as for example at the heading of reprints or abstracts, especially when these are circulated as separate items.

11. Export Promotion : In some foreign countries, promotion material and sales are not permitted unless supported by authentic reports bearing the writer's name and establishing the clinical uses of the products.

12. The Ethics Committee raises no objection to variations of custom of the country concerned.

Medical Instruments

13. In the course of practice, some doctor design instruments for special purposes and wish to make them available for use by their colleagues. The best method of placing an instrument on the market is to sell the interest outright to a manufacturer; this is preferable to collecting royalties. After the financial interest is renounced, there is no objection to the inventor's name being attached to the instrument if he so desires. If, however, the demand for the instrument is uncertain, the manufacturer may not be prepared to buy the interest; in that case the royalty system may be used initially.

Nursing Homes and Medical Institutions

14. There is no objection to the practice of providing information in the medical press, or in other publications primarily intended for the medical profession, institutions professing to provide medical advice or treatment. Such information may include the names and qualifications of the resident and attending medical officers, but there should be no laudatory statement of the form of treatment given or the address of the consulting rooms or the hours of a member of the medical staff at which he sees private patients.
15. Further, no exception need be taken to the association of registered medical practitioners with an institution for the treatment of patients by physical therapy and electrical methods, provided the following essential conditions are strictly conformed to :
- (i) That the institution is not in any way advertised to the lay public.
 - (ii) That the treatment of all patients is under the direct control of a registered medical practitioner who accepts full responsibility for their treatment.

(iii) That the relation between the medical officer of the institution and private practitioners conforms to the usual ethical procedure between consultant and practitioner.

16. If a medical practitioner has a financial interest in any institution to which he refers a patient, it is desirable that he should disclose this fact to the patient.

SECTION VI : ADVERTISING AND CANVASSING

Modern life brings the doctor into contact with the general public in numerous ways, both directly and indirectly, and raises for him problems of conduct unknown to his predecessors. The general public interest in medical knowledge, the dissemination of medical information through radio and television, print, electronic media and press interview, all demand the exercise of the utmost caution by the doctor, whose professional standards condemn self-advertisement and publicity.

Indirect Methods of Advertising

Ultimate responsibility in all these matters rests with the individual concerned, but practitioners finding themselves in any difficulty in deciding upon their course of action or in doubt as to the safeguards necessary are advised to seek guidance from the Secretary of the Association.

1. Advertising and Canvassing : The practices by a registered medical practitioner
 - (i) Of advertising whether directly or indirectly for the purpose of obtaining patients or promoting his own professional advantage; or, for any such purpose, of procuring or sanctioning, or acquiescing in, the publication of notices commending or directing attention to the practitioner's professional skill, knowledge, services or qualifications, or deprecating those of others; or of being associated with, or employed by those who procure or sanction such advertising or publication; and
 - (ii) Of canvassing or employing any agent or canvasser or distributing visiting cards for the purpose of obtaining patients; or of sanctioning, or of being associated with or employed by those who sanction, such employment, are discreditable to the medical profession and are contrary to the public's interest.
2. Definition of Advertising : The word "advertising" in connection with the medical profession must be taken in its broadest sense to include all those ways by which a person is made publicly known, either by himself or by others without objection on his part, in a manner which can fairly be regarded as for the purpose of obtaining

patients or promoting his own professional advantage, or as appearing to be for these purposes.

3. Accepted Customs : It is generally accepted by the profession that certain customs are so universally practiced that it cannot be said that they are for the person's own advantage, as for instance, a doorplate with the simple announcement of the doctor's name and qualifications. Even this, however, may be abused by undue particularity or elaboration.
4. Public Health Medical Officers : Publicity is necessary in carrying out the duties of medical officers of health and other medical men who hold posts in the public health or other public services. Provided that this is not used for the individual's advancement in his profession, this may be rightly allowed.
5. Holding of Public Office : It is the recognized duty of a medical man to take his share as a citizen in public life and to hold public office should he so desires, but it is essential that the holding of public office is not used as a means of advertising himself as a doctor or his professional services.
6. Statement : It is conceded that practitioners may properly place their views on medical subjects before the public when they can do so with authority. In so doing, it behoves each one to avoid methods which could be fairly regarded as for the purpose of obtaining patients or otherwise promoting his own professional advantage. It should also be remembered that there are many things innocent in themselves, which may, by the manner or frequency of their doing, gravely contravene the principles that medical practitioners should not advertise.

Discussions in the lay press on controversial points of medical science and treatment should be avoided by practitioners. Such matters are more appropriate to medical journals and for discussion in professional societies.

7. Articles, Contributions and Books for the Lay Public :

- (i) The publication of contributions to the lay press and of books or articles on medical, or semi-medical topics that are of general public interest requiring medical knowledge for their proper presentation are recognized as ethically legitimate, subject to the avoidance of methods tending to promote the professional advantage of the authors.
- (ii) It is permissible for the author's name, designation and place of practice to be published. These should not be unduly emphasized by large or heavy type.
- (iii) There must not be any laudatory editorial reference to the author's professional status or experience.
- (iv) It is necessary strictly to observe those principles of medical etiquette, which demand modesty concerning personal attainments and achievements and courtesy in reference to colleagues.
- (v) The author should not enter into private correspondence with lay readers on clinical matters arising out of his contributions.
- (vi) Where the publication has arisen as a result of research on any instrument or drug provided by a commercial firm, this should be stated and a disclaimer regarding any financial interest of the authors with the firm be inserted.

Irrespective of the views expressed above as to what could properly appear on the title page of books or the heading of an article, the Ethics Committee is conscious of the fact that certain contributions may promote the professional advantage of the author who must shoulder responsibility for any such result and be prepared if challenged to answer for it before a professional tribunal. The publication of books and articles by a named author who poses as an authority on the treatment of a disease may constitute self-advertisement and thus be unethical.

8. Lectures to Lay Public :

- (i) It is a wise precaution for a practitioner who proposes to deliver a lecture to request the Chairman beforehand to be circumspect in any introductory remarks concerning his professional status or attainments.
- (ii) There is special reason for care in the presentation of material when it is known in advance that a press reporter is present. If so, he should indicate that he does not desire any report of the talk to carry his qualifications, professional status or place of practice.
- (iii) Such lectures can be publicized in any media to inform the public of the name and appointment of the speaker as well as the venue, date and time of the lecture. The place of practice of the speaker should not be published as this may be construed as advertising.
- (iv) The onus is on the medical practitioner to ensure that the above advice is followed.

9. Lectures to Doctors : Medical practitioners may be in a position to educate their fellow colleagues of advances in medical knowledge. This is laudatory, as the education of his fellow colleagues will only lead to benefit the patient. However, the medical practitioner should beware of some pitfalls, which may lead to allegations of association with commercial enterprises or advertising by his fellow colleagues.

He should ensure that the following advice is followed :

- (i) Such talks are organized only through professional bodies or hospitals and not solely by commercial enterprises.
- (ii) Information about such talks may be circulated through the professional bodies or hospitals only.

- (iii) There should not be any laudatory reference to the speaker's professional qualification, status or experience in publicity materials about the talk. Medical etiquette demands modesty concerning personal achievements as well as courtesy in reference to colleagues.
- (iv) Any reference to such talks in the press should not carry the speaker's qualifications or place of practice. It is advisable that the speaker caution against the press reporting any unproven modalities of management or treatment such that it appears that he advocates such treatment to the public.

It is incumbent upon the practitioner to ensure that the above advice is followed.

10. Press Interviews : A practitioner should exercise the greatest caution in granting press interviews as it may be construed as self-advertisement. The same general principles as applicable to the publication of written articles should be scrupulously observed. A seemingly innocuous remark or casual remark is often open to misinterpretation and easily form the subject of a damaging headlines. This may place the practitioner in a position of embarrassment. In certain circumstances, it may be preferable to promise a prepared statement than to give an impromptu interview, or if an interview were granted, to ask for an opportunity to approve the statement in proof before it is published. It is permissible for the name of the medical practitioner, designation and place of practice to be published.
11. Photographs : A practitioner's photograph may appear in connection with an interview or an article published in the lay press on professional subjects. Every reasonable precaution should be taken to ensure that such photographs do not draw attention to the professional skills or place of practice of the practitioner.
12. Condonation of Publicity in the Press : Exception cannot reasonably taken to publication in the lay press of a doctor's name in connection with a factual report of events of public concern. On occasion, however, in press reports, articles, or social columns, statements are made commenting favorably on the professional activities or success of medical practitioners.

These statements cannot fail to place the named practitioner in a critical and embarrassing situation, and should not be allowed to pass unchallenged. It is wise precaution for a doctor who is involved in an event of public interest to inform the media covering the event to be circumspect in their remarks and not print anything that may be constructed as advertising.

13. Advertisements in the Lay Press :

- (i) No member shall publish any advertisement concerning his profession or practice except through the Ethics Committee of the Malaysian Medical Association. Advertisements shall be confined to announcements of commencement of practice, resumption of practice, change of address, or change of telephone number or such other conditions of practice as are from time to time approved by the Ethics Committee. The Ethics Committee shall determine the number of insertions of any such advertisement and such insertions shall be in consecutive issues of the newspaper or newspapers circulated in Malaysia and shall be inserted simultaneously. Any member desiring an advertisement to be published shall forward the necessary particulars to the Honorary Secretary of the Ethics Committee who shall, subject to the control of the Ethics Committee, prepare the advertisement and arrange for its publication. The Honorary Secretary of the Ethics Committee shall inform the member of the cost of the advertisement, which shall be paid to the Honorary Secretary of the Ethics Committee forthwith.
- (ii) Every such advertisement shall be "run on" without spacing and without display or not larger than 2 columns by 6 centimeters. The type shall be that used for non-displayed advertisement of the newspaper in which it is inserted. The name shall be in the same type as the rest of the advertisement. Letters of abbreviation or words indicating medical, surgical or other qualifications, shall not be added, nor the name of any qualifying body or university or college.

- (iii) For the purposes of this By-Laws, "change of address" shall mean, "change of place of practice within Malaysia", "commencement of practice" shall mean "commencement of practice in Malaysia", "resumption of practice" shall mean "resumption of practice in Malaysia after an absence of more than thirty days".
- (iv) The word "newspaper" shall mean daily newspapers as approved by the Ethics Committee from time to time.

14. Broadcasting, Telecommunications, Television and Electronic Media

- (i) The Association accepts the view held by many in the profession that medical practitioners who possess the necessary knowledge and talent should be permitted to participate in programmes through telecommunications, radio, television and electronic media, provided they observe appropriate ethical safeguards and do not seek to place themselves in an advantageous position over their colleagues.
- (ii) The public has legitimate interest in the advances made in science and art of medicine and it is of advantage that medical information, discreetly presented, should reach the public through the medium of broadcasting, telecommunications, television and the electronic media both for the general instruction of the enquiring layman and for the particular purpose of "health education". Great caution is necessary in public discussion on theories and treatment of disease owing to the misleading interpretation that may be put upon these by an uninformed public to the subsequent embarrassment of the individual doctor and the individual patient.
- (iii) All practitioners taking part in such programmes should observe appropriate ethical safeguards such as not directing attention to the practitioner's professional skills, knowledge, services or qualifications or deprecating those of others. Where patients or health facilities are involved in the programme prior consent from such parties should be obtained.

(iv) Association of Medical Practitioners with Commercial Enterprises :

The Ethics Committee disapproves of the direct 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 and which is recommended to the public in such a fashion as to be calculated to encourage the practice of self-diagnosis and of self-medication or is of undisclosed nature or composition.

The Ethics Committee takes a similar view of the association of a medical practitioner with any system or method of treatment which is not under medical control and which is advertised in the public press. In neither of the above findings does the Ethics Committee pretend to interfere with the right of a medical practitioner to be associated (save as above) with any legitimate business enterprise, but if such enterprise concerns the sale of a medicine or food, the practitioner should not allow his professional status or qualifications to be used for advertising purposes outside the medical press.

This remains the policy of the Association. Hence, consequently, it is unethical for a practitioner to participate in such programmes, which are being presented for, or on behalf of, firms using the above media as a means of advertising.

(v) There is a wide range of subjects unrelated, or only remotely related, to the practice of medicine where there may well be no objection to the announcement of the name and designation of a doctor who is an authority on the particular subject. There should be nothing in the announcement or presentation of the subject, which could be regarded as promoting his professional advantage.

15. Example of Senior Practitioners. There is a special duty upon practitioners of established position and authority to observe these conditions, for their example must necessarily influence the action of their less recognized colleagues.

16. Dangers : The particulars in each of these fields of activity are referred to the preceding paragraphs. But, in every case, the guiding principles should be that a practitioner should not sanction or acquiesce in anything which comments or directs attention to his professional skill, knowledge, services, or qualifications, or deprecates those of others or be associated with those who procure or sanction such advertising or publicity.
17. General : After making all allowances for all those modes of publicity for which there may be some justification, there remain many instances which can be regarded as contravening the spirit of The Code. The Association is convinced that in taking up the attitude of determined opposition to undesirable methods of publicity, it is acting in the best interest of the public as well as of the medical profession. Advertising by the profession in general would certainly destroy those traditions of dignity and self-respect, which have helped to give the medical profession its high status. The Association, therefore, draws the attention of the profession to the danger of these objectionable methods, and stresses the need for every member of the professional to offer a firm resistance to them.
18. Participation in any form of marketing schemes, involving free gifts, discounts and other forms of inducements to attract patients, is considered unethical.

SECTION VII : SETTING UP PRACTICE

Setting Up Practice

1. Even in the absence of an agreement, there is an ethical obligation on a doctor not to damage the practice of a colleague with whom he has been engaged lately in professional association.
2. Unless the written consent of the principal or partner or partners is obtained, a doctor who has acted as an assistant to or locum tenens for that principal or as a member of a partnership should not set up in practice in opposition to his former principal or partner in the area of practice of that principal or partner. A course of action taken by a doctor may not be contrary to the law, yet may be considered unethical by his colleagues to such a degree as to constitute grounds for a formal complaint to the Association.
3. As locum tenens are introduced in confidence to the practice of which he takes charge, it must be presumed on principles of common equity that he cannot, without dishonour, commence practice in the neighbourhood where he has acted unless with a written consent obtained either from the practitioner whose substitute he has been or from the legal representatives of his practitioner. If any such plea for the relaxation of the rule in any individual case can be advanced, the facts should be stated to the Ethics Committee and the judgement of the Ethics Committee on the point be accepted as final.

Notices

4. A practitioner commencing practice is allowed to announce this in the press only through the MMA and as specified under Section VI (13).
5. From time to time, it may happen that a doctor, whether in general or consultant practice, wishes to make some formal announcement about his practice to his patients or his colleagues. A general practitioner, for example, may need to notify his patients of a change of address or of surgery or consulting hours, or perhaps he may be changing to consultant practice. In any such case, the notification should

be sent as a circular letter, under cover, to the patients of the practice, that is, to those who are on its books and are not known to have transferred themselves to another doctor. There is no objection to a suitable notice being placed in the waiting room.

6. On no account should the lay press be used for the purpose of making an announcement. Even if a rumour or an ill-informed statement in a newspaper appears to require correction, the doctor should still refrain from making any comment to the press. He should instead seek advice from the MMA.
7. A practitioner who wishes to draw the attention of his colleagues in the profession to the fact that he has recently commenced or intends to practice any particular branch of medical or surgical work, or to acquaint his colleagues of the services he proposes to make available, may do so in any or all of the following ways :
 - (i) By calling upon practitioners already established in the area and giving a personal explanation of his arrangements and plans;
 - (ii) By sending a sealed postal notification to those practitioners who may be expected to be interested, provided such a communication contains no laudatory allusion to himself or his work;
 - (iii) By communications on professional subjects presented to the local branch of the MMA or to other medical organizations; and
 - (iv) By sending reprints of his published work to those practitioners who may be expected to be interested.
 - (v) By publication in the Berita MMA/MJM within guidelines set by the Ethics Committee.

Premise

8. In selecting the premises for his surgery, a doctor should preserve the dignity of his profession and bear in mind certain ethical considerations.
9. The sharing of the premise by medical practitioners and non-medical practitioners is unethical.

Nameplates

10. (i) Nameplates shall be plain and shall not exceed 930.25 sq. cm (1 sq. ft) in area.
 - (ii) The nameplate may bear the following :

The medical practitioner's name
His registrable qualifications in small letters
His title/s if any
 - (iii) There is no objection to the inclusion of phrases such as "Surgeon", "Psychiatrist", by a practitioner who is solely engaged in the practice of that specialty.
 - (iv) For every additional practitioner, an additional nameplate conforming to the above mentioned standards may be exhibited.
 - (v) Nameplates of practitioners who do not practice in the clinic should not be exhibited. Visiting practitioners may have their nameplates, provided the day(s) and hour(s) of practice are stated.
 - (vi) A separate signboard to indicate consultation hours not exceeding 930.25-sq. cm (1 sq. ft) is permitted.

11. Where it is considered necessary for an assistant to have his own nameplate, the normal rules relating to plates continue to apply.

Signboards

12. The use of a large signboard to indicate a private medical practice is considered unethical in many parts of the world. However, as the custom is already prevalent in Malaysia, and as a signboard does help patients to find a doctor, it is recommended that their use should continue, provided :
- (i) There shall not be more than two signboards to indicate the identity of the practice.
 - (ii) Signboards may be illuminated.
 - (iii) The total size of the signboard or signboards, if there are two, shall not exceed 2.787 sq. meters (30-sq. ft).
 - (iv) Where signs are painted on walls, the perimeter of the lettering should not enclose an area in excess of those specified in 13 (iii).
 - (v) When the practice is within a commercial complex, there is no objection to the clinic name appearing in the general directory signboard in the lobby.
 - (vi) The use of the word "Pharmacy" being a contravention of the Pharmacy Act, its use is illegal unless the premise is in fact a Dispensing Pharmaceutical Chemists Shop.
 - (vii) The use of the Red Cross/Red Crescent on any private medical premise is a contravention of the Geneva Convention and is illegal.

24 Hours Clinic

13. No additional signboards are permitted.
14. Notification of the availability of 24-hour service should be on the nameplate pertaining to consultation hours or on the existing clinic signboards.
15. Qualified and registered practitioners should be available at all times and his availability should be within a reasonable period of time, not exceeding thirty (30) minutes.
16. A practitioner may not operate more than one 24-hour clinic at the same time.
17. In the event that an emergency arises, requiring the practitioner to be called away, the clinic should do one of the following :
 - 17.1 not to accept any new patients until the practitioner is back in the clinic;
 - 17.2 inform intending patients that the practitioner is not available.

Maternity Home

18. Since maternity homes provide 24 hours services, the above regulations in respect of 24-hour clinic would also apply to maternity homes.

Telephone Directories

19. Doctors are sometimes uncertain about the form of entry they should allow in telephone directories. The entry form should appear in the ordinary small type. No special type or special entry should be permitted.
20. There is no objection on ethical grounds to the listing of professional telephones in the Yellow Pages of the Telephone Directory, provided they conform to the following provisions :

- (i) Name and address of clinic and telephone number/s are allowed.
- (ii) Address, telephone numbers of doctors' practices and residence are allowed.
- (iii) Names, addresses and telephone numbers of branch practices are allowed.
- (iv) Emergency answering-service telephone number/s and pager numbers are allowed.
- (v) All entries in the Yellow Pages must be classified only under the heading "Medical Practitioners - Registered".
- (vi) No entry pertaining to clinics in the Yellow Pages must be classified under other headings, e.g. clinics, doctors, opticians, contact lens practitioners, etc.
- (vii) No entry pertaining to clinic hours is permitted.

All entries should appear in ordinary small type. No bold types, special display, boxed entries shall be permitted for a doctor or his practice.

All entries listed under "Registered Medical Practitioners" should be confined to doctors registered with the MMC and should not include homeopathy practitioners, dental practitioners, traditional medicine practitioners, etc.

Local Directories

21. It is permissible for a doctor's name to be included in a handbook of local information, purporting to contain a list of all local medical practitioners, provided the list is open to the whole of the profession in the area and publication of names is not dependent on the payment of a fee.

Professional Calling Cards

22. Calling card should only contain the name of the practitioner, registrable professional qualifications, state and national awards, home, practice and email address(es), telephone and facsimile numbers. It would be unethical to use calling cards to solicit patients.

Letterheads

23. The letterhead may contain the name of the clinic, address(es), telephone and fax numbers, email address and the names of the doctors practicing in that clinic with their registrable qualifications, state and national awards and clinic hours.

Banners

24. A temporary banner to announce the opening of a new clinic/hospital may be allowed for the purpose of public information. The size should conform to that allowed for a signboard. It should not be displayed for a period longer than one (1) calendar month prior to the date for opening. The banner is only permitted to be displayed at the entrance of the premise. It should only contain the date of opening and the name of the clinic/hospital. Any other information is unethical.

SECTION VIII : ETHICS COMMITTEE OF MMA

Role and Objectives

1. To promote ethical conduct and provide counsel and advice for medical practitioners.
2. To offer advice and counsel to medical practitioners involved in activities that may be construed or are a breach of ethics.
3. To educate medical practitioners and the medical community on desirable ethical conduct.
4. To deliberate and where possible resolve amicably disputes involving issues on ethics.
5. To advise Council on the ethical implications of issues, which it may be, required to take a position.

Disputes between Doctors

1. From time to time, doctors working together in a practice or in the same locality find themselves at variance with one another. Friction may arise in many ways and often quite unnecessarily. For instance, clashes of personality and temperament between doctors in neighbouring practices may magnify trifling differences into angry quarrels; the hasty acceptance from patients of rumours or uncorroborated reports of another doctor's utterances or actions may lead the practitioner to make unjust accusations against a colleague. If animosities are allowed to fester, they not only embitter local practice but also damage the reputation of the profession in the eyes of the public. It is important, therefore, that disputes should be resolved quickly within the profession itself; and whenever possible, amicably.
2. Most of these disputes concern relationships not governed by law but by the traditions of the profession and harmony can be best restored by reference to some medical person or authority with extensive knowledge and experience of medical

ethics and customs. To provide the profession with an adjudicating body, the Association, through the Ethics Committee, has devised "ethical machinery" based on the experience of many years. The procedure should not be regarded as a judicial trial but as a service attempting reconciliation through impartial adjudication.

3. The machinery consists of the Ethics Committee itself, which is a standing committee of the Council with detailed uniform rules of procedure for the investigation of complaints.
4. Briefly, the complainant must write to the respondent (stating the complaint in terms sufficiently specific to enable the respondent to reply) and intimating that he contemplates the initiation of a complaint through the ethical machinery of the Association. A copy of the letter of complaint, together with any reply, must be submitted to the Honorary Secretary of the appropriate branch of the Association. The Honorary Secretary must then send the correspondence to the Head Office and obtain instructions on the steps to be taken in dealing with the matter and must take no other action whatsoever in connection with the complaint except that prescribed in the advice and instructions he receives from the Head Office. The Association will not accept responsibility for any consequence in ethical proceedings not so referred.

Disputes between a Doctor and His Patient

5. Where a dispute arises between a doctor and his patient and a complaint is brought to the Ethics Committee, the doctor should respond to queries of the Ethics Committee as soon as possible, as provided in the Rules of the Ethics Committee (see MMA Constitution - Articles & By-Laws).

PERSPECTIVES IN MEDICAL ETHICS

A. The Hippocratic Oath

While the methods and details of medical practice change with the passage of time and the advance of knowledge, the fundamental principles of professional behaviour have remained unaltered through the recorded history of medicine. From time to time, attempts have been made to codify the standard of conduct expected of the doctor in the practice of his profession, the most celebrated being that attributed to Hippocrates in the 5th Century B.C. This takes the form of an oath intended to be affirmed by each doctor on entry to the medical profession, and in translation reads as follows :

"I swear by Apollo the physician, and Aesculapius and Health, and All-heal, and all the gods and goddesses, that, according to my ability and judgement, I will keep his Oath and this stipulation - to reckon him who taught me this Art equally dear to me as my parents, to share my substance with his, and relieve his necessities if required; to look upon his offspring in the same footing as my own brothers, and to teach them this Art, if they shall wish to learn it, without fee or stipulation; and that by precept, lecture, and every other mode of instruction, I will impart a knowledge of the Art to my own sons, and those of my teachers, and to disciples bound by a stipulation and oath according to the law of medicine, but to none others. I will follow that system of regimen which, according to my ability and judgement, I consider for the benefit of my patients, and abstain from whatever is deleterious and mischievous. I will give no deadly medicine to anyone if asked, nor suggest any such counsel; and in like manner I will not give to a woman a pessary to produce abortion. With purity and with holiness, I will pass my life and practice my Art. I will not cut persons labouring under the stone, but will leave this to be done by men who are practitioners of this work. Into whatever houses I enter, I will go into them for the benefit of the sick, and will abstain from every voluntary act of mischief and corruption; and, further, from the seduction of females or males, of freemen or slaves. Whatever, in connection with my professional practice, or not in connection with it, I see or hear, in the life of men, which ought not to be spoken of abroad, I will not divulge, as reckoning that all such should be kept secret. While I

continue to keep this Oath unviolated, may it be granted to me to enjoy life and the practice of the Art, respected by all men, in all fumes. But should I trespass and violate this Oath, may the reverse be my lot."

This Oath has endured through the centuries, and whether or not the modern doctor formally affirms it at qualification, he accepts its spirit and intentions as his ideal standard of professional behaviour.

B. International Code of Medical Ethics

The lapses from the Hippocratic ideal on the part of the profession in certain countries during the Second World War and the perpetration of crimes against the individual in the name of race or religion have shown the need for a modern restatement of the Oath and a reawakening of the sense of the high calling and the ethical responsibilities of the doctor. Accordingly, one of the first acts of the World Medical Association, formed in 1947, was to produce a modern restatement of the Hippocratic Oath, known as the "Declaration of Geneva" and to base upon it an International Code of Medical Ethics which applies both in times of peace and war.

The English text of the International Code of Medical Ethics is as follows :

Duties of Doctors to the Sick

- (i) A DOCTOR MUST ALWAYS bear in mind the obligations of preserving human life.
- (ii) A DOCTOR OWES to his patient complete loyalty and all the resources of his science. Whenever an explanation or treatment is beyond his capacity, he should summon another doctor who has the necessary ability.
- (iii) A DOCTOR SHALL preserve absolute secrecy on all he knows about his patient because of the confidence entrusted to him.
- (iv) A DOCTOR MUST give emergency care as a humanitarian duty unless he is assured that others are willing and able to give such care.

Duties of Doctors in General

- (i) A DOCTOR MUST always maintain the highest standards of professional conduct.
- (ii) A DOCTOR MUST practice his profession uninfluenced by motives of profit.
- (iii) THE FOLLOWING PRACTICES are deemed unethical :
 - (a) Any self-advertisement except such as is expressly authorized by the National Code of Medical Ethics.
 - (b) Collaborating in any form of medical service in which the doctor does not have professional independence.
 - (c) Receiving any money in connection with services rendered to a patient other than a proper professional fee, even with the knowledge of the patient.
- (iv) ANY ACT, OR ADVICE which could weaken the physical or mental resistance of a human being may be used only in his interest.
- (v) A DOCTOR IS ADVISED to use great caution in divulging discoveries or new techniques of treatment.
- (vi) A DOCTOR SHOULD certify or testify only to that which he has personally verified.

Duties of Doctors to Each Other

- (i) A DOCTOR OUGHT to behave to his colleagues as he would have them behave to him.
- (ii) A DOCTOR MUST NOT entice patients from his colleagues.
- (iii) A DOCTOR MUST OBSERVE the principles of "The Declaration of Geneva" approved by the World Medical Association.

Source : World Medical Association, 1947

Declaration of Geneva

At the time of being admitted as Member of the Medical Profession :

- (i) I solemnly pledge myself to consecrate my life to the service of humanity;
- (ii) I will give to my teachers the respect and gratitude which is their due;
- (iii) I will practice my profession with conscience and dignity;
- (iv) The health of my patient will be my first consideration;
- (v) I will respect the secrets, which are confided to me;
- (vi) I will maintain by and the means in my power the honour and the noble traditions of the medical profession;
- (vii) My colleagues will be my brothers;
- (viii) I will not permit considerations of religion, nationality, race, party politics or social standing to intervene between my duty and my patient;

(ix) I will maintain the utmost respect for human life from the time of conception; even under threat, I will not use my medical knowledge contrary to the laws of humanity;

(x) I make these promises solemnly, freely and upon my honour.

Source : World Medical Association, 1948, 1968, 1983

OATHS/GUIDELINES OF DIFFERENT CULTURES

MUSLIM

The Oath of a Muslim Physician

In the name of Allah, Most Gracious, Most Merciful

Praise be to Allah, the Sustainer of His Creation, the All-Knowing

Glory be to him, the Eternal, the All-Pervading

O Allah, Thou art the only Healer,

I serve none but Thee, and, as the instrument of

Thy Will, I commit myself to Thee

I render this Oath in Thy Holy Name and I undertake :

To be the instrument of Thy Will and Mercy, and, in all humbleness, to exercise justice, love and compassion for all Thy Creation; To extend my hand of service to one and all, to the rich and to the poor, to friend and foe alike, regardless of race, religion or colour;

To hold human life as precious and sacred, and to protect and honour it at all times and under all circumstances in accordance with Thy Law; To do my utmost to alleviate pain and misery, and to comfort and counsel human beings in sickness and in anxiety; To

respect the confidence and guard the secrets of all patients; To maintain the dignity of health care, and to honour the teachers, students, and members of my profession; To

strive in the pursuit of knowledge in Thy name for the benefit of mankind, and to uphold human honour and dignity; To acquire the courage to admit my mistakes, mend my ways and to forgive the wrongs of others; To be ever-conscious of my duty to Allah and His Messenger (S.A.W), and to follow the precepts of Islam in private and in public.

O Allah, grant me the strength, patience and dedication to adhere to this Oath at all times.

Source : World Conference of Islamic Medical Associations, Kuwait, 1981

The Oath of the Doctor

I swear by God.....The Great

To regard God in carrying out my profession

To protect human life in all stages and under all circumstances, doing my utmost to rescue it from death, malady, pain and anxiety..

To keep peoples' dignity, cover their privacies and lock up their secrets..

To be, all the way, an instrument of God's mercy, extending my medical care to near and far, virtuous and sinner and friend and enemy..

To strive in the pursuit of knowledge and harnessing it for the benefit but not the harm of Mankind..

To revere my teacher, teach my junior, and be a brother to members of the Medical Profession joined in piety and charity..

To live my Faith in private and in public, avoiding whatever blemishes me, in the eyes of God, His apostle and my fellow Faithful.

And may God be witness to this Oath.

Source : First International Conference of Islamic Medicine, Kuwait, 1981

CHINESE

FIVE COMMANDMENTS

1. Physicians should be ever ready to respond to any calls of patients, high or low, rich or poor. They should treat them equally and care not for financial reward. Thus their profession will become prosperous naturally day by day and conscience will remain intact.
2. Physicians may visit a lady, widow or nun only in the presence of an attendant but not alone. The secret diseases of female patients should be examined with a right attitude, and should not be revealed to anybody, not even to the physician's own wife.
3. Physicians should not ask patients to send pearl, amber or other valuable substances to their home for preparing medicament. If necessary, patients should be instructed how to mix the prescriptions themselves in order to avoid suspicion. It is also not proper to admire things which patients possess.
4. Physicians should not leave the office for excursion and drinking. Patients should be examined punctually and personally. Prescriptions should be made according to the medical formulary, otherwise a dispute may arise.
5. Prostitutes should be treated just like patients from a good family and gratuitous services should not be given to the poor ones. Mocking should not be indulged for this brings loss of dignity. If the case improves, drugs may be sent but physicians should not visit them again for lewd reward.

Ref. : Chen Shih-Kung - An Orthodox Manual of Surgery, circa 1613

Source : Cross-Cultural Perspective in Medical

Ethics : Readings, Robert M Veatch, 1989

TEN REQUIREMENTS

1. A physician or surgeon must first know the principles of the learned. He must study all the ancient standard medical books ceaselessly day and night, and understand them thoroughly so that the principles enlighten his eyes and are impressed in his heart. Then he will not make any mistake in the clinic.
2. Drugs must be carefully selected and prepared according to the refining process of Lei Kung. Remedies should be prepared according to the pharmaceutical formulae but may be altered to suit the patient's condition. Concoctions and powders should be freely made. Pills and distilled medicine should be prepared in advance. The older the plaster is, the more effective it will be. Tampons become more effective on standing. Don't spare valuable drugs; their use is eventually advantageous.
3. A physician should not be arrogant and insult other physicians in the same district. He should be modest and careful towards his colleagues; respect his seniors, help his juniors, learn from his superiors and yield to the arrogant. Thus, there will be no slander and hatred. Harmony will be esteemed by all.
4. The managing of a family is just like the curing of a disease. If the constitution of a man is not well cared for and becomes over-exhausted, diseases will attack him. Mild ones will weaken this physique, while serious ones may result in death. Similarly, if the foundation of the family is not firmly established and extravagance is indulged in, reserves will gradually drain away and poverty will come.
5. Man receives his fate from Heaven. He should not be ungrateful to the Heavenly decree. Professional gains should be approved by the conscience and conform to the Heavenly will. If the gain is made according to the Heavenly will, natural affinity takes place. If not, offspring will be condemned. Is it not better to make light of professional gain in order to avoid the evil retribution.
6. Gifts, except in the case of weddings, funerals and for the consolation of the sick, should be simple. One dish of fish and one of vegetable will suffice for a meal. This is not only to reduce expenses but also to save provisions. The virtue of a man lies not in grasping but rather in economy.

7. Medicine should be given free to the poor. Extra financial help should be extended to the destitute patients, if possible. Without food, medicine alone cannot relieve the distress of a patient.
8. Savings should be invested in real estate but not in curios and unnecessary luxuries. The physician should also not join the drinking club and the gambling house, which would hinder his practice. Hatred and slander can thus be avoided.
9. Office and dispensary should be fully equipped with necessary apparatus. The physician should improve his knowledge by studying medical books, old and new, and reading current publications. This really is the fundamental duty of a physician.
10. A physician should be ready to respond to the call of government officials with respect and sincerity. He should inform them the cause of the disease and prescribe accordingly. After healing, he should not seek for a complimentary tablet or plead excuse for another's difficulty. A person who respects the law should not associate with officials.

Ref. : *Chen Shih-Kung. An Orthodox Manual of Surgery, circa 1613*
Source : *Cross Cultural Perspective in Medical*
Ethics : *Readings, Robert M Veatch, 1989*

Professional Ethics in Ancient Indian Medicine

Charaka Samhita contains an Anushasana - the Atreya Anushasana (seventh century BC) - predating the famous Hippocratic Oath by two centuries. This oath bears testimony to the high level of professional ethics in ancient India.

The ancient oath from the Charaka (or Charaka, as this translator spells it) Samhita of which K. R. Srikanta Murthy spoke deserves closer examination. The translation presented here is by A. Menon and H. F. Haberman. It reveals some uniquely Hindu elements such as the obligation to remain celibate, eat no meat, and carry no arms. Characteristics of Hindu thoughts, there is an explicit prohibition on causing another's death. There are some passages remarkably similar to Hippocratic commitments (the commitment to be devoted entirely to bring helpful to the patient), but there are also some dramatic contrasts. Note especially the requirements that "No persons who are hated by the king or who are haters of the King or who are hated by the public or who are haters of the public shall receive treatment." An understanding of the Hindu doctrine of karma, of rebirth in a position based on the way one has led his previous life, may be necessary to understand the moral meaning of such a sentence.

Oath of Initiation

FROM THE CARAKA SAMHITA

1. The teacher then should instruct the disciple in the presence of the sacred fire, Brahmanas (Brahmins) and physicians.
2. (saying) "Thou shalt lead the life of a celibate, grow thy hair and beard, speak only the truth, eat no meat, eat only pure articles of food, be free from envy and carry no arms.
3. There shalt be nothing that thou should not do at my behest except hating the king, causing another's death, or committing an act of great unrighteousness or acts leading to calamity.

4. Thou shalt dedicate thyself to me and regard me as thy chief. Thou shalt be subject to me and conduct thyself forever for my welfare and pleasure. Thou shalt serve and dwell with me like a son or a slave or a supplicant. Thou shalt behave and act without arrogance, with care and attention and with undistracted mind, humility, constant reflection and ungrudging obedience. Acting either at my behest or otherwise, thou shalt conduct thyself for the achievement of thy teacher's purposes alone, to the best of thy abilities.
5. If thou desire success, wealth and fame as a physician and heaven after death, thou shalt pray for the welfare of all creatures beginning with the cows and Brahmanas.
6. Day and night, however thou mayest be engaged, thou shalt endeavour for the relief of patients with all thy heart and soul. Thou shalt not desert or injure thy patient for the sake of thy life or thy living. Thou shalt not commit adultery even in thought. Even so, thou shalt not covet others' possessions. Thou shalt be modest in any attire and appearance. Thou shouldst not be a drunkard or a sinful man nor shouldst thou associate with the abettors of crimes. Thou shouldst speak words that are gentle, pure and righteous, pleasing, worthy, true, wholesome and moderate. Thy behaviour must be in consideration of time and place and heedful of past experience. Thou shalt act always with a view to the acquisition of knowledge and fullness of equipment.
7. No persons, who are hated by the king or who are haters of the king or who are hated by the public or who are haters of the public shall receive treatment. Similarly, those who are extremely abnormal, wicked and of miserable character and conduct, those who have not vindicated their honour, those who are at the point of death, and similarly women who are unattended by their husbands or guardians shall not receive treatment.
8. No offering of presents by a woman without the behest of her husband or guardian shall be accepted by thee. While entering the patient's house, thou shalt be accompanied by a man who is known to the patient and who has his permission to enter; and thou shalt be well-clad, bent of head, self-possessed, and conduct thyself only after repeated consideration. Thou shalt thus properly make thy entry. Having entered thy speech, mind, intellect and senses, thou shalt be entirely devoted to no

other thought than that of being helpful to the patient and of things concerning only him. The peculiar customs of the patient's household shalt not be made public. Even knowing that the patient's span of life has come to its close, it shalt not be mentioned by thee there, where if so done, it would cause shock to the patient or to others.

Though possessed of knowledge, one should not boast very much of one's knowledge. Most people are offended by the boastfulness of even those who are otherwise good and authoritative.

9. There is no limit at all to the Science of Life, Medicine. So thou shouldst apply thyself to it with diligence. This is how thou should act. Also thou shouldst learn the skill of practice from another without carping. The entire world is the teacher to the intelligent and the foe to the unintelligent. Hence, knowing this well, thou shouldst listen and act according to the words of instruction of even an unfriendly person, when his words are worthy and of a kind as to bring to you fame, long life, strength and prosperity.
10. Thereafter, the teacher should say this - "Thou shouldst conduct thyself properly with the gods, sacred fire, Brahmanas, the guru, the aged, the scholars and the preceptors. If thou have conducted thyself well with them, the precious stones, the grains and the gods become well disposed towards thee. If thou shouldst conduct thyself otherwise, they become unfavourable to thee." To the teacher that has spoken thus, the disciple should say, "Amen."

Source : Cross Cultural Perspectives in Medical Ethics : Readings, Robert M Veatch, 1989

**CODE OF PROFESSIONAL CONDUCT
MALAYSIAN MEDICAL COUNCIL**

FOREWORD

The members of the medical profession are expected to abide by a code of ethics established by the profession itself. The purpose of the code is to safeguard the public, ensure propriety in professional practice and to prevent abuse of professional privileges.

This revised Code of Professional Conduct was adopted by the Malaysian Medical Council at its 46th meeting on 9th December 1986. The new Code is more comprehensive and gives more details for the guidance of practitioners. New provisions, not previously mentioned, have been included in the new Code.

In conducting a disciplinary enquiry, the Malaysian Medical Council will be guided by the new Code of Professional Conduct. I urge all practitioners to be familiar with the new Code and to abide by it at all times.

This new Code of Professional Conduct replaces the 1975 Medical Ethics of the Malaysian Medical Council, which is hereby withdrawn.

Tan Sri Datuk (Dr) Abdul Khalid bin Sahan
PSM, PGDK, JSM, ASDK, KMN
President
Malaysian Medical Council

April, 1987

INTRODUCTION

The practice of Medicine is an ancient profession and the community has great expectations of its practitioners and places great trust in them. Without this trust, it would be impossible to practice medicine and the profession as such expects a high standard of professional and personal conduct from its members. These are embodied in various Codes of Ethics, which vary in detail from country to country, but all place first and foremost, the health and welfare of the individual and the family under the care of a practitioner. The Malaysian Medical Council endorses the Declaration of Geneva, which embodies these ideals (Appendix I).

Underpinning the Code of Ethics are statutes, which makes it an offence punishable under the law of the country to transgress certain outer limits of the expected norms of professional conduct. These minimum standards of conduct are assessed by their peers in the profession, assembled as the Malaysian Medical Council established under the Medical Act 1971. Breaches of these minimum standards are referred to as 'infamous conduct in a professional respect' or 'serious professional misconduct'.

This booklet, issued under the authority of the Malaysian Medical Council, outlines the outer limits of conduct that will make a practitioner liable, after proper inquiry, to be found guilty of serious professional misconduct. It follows that these guidelines discuss, not ideal behaviour, but the minimum standards of conduct expected of a registered medical practitioner. By publishing this booklet, it is the desire of the Malaysian Medical Council that no practitioner will have committed professional misconduct on grounds of ignorance of the expected standards of professional conduct in this country.

All medical practitioners on the Medical Register should obtain a copy of these guidelines. Newly registered practitioners will receive a copy upon registration. The Council expects that all registered practitioners will study these guidelines and direct any enquiries to the Secretary of the Council. Medical practitioners may also wish to consult the Ethics Committee of the Malaysian Medical Association.

PART 1

POWERS OF THE MALAYSIAN MEDICAL COUNCIL

Disciplinary Jurisdiction of the Council

Disciplinary jurisdiction over registered medical practitioners is conferred upon the Malaysian Medical Council by Sec. 29 of the Medical Act 1971, which reads as follows :

1. The Council shall have disciplinary jurisdiction over all persons registered under this Act.
2. The Council may exercise disciplinary jurisdiction over any registered person who :
 - (a) has been convicted in Malaysia or elsewhere of any offence punishable within imprisonment (whether in itself only or in addition to or in lieu of a fine).
 - (b) has been guilty of infamous conduct in any professional respect.
 - (c) has obtained registered registration by fraud or misrepresentation.
 - (d) has not at the time of his registration entitled to be registered; or
 - (e) has since been removed from the Register of Medical Practitioners maintained in any place outside Malaysia.

THE MEANING OF INFAMOUS CONDUCT IN A PROFESSIONAL RESPECT

The phrase "infamous conduct in a professional respect" was defined in 1894 by Lord Justice Lopez as follows :

"If a medical man in the pursuit of this profession has done something with regard to it which will be reasonably regarded as disgraceful or dishonourable by his professional brethren of good repute and competency, then it is open to the General Medical Council, if that be shown, to say that he has been guilty of infamous conduct in a professional respect."

In another judgement delivered in 1930, Lord Justice Scrutton stated that :

"Infamous conduct in a professional respect means no more than serious misconduct judged according to the rules, written or unwritten, governing the profession."

CONVICTIONS IN A COURT OF LAW

In considering conviction, the Council is bound to accept the determination of any court of law as conclusive evidence that the practitioner was guilty of the offence which he was convicted. Practitioners who face a criminal charge should remember this if they are advised to plead guilty, or not to appeal against a conviction to avoid publicity or a severe sentence. It is not open to a practitioner who has been convicted of an offence to argue before the Preliminary Investigation Committee or the Malaysian Medical Council that he was in fact innocent. It is therefore unwise for a practitioner to plead guilty in a court of law to a charge to which he believes that he has a defence.

PART II

FORMS OF INFAMOUS CONDUCT

This part mentions certain kinds of criminal offences and of infamous conduct in a professional respect (or professional misconduct) which have in the past led to disciplinary proceedings or which in the opinion of the Council could give rise to such proceedings. It does not pretend to be a complete code of professional ethics, or to specify all criminal offences or forms of professional misconduct, which may lead to disciplinary action. To do this would be impossible because from time to time with changing circumstances, the Council's attention is drawn to new forms of professional misconduct.

Any abuse by a practitioner of any of the privileged and opportunities afforded to him or any grave dereliction of professional duty or serious breach of medical ethics may give rise to a charge of infamous conduct in a professional respect. In discharging their respective duties, the Preliminary Investigation Committee and the Malaysian Medical Council must proceed as judicial bodies. Only after considering the evidence in each case can this Committee or Council determine the gravity of a conviction or decide whether a practitioner's behaviour amounts to infamous conduct in a professional respect.

In the following paragraphs, areas of professional conduct and personal behaviour, which need to be considered, have been grouped under four main headings :

1. Neglect or disregard of professional responsibilities
2. Abuse of professional privilege and skills
3. Conduct derogatory to the reputation of the medical profession
4. Advertising, canvassing and related professional offences.

1. NEGLECT OR DISREGARD OF PROFESSIONAL RESPONSIBILITIES

1.1 Responsibility for Standards of Medical Care to Patients

In pursuance of its primary duty to protect the public, the Council may institute disciplinary proceedings when a practitioner appears seriously to have disregarded or neglected his professional duties to his patients.

The public is entitled to expect that a registered medical practitioner will provide and maintain a good standard of medical care. This includes :

- (a) conscientious assessment of the history, symptoms and signs of a patient's condition;
- (b) sufficiently thorough professional attention, examination and where necessary, diagnostic investigation;
- (c) competent and considerate professional management;
- (d) appropriate and prompt action upon evidence suggesting the existence of a condition requiring urgent medical intervention; and
- (e) readiness, where the circumstances so warrant, to consult appropriate professional colleagues.

A comparable standard of practice is to be expected from medical practitioners whose contributions to a patient's care are indirect, for example, those in laboratory and radiological specialties.

Apart from a practitioner's personal responsibility to his patients, practitioners who undertake to manage, or to direct, or to perform clinical work for organizations offering private medical services should satisfy themselves that those organizations provide adequate clinical and therapeutic facilities for the services offered.

The Council is not ordinarily concerned with errors in diagnosis or treatment, or with the kind of matters which give rise to action in the civil courts for negligence, unless the practitioner's conduct in the case has involved such a disregard of his professional responsibility to his patients or such a neglect of his professional duties as to raise a question of infamous conduct in a professional respect.

A question of infamous conduct in a professional respect may also arise from a complaint or information about the conduct of a practitioner which suggests that he has endangered the welfare of the patient by persisting in independent practice of a branch of medicine in which he does not have the appropriate knowledge and skill and has not acquired the experience which is necessary.

1.2 The Practitioner and Requests for Consultation

1.2.1 In conformity with his own sense of responsibility, a medical practitioner should arrange consultation with a colleague whenever the patient or the patient's next-of-kin desire it, provided the best interests of the patient are so served. It is always better to suggest a second opinion in all doubtful, difficult or anxious cases. It should be remembered that a practitioner suffers no loss of dignity or prestige in referring a patient to a colleague whose opinion could contribute to the better care of the patient.

1.2.2 The attending practitioner may nominate the practitioner to be consulted, and should advise accordingly, but he should not refuse to refer to a registered medical practitioner selected by the patient or next-of-kin.

1.2.3 The arrangements for consultation should be made or initiated by the attending practitioner. The attending practitioner should acquaint his patient of the approximate expenses, which may be involved in specialist consultations and examinations.

1.2.4 It is the duty of the practitioner consulted to avoid any word or action, which might disturb the confidence of the patient in the attending practitioner. Similarly, the attending practitioner should carefully avoid

any remark or suggestion, which would seem to disparage the skill or judgement of the practitioner consulted.

1.2.5 The practitioner consulted shall not attempt to secure for himself the care of the patient seen in consultation. At the end of consultation or further management where mutually agreed upon specifically between the referring practitioner and the consultant, the patient should be returned to the referring practitioner with a report including results of investigations and advice on further care of the patient.

1.2.6 The consultant is normally obliged to consult the referring practitioners before other consultants are called in.

1.3 The Practitioner and His Practice

Partners, Assistants and Locum Tenens.

There is an ethical obligation on a practitioner not to damage the practice of a colleague with whom he has been in professional association lately.

1.4 Improper Delegation of Medical Duties

1.4.1 Employment of Unqualified or Unregistered Persons

The employment by a registered practitioner in his professional practice, of persons not qualified or registered under the Medical Act 1971, and the permitting of such unqualified or unregistered person to attend, treat or perform operations upon patients in respect of matters requiring professional discretion or skill, is in the opinion of the Council in its nature fraudulent and dangerous to the public. Any registered practitioner who shall be proven to the satisfaction of the Council to have so employed an unqualified or unregistered person will be liable to disciplinary punishment.

1.4.2 Covering

Any registered practitioner who by his presence, countenance, advice, assistance or co-operation, knowingly enables an unqualified or unregistered person, whether described as an assistant or otherwise, to attend, treat, or perform operation upon a patient in respect of any matter requiring professional discretion or skill, to issue or procure the issue of any certificate, notification, report, or other document of a kindred character, or otherwise to engage in professional practice as if the said person were duly qualified and registered, will be liable, on proof of the facts to the satisfaction of the Council, to disciplinary punishment.

1.4.3 Association with Unqualified or Unregistered Persons

Any registered medical practitioner who, either by administering anaesthetics or otherwise, assists an unqualified or unregistered person to attend, treat, or perform an operation upon any other person in respect of matters requiring professional discretion or skill, will be liable on proof of the facts to the satisfaction of the Council to disciplinary punishment.

The foregoing part of this paragraph does not purport to restrict the proper training and instruction of bona fide medical students, or the legitimate employment of midwives, medical assistants, nurses, dispensers, and skilled mechanical or technical assistants, under the immediate personal supervision of a registered medical practitioner.

1.5 Medical Research

In the scientific application of medical research carried out on a human being, it is the duty of the practitioner to remain the protector of the life and health of that person on whom biomedical research is being carried out.

1.5.1 In any research on human beings, each potential subject must be adequately informed of the aims, methods, anticipated benefits and potential hazards of the study and the discomfort it may entail. He or she

should be informed that he or she is at liberty to abstain from participation in the study and that he or she is free to withdraw his or her consent to participation at any time. The practitioner should then obtain the subject's freely given informed consent, preferably in writing.

- 1.5.2 The practitioner can combine medical research with professional care, the objective being the acquisition of new medical knowledge, only to the extent that medical research is justified by its potential diagnostic or therapeutic value for the patient.
- 1.5.3 A medical practitioner shall use great caution in divulging discoveries or new techniques or treatment through non-professional channels.
- 1.5.4 The results of any research on human subjects should not be suppressed whether adverse or favourable.

1.6 The Practitioner and the Pharmaceutical/Medical Equipment Industry

The medical profession and the pharmaceutical industry have common interests in the research and development of new drugs of therapeutic value.

- 1.6.1 A prescribing practitioner should not only choose but also be seen to be choosing the drug or appliance which, in his independent professional judgement, and having due regard to economy, will best serve the medical interests of his patient. Practitioners should therefore avoid accepting any pecuniary or material inducement which might compromise, or be regarded by others as likely to compromise, the independent exercise of their professional judgement in prescribing matters.
- 1.6.2 It is improper for an individual practitioner to accept from a pharmaceutical firm monetary gifts or loans or expensive items of equipment for his personal use.

1.6.3 No objection can, however, be taken to grants of money or equipment by firms to institutions such as hospitals, health care centres and university departments, when they are donated specifically for purposes of research or patient care.

2. ABUSE OF PROFESSIONAL PRIVILEGES AND SKILLS

2.1 Abuse of Privileges Conferred by Law

2.1.1 Prescribing of Drugs

The prescription of controlled drugs is reserved to members of the medical profession and of certain other professions, and the prescribing of such drugs is subject to statutory restrictions.

The Council regards as infamous conduct in a professional respect the prescription or supply of drugs including drugs of dependence otherwise than in the course of bona fide treatment. Disciplinary proceedings may also be taken against practitioners convicted of offences against the laws which control drugs where such offences appear to have been committed in order to gratify the practitioner's own addiction or the addiction of other persons.

2.1.2 Dangerous Drugs

The contravention by a registered practitioner of the provision of the Dangerous Drugs Ordinance and the Regulations made thereunder may be the subject of criminal proceedings, and any conviction resulting therefrom may be dealt with as such by the Council in exercise of their powers under the Medical Act 1971. But any contravention of the Ordinance or Regulations, involving an abuse of the privileges conferred thereunder upon registered practitioners, whether such contravention has been the subject of criminal proceedings or not, will if proved to the satisfaction of the Council, render a registered practitioner to disciplinary punishment.

2.1.3 Sale of Poisons

The employment for his own profit and undercover of his own qualifications by any practitioner who keeps a medical hall, open shop, or other place in which scheduled poisons or preparations containing scheduled poisons are sold to the public, of assistants who are left in charge but are not legally qualified to sell scheduled poisons to the public is in the opinion of the Council, a practice professionally discreditable and fraught with danger to the public, and any registered practitioner who is proved to the satisfaction of the Council to have so offended will be liable to disciplinary punishment.

2.1.4 Certificates, Notifications, Reports, etc.

Registered practitioners are in certain cases bound by law to give, or may from time to time be called upon or requested to give particulars, notifications, reports and other documents of a kindred character, signed by them in their professional capacity, for subsequent use either in the Courts or for administrative purposes.

Practitioners are expected by the Council to exercise the most scrupulous care in issuing such documents, especially in relation to any statement that a patient have been examined on a particular date.

Any registered practitioner who shall be proved to the satisfaction of the Council to have signed or given under his name and authority any such certificate, notification, report or document of a kindred character, which is untrue, misleading or improper, will be liable to disciplinary punishment.

2.1.5 Induced Non-Therapeutic Abortion

The Medical Council regards induced non-therapeutic abortion a serious infamous conduct and if proved to the satisfaction of the Council, a practitioner is liable to disciplinary action. A criminal conviction in Malaysia or elsewhere for the termination of pregnancy in itself affords grounds for disciplinary action.

2.2 Abuse of Privileges Conferred by Custom

2.2.1 Abuse of Trust

Patients grant practitioners privileged access to their homes and confidence and some patients are liable to become emotionally dependent upon the practitioner. Good medical practice depends upon the maintenance of trust between practitioners and patients and their families, and the understanding by both that proper professional relationships will be strictly observed. In this situation, practitioners must exercise great care and discretion in order not to damage this crucial relationship. Any action by a practitioner, which breaches this trust, may raise the question of infamous conduct in a professional respect.

2.2.2 Abuse of Confidence

A practitioner may not improperly disclose information, which he obtained in confidence from or about a patient.

2.2.3 Undue Influence

A practitioner may not exert improper influence upon a patient to lend him money or to obtain gifts or to alter the patient's will in his favour.

2.2.4 Personal Relationships Between Practitioners and Patients

A practitioner may not enter into an emotional or sexual relationship with a patient (or with a member of a patient's family) which disrupts that patient's family life or otherwise damages, or causes distress to the patient or his or her family.

3. CONDUCT DEROGATORY TO THE REPUTATION OF THE PROFESSION

The medical practitioner is expected at all times to observe proper standards of behaviour in keeping with the dignity of the profession.

3.1 Respect for Human Life

The utmost respect for human life should be maintained even under threat, and no use should be made of any medical knowledge contrary to the laws of humanity.

The practitioner shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence of which the victim of such procedures is suspected, accused or guilty, and whatever the victim's beliefs or motives and in all situations, including armed conflict and civil strife.

The practitioner shall not provide any premises, instruments, substances or knowledge to facilitate the practice of torture or other forms of cruel, inhuman or degrading treatment or to diminish the ability of the victim to resist such treatment.

3.2 Personal Behaviour

The public reputation of the medical profession requires that every member should observe proper standards of personal behaviour, not only in his professional activities but at all times. This is the reason why the conviction of a practitioner for a criminal offence may lead to disciplinary proceedings even if the offence is not directly connected with the practitioner's profession.

3.2.1 Personal Misuse or Abuse of Alcohol or Other Drugs

In the opinion of the Council, conviction for drunkenness or other offences arising from misuse of alcohol (such as driving a motor car when under the influence of drinks) indicate habits which are discreditable to the profession and may be a source of danger to the practitioner's patients. Convictions for drug abuse and drunkenness may lead to an inquiry by the Malaysian Medical Council.

A practitioner who treats patients or performs other professional duties while he is under the influence of alcohol or drugs, or who is unable to perform his professional duties because he is under the influence of alcohol or drugs is liable to disciplinary proceedings.

3.2.2 Dishonesty : Improper Financial Transactions

A practitioner is liable to disciplinary proceedings if he is convicted of criminal deception (obtaining money or goods by false pretences), forgery, fraud, theft or any other offence involving dishonesty.

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 health services of the Government of Malaysia.

The Council also takes a serious view of the prescribing or dispensing of drugs or appliance for improper motives. A practitioner's motivation may be regarded as improper if he has prescribed a drug or appliance purely for his financial benefit or if he has prescribed a product manufactured or marketed by an organization from which he has accepted an improper inducement.

The Council also regards fee splitting or any form of kickback arrangement as an inducement to refer a patient to another practitioner as unethical. The premise for referral must be quality of care. Violation of this will be considered by the Council as infamous conduct in a professional respect.

However, fee sharing where two or more practitioners are in partnership or where one practitioner is assistant to or acting for the other is permissible.

3.2.3 Indecency and Violence

Any conviction for assault or indecency would render a practitioner liable to disciplinary proceedings, and would be regarded with particular gravity if the offence were committed in the course of a practitioner's professional duties or against his patients or colleagues.

3.3 Incompetence to Practice

Where a practitioner becomes aware of a colleague's incompetence to practice, whether by reason of taking drugs or by physical or mental incapacity, then it is the ethical responsibility of the practitioner to draw this to the attention of a senior colleague who is in a position to act appropriately.

3.4 The Practitioner and Commercial Undertakings

The practitioner is the trustee for the patient and accordingly must avoid any situation in which there is a conflict of interest with the patient.

A general ethical principle is that a practitioner should not associate himself with commerce in such a way as to let it influence, or appear to influence, his attitude towards the treatment of his patients.

The association of a 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 is unproven or of an undisclosed nature or composition will be considered as infamous conduct in a professional respect.

A practitioner has a duty to declare an interest before participating in discussion, which could lead to the purchase by a public authority of goods, or services in which he, or a member of his immediate family, has a direct or indirect pecuniary interest. Non-disclosure of such information may, under certain circumstances, amount to infamous conduct in a professional respect.

Where the practitioner has a financial interest in any facility to which he refers patients for diagnostic tests, for procedures or for in-patient care, it is ethically necessary for him to disclose his interest in the institution to the patient.

4. ADVERTISING, CANVASSING AND RELATED PROFESSIONAL OFFENCES

The medical profession in this country has long accepted the convention that doctors should refrain from self-advertisement. In the Council's opinion, self-advertisement is not only incompatible with the principles, which should govern relations between members of a profession but could be a source of danger to the public. A practitioner successful at achieving publicity may not be the most appropriate doctor for a patient to consult. In extreme cases, advertising may raise illusory hopes of a cure.

4.1 Advertising and Canvassing

4.1.1 Advertising, whether directly or indirectly, for the purpose of obtaining patients, or promoting his own professional advantage, or for any such purpose, of procuring or sanctioning, or acquiescing in, the publication of notices commending or directing attention to the practitioner's professional skill, knowledge, services, or qualification, or depreciating those of others, or of being associated with, or employed by, those who procure or sanction such advertising or publication, and canvassing, or employing any agent or canvasser, for the purpose of obtaining patients; or of sanctioning, or of being associated with or employed by those who sanction, such employment, e.g. private hospitals, clinics and other medical institutions are in the opinion of the Council contrary to the public interest and discreditable to the profession of medicine, and any registered medical practitioner who resorts to any such practice renders himself liable, on proof of the facts to the satisfaction of the Council to disciplinary punishment.

4.1.2 The Council recognizes that the profession has a duty to disseminate information about advances in medical sciences and therapeutics provided it is done in an ethical manner.

4.2 Announcement in the Lay Press Regarding Practice

An announcement by the Malaysian Medical Association on the commencement or change of address of practice is permissible as a service to the community.

4.3 Professional Calling Cards

A practitioner may carry calling cards but he should not distribute calling cards with the purpose of soliciting patients. The information permitted on a professional calling card is contained in Appendix II.

4.4 Signboards

A signboard for the purpose of assisting patients to locate a practitioner is permissible provided it conforms to the limits laid down by the Council as contained in Appendix III.

4.5 Name Plates/Doorplates

These should conform with the limits laid down by the Council as contained in Appendix IV.

4.6 24-Hour Clinics

These should conform with the requirements laid down by the Council as contained in Appendix V.

PART III

DISCIPLINARY PROCEDURE

1. PRELIMINARY INVESTIGATION COMMITTEE

In accordance with regulation 26, Medical Regulations 1974 :

- (1) The President of the Council from time to time appoint a committee from among practitioners who are willing to act, which committee shall be known as a Preliminary Investigation Committee (hereinafter referred to as "Committee") whose function shall be to make a preliminary investigation into complaints or information touching any disciplinary matter.
- (2) A Committee shall consist of such number of members not being less than three, or more than six, as the President may from time to time think fit and shall be appointed in connection with one or more than one complaint or information touching any disciplinary matter.
- (3) The President may at any time revoke the appointment of any member of any Committee or may remove any member of a Committee or fill any vacancy in any Committee or subject to sub-regulation (2), increase the number of members of a Committee :

Provided that no act done or proceeding taken under these Regulations shall be questioned on the ground of any vacancy in the membership of or any defect in constitution of such Committee.

- (4) The quorum of a Committee shall be two.
- (5) The President shall nominate a practitioner from among members of a Committee to be the Chairman of such Committee.

- (6) The Chairman shall preside at all meetings of such Committee :
Provided that in the absence of the Chairman, the most senior practitioner present at that meeting of such Committee shall preside.
- (7) The decision of a Committee shall be unanimous or by a majority.

1.1 Complaint against Practitioners

In accordance with Regulation 27, Medical Regulations 1974, where a complaint or information is made against any practitioner alleging that such a person :

- (a) has been convicted in Malaysia or elsewhere of any offence punishable with imprisonment (whether in itself only or in addition to or in lieu of a fine);
- (b) has been guilty of infamous conduct in any professional respect;
- (c) has obtained registration by fraud or mis-representation;
- (d) has since been removed from the register of medical practitioners maintained in any place outside Malaysia;

Such complaint or information shall be forwarded by the President to the Chairman of the Committee.

1.2 Summary Dismissal of Complaint

In accordance with Regulation 28, Medical Regulations 1974 :

- (1) The Committee to which such complaint or information has been forwarded, may summarily dismiss any complaint or information if it is satisfied :

- (a) that the name and address of the complainant is unknown or untraceable;
- (b) that even if the facts were true, the facts do not constitute a disciplinary matter; or
- (c) for reasons which must be recorded, that there is reason to doubt the truth of the complaint or the facts alleged by him.

1.3 Procedure of Inquiry

In accordance with Regulation 29, of the Medical Regulations 1974 :

- (1) Where the Committee has reason to believe that the complaint or information is probably true, it shall :
 - (a) by order in writing require the attendance before the Committee, on a date and time and at a place to be specified therein, of the complainant and any person who from the complaint or information given or otherwise appears to be acquainted with the circumstances;
 - (b) inform the practitioner against whom the allegations are made, the substance of the complaint or information, the date, time and place at which the inquiry into the complaint or information shall be made and of his rights to be present with or without counsel, to cross-examine such persons who may be called at the inquiry.
- (2) The Committee shall convene on the date, time and place specified in the order and shall proceed to inquire into the allegation made against the practitioner.

- (3) The Committee shall examine the complainant and the persons in support of the allegation, who may in turn be cross-examined for the practitioner and if necessary re-examined and shall reduce to writing the statement made by the complainant and such persons examined.
- (4) After taking the statements of the complainant and the persons in support of the allegation, the Committee shall :
 - (a) if it finds that there are not sufficient grounds to support the allegation, recommend to the Council that no action be taken; or
 - (b) if it finds that the statements support the allegation, frame the charge and explain to the practitioner that he is at liberty to state his defence on the charge framed against him.
- (5) If the practitioner after being informed of his right under sub-regulation (4) elects not to make a statement, the Committee shall recommend that there shall be an inquiry by the Council.
- (6) If the practitioner elects to make his defence before the Committee, the Committee shall record his statement as far as possible, word for word.
- (7) After taking the practitioner's name, the Committee shall :
 - (a) if it finds that there are no sufficient grounds to support the charge, recommend to the Council that no action be taken; or
 - (b) if it finds that there are grounds to support the charge, recommend to the Council that there shall be an inquiry by the Council.

1.4 Records of Inquiry to be Transmitted to the Council

In accordance with Regulation 30 of the Medical Regulations 1974, the records of any preliminary inquiry by the Committee shall be prepared and sent to the Council within sixty days of completion of such inquiry.

2. ENQUIRY BY THE COUNCIL

In accordance with Regulation 31 of the Medical Regulation 1974 :

- (1) The Council shall, where the Committee recommends that there shall be an inquiry, and may, for reasons to be recorded, in cases where the Committee, after hearing the statements of the complainants and other persons in support of the allegation has recommended that no action be taken, hold a disciplinary inquiry against the practitioner.
- (2) The Council shall cause to be served on the practitioner a notice specifying the date, time and place of inquiry and shall provide such practitioner with a copy of the charge or charges framed by the Council after a consideration of the records submitted by the Committee.
- (3) The Council shall not, on the date of the inquiry require any further statement to be recorded or made by the complainant or such persons who have made statements before the Committee :

Provided that it may call for and shall record any statement from any such person if it is of the opinion that it would be fair and just to do so.

- (4) The Council shall, if after considering the statements made by the complainant and other persons in support of the allegations as found in the records of the preliminary inquiry by the Committee, it is satisfied that there are grounds to support the charge call upon the practitioner to make any further statement as he deems necessary and to call such other persons as he may require to support his defence and shall record such further statement or fresh statement.
- (5) If at the close of the inquiry, the Council finds that no case has been made out against the practitioner, it shall direct that the charges be dismissed and shall inform the practitioner accordingly.
- (6) If at the close of the inquiry, the Council finds the practitioner guilty of any disciplinary matter specified in Section 29 (2) of the Act, it shall inform the practitioner of its finding and the grounds for its decision and shall request such practitioner to make any plea in mitigation as he deems fit.
- (7) The Council shall, after hearing any plea in mitigation, exercise any of its power specified in Section 30 of the Act.

3. DISCIPLINARY POWERS OF THE COUNCIL

In accordance with Section 30 of the Medical Act 1971, the Council may, in the exercise of its disciplinary jurisdiction, impose any of the following punishments :

- (i) order the name of such registered person to be struck off from the Register; or
- (ii) order the name of such registered person to be suspended from the Register for such period as it may think fit; or
- (iii) order the registered person to be reprimanded; or

- (iv) make any such order as aforesaid but suspend the application thereof, subject to such conditions as the Council may think fit, for a period, or periods in the aggregate, not exceeding two years;

any way, in any case, make such order as the Council thinks fit with regard to the payment of the costs of the Register and of any complainant or of the registered person, and any costs awarded may be recovered as a civil debt.

4. APPEAL AGAINST ORDERS OF THE COUNCIL

In accordance with Section 31 of the Medical Act 1971 :

- (1) Any person who is aggrieved by any order made in respect of him by the Council in the exercise of its disciplinary jurisdiction may appeal to the High Court, and the High Court may thereupon affirm, reverse or vary the order appealed against or may give such direction in the matter as it thinks proper; the cost of the appeal shall be in the discretion of the High Court.
- (2) The decision of the High Court upon such appeal shall be final.
- (3) The practice in relation to any such appeal shall be subject to the rules of court applicable in the High Court.

Provided that the High Court shall not have power to hear any appeal against an order made under Section 30 unless notice of such appeal was given within one month of the service of the order in the prescribed manner.

5. RESTORATION OF NAME TO REGISTER

In accordance with Section 31A of the Medical Act 1971 :

- (1) No person whose name has been struck off from the Register under the provisions of paragraph (i) of Section 30 shall thereafter be entitled to be registered as a medical practitioner under the provisions of the Act, but the Council may, if it thinks fit in any case to do so, on the application of the person concerned, order that the name of such person be restored to the Register; and where the name of a person has been suspended from the Register under paragraph (ii) of that Section such person shall be entitled at the expiration of period of suspension, but not earlier, to apply for the certificate of registration and the annual practicing certificate (if the period for which it is issued is still unexpired) to be returned to him.
- (2) An application under Sub-Section (1) shall be made in such manner or form and accompanied by such documents, photographs, particulars and fees as may be prescribed.

6. APPOINTMENT OF LEGAL ADVISER

In accordance with Regulation 32 of the Medical Regulations 1974 :

- (1) The Council or any Committee may appoint a legal adviser to assist the Council or Committee during any inquiry touching on disciplinary matter.
- (2) The Council or Committee may appoint any person who is and has been an advocate and solicitor for a period of not less than five years to advise it on :
 - (a) all questions of law ensuing in the course of the inquiry; and
 - (b) the meaning and construction of all documents produced during the inquiry.

7. MEMBERS WHO ARE DISQUALIFIED FROM ANY MEETING OF THE COUNCIL INQUIRING INTO ANY DISCIPLINARY MATTER

In accordance with Regulation 33 of the Medical Regulations 1974, no member of the Council or the Committee shall attend or participate in any meeting of the Council or the Committee inquiring into any disciplinary matter if :

- (a) he was the complainant;
- (b) he is personally acquainted with any relevant fact;
- (c) he has appeared before the Committee for the purpose of making any statement;
- (d) he was a member of the Committee making preliminary investigation into the complaint or information; or
- (e) the complainant, the persons appearing before the Committee for the purpose of making any statement or the registered person is his partner or relative.

DECLARATION OF GENEVA

Adopted by the 2nd General Assembly of the World Medical Association, Geneva, Switzerland, September 1948, amended by the 22nd World Medical Assembly, Sydney, Australia, August 1968, and the 35th World Medical Assembly, Venice, Italy, October 1983.

AT THE TIME OF BEING ADMITTED AS A MEMBER OF THE MEDICAL PROFESSION :

I SOLEMNLY PLEDGE myself to consecrate my life to the service of humanity;

I WILL GIVE to my teachers the respect and gratitude which is their due;

I WILL PRACTICE my profession with conscience and dignity;

THE HEALTH OF MY PATIENT will be first consideration;

I WILL MAINTAIN by all the means in my power, the honour and the noble traditions of the medical profession;

MY COLLEAGUES will be my brothers;

I WILL NOT PERMIT consideration of religion, nationality, race, party politics or social standing to intervene between my duty and my patient;

I WILL MAINTAIN the utmost respect for human life from its beginning even under threat and I will not use my medical knowledge contrary to the laws of humanity;

I MAKE THESE PROMISES solemnly, freely and upon my honour.

Appendix II

PROFESSIONAL CALLING CARDS

The calling cards should only contain the name of the practitioner, registrable professional qualifications, State and National awards, home address and telephone number(s), practice address(es) and telephone number(s).

Appendix III

SIGNBOARDS

The Council agrees to the following limits to signboards for registered practitioners :

- (1) There shall not be more than two (2) signboards to indicate the identity of the medical clinic or practice.
- (2) It/They shall not be floodlit or illuminated.
- (3) The total combined area of the signboard or signboards (if 2 signboards are used) should NOT exceed 2.787 sq. meters (30-sq. ft.). This includes lettering fixed or painted on walls or any other backing where the perimeter enclosing the lettering should not exceed 2.787 sq. meters (30-sq. ft.) in total.

The Council felt that clinics may actually require more than one signboard and agreed that it be restricted to a maximum of two provided the total combined areas of the two signboards do not exceed 2.787 sq. meters (30 sq. ft.).

Adopted by Council at its 35th Meeting on 29th July 1985.

NAMEPLATES/DOORPLATES

1. Nameplates should be plain and should not exceed 930.25-sq. cm. (1 sq. ft.) in dimension.
2. The nameplates may bear the following :
 - 2.1 the practitioner's name
 - 2.2 his registrable qualifications in small letters
 - 2.3 titles may be included.
3. A separate doorplate not exceeding 930.25-sq. cm. (1 sq. ft.) is permitted to indicate his consultation hours.
4. Where it is considered necessary for an assistant to have his own nameplate, the normal rules relating to plates continue to apply.
5. Visiting practitioners may have their nameplates, provided the day(s) and hour(s) of practice are stated.
6. Nameplates of practitioners who do not practice in the clinic are not permitted to be exhibited.

Adopted by Council at its 35th Meeting on 29th July 1985.

24-HOUR CLINIC

1. No additional signboards are permitted.
2. Notification of the availability of 24-hour service should be on the doorplate pertaining to consultation hours or on the existing clinic signboard.
3. Qualified and registered practitioners should be available at all times and his availability should be within a reasonable period of time not exceeding thirty (30) minutes.
4. A practitioner may not operate more than one 24-hour clinic at the same time.
5. In the event that an emergency arises requiring the practitioner to be called away, the clinic should do one of the following :
 - 5.1 not to accept new patients until the practitioner is back in the clinic;
 - 5.2 inform intending patients that the practitioner is not available.

Adopted by Council at its 35th Meeting on 29th July 1985.

REFERENCES

1. Laws of Malaysia. Act 50 - Medical Act 1971.
2. Malaysian Medical Council, Medical Ethics, 1975.
3. Malaysian Medical Association, Code of Medical Ethics, 1985.
4. General Medical Council, Professional Conduct and Discipline : Fitness to Practice, London : GMC, 1985.
5. Australian Medical Association, Code of Ethics, 1980.
6. Report of Malaysian Medical Council Sub-Committee on "Signboards" adopted by Council at its 35th meeting on 29th July 1985.
7. The World Medical Association, Handbook of Declarations, 1985.

**GUIDELINES ON PUBLIC INFORMATION BY PRIVATE HOSPITALS,
CLINICS, RADIOLOGICAL CLINICS AND MEDICAL LABORATORIES**

1. EXEMPTIONS

These guidelines do not apply to the following :

- 1.1 The current practice of information being circulated within the profession through medical journals and newsletters which are published by medical bodies.
- 1.2 The present arrangement where the Malaysian Medical Association and Malaysian Dental Association have been granted approval by the Honourable Minister of Health to publish advertisements.

2. GENERAL PRINCIPLES

- 2.1 The purpose shall be to inform the public about the type and nature of health care services available to them. The information should however be general in nature.
- 2.2 The authenticity and the accuracy of the information imparted should be verifiable by the controlling Board. The Public should not be misled into drawing false impressions of the private hospital/clinic/radiological clinic and medical laboratory.
- 2.3 The information provided shall be in strict adherence to these set guidelines.
- 2.4 The information shall be in any media which is based, registered and published or circulated in Malaysia, and approved by the Board, Announcement over the Radio, Television, Rediffusion or Cinema is

prohibited. The use of billboards, banners and similar devices are also prohibited.

- 2.5 Unsolicited communication with potential clients for the purpose of touting and enticing patients is prohibited.
- 2.6 Information about advances in medical services and therapeutics is best conducted through the appropriate medical forums to avoid the risk of unbalanced and inaccurate reporting.
- 2.7 In conducting opening ceremonies, it is the responsibility of the management to ensure that it does not result in undue publicity. The management should also not allow the insertion of congratulatory message.

3. INFORMATION WHICH MAY BE DISCLOSED IN THE ANNOUNCEMENT ARE AS FOLLOWS :

3.1 General Information

- (a) Name and location
- (b) Telephone number
- (c) Hours of service
- (d) Types of accommodation and facilities
- (e) Charges for the various services and facilities.

3.2 Professional Services

e.g. Surgical, Maternity, Accident & Emergency, Rehabilitation.

4. INFORMATION WHICH IS NOT PERMITTED

- 4.1 The use of comparison, either direct or by implication between one hospital, clinic, radiological clinic or medical laboratory and another is

prohibited. The use of superlative in describing the available services or facilities are also not permitted.

- 4.2 There should be no mention of names and personal references of doctors associated with the hospital, clinic, radiological clinic or medical laboratory. Testimonials from patients shall not be published or printed.

5. MEDIA

5.1 Print Media

5.1.1 Lay Press (Newspapers)

- | | | | |
|-----|--------------|---|---|
| (a) | Maximum size | : | No restriction |
| (b) | Frequency | : | the announcement shall only be allowed on the commencement or change of address of practice. The approved information can be published for 3 consecutive days. If it should appear in separate papers, it should be on the same 3 consecutive days. |
| (c) | Colour | : | No restriction |
| (d) | Photographs | : | Permitted |
| (e) | Logos | : | Could be used |
| (f) | Content | : | As approved by the Board |

- (g) Change of telephone number : Such announcement to be allowed but the size shall be limited to 8 cm x 5 cm.

5.1.2 Yellow Pages and Other Directories

- (a) Maximum size : Not exceeding one page
- (b) Frequency : At every edition of the yellow pages
- (c) Colour : No restriction
- (d) Photographs : Not permitted
- (e) Logos : Could be used
- (f) Content : As approved by the Board

5.1.3 Pamphlets and Brochures

- (a) Colour : No restriction
- (b) Photographs : Permitted
- (c) Logos : Could be used
- (d) Content : As approved by the Board
- (e) Location map : Permitted

- (f) Distribution : Pamphlets/brochures approved by the Board could be allowed within the premises of the practice/hospital, hotel and travel agencies but should not be distributed to the public at large.

5.1.4 Medical Publications

Only medical journals and newsletters which are published by medical bodies for circulation to doctors are allowed. The information published in these medical journals/newsletters shall not be reproduced and distributed.

- (a) Maximum size : Not exceeding one page
- (b) Frequency : No restriction
- (c) Colour : No restriction
- (d) Photographs : Permitted
- (e) Logos : Could be used
- (f) Content : As approved by the Board
- (g) Change of telephone number : Such announcement to be allowed but the size shall be limited to 8 cm x 5 cm

5.1.5 Magazine/Handbook

- (a) Maximum size : Not exceeding one page
- (b) Colour : No restriction
- (c) Photographs : Permitted
- (d) Location map : Permitted
- (e) Telephone/Fax/
Email : Permitted
- (f) Content : As approved by the Board
- (g) Distribution : Allowed for distribution within the premises of the practice/hospital only if it involves one hospital or a group of hospitals under the same management/company.
Allowed for distribution outside of the hospital if it involves many hospitals (not under the same management/company)

5.2 Displaying Board

- (a) Colour : No restriction
- (b) Logos : Could be used
- (c) Content : As approved by the Board

- (d) Location : Within the premises or outside front wall of the premise

5.3 Website/Homepage

- (a) Colour : No restriction
- (b) Photograph : Permitted
- (c) Logos : Could be used
- (d) Content : As approved by the Board

5.4 Other Media

- (a) Colour : No restriction
- (b) Photographs : Permitted
- (c) Logos : Could be used
- (d) Content : As approved by the Board
- (e) Distribution : As approved by the Board

6. REVIEW

These guidelines may be reviewed as and when necessary.

Source : Medical Advertisements Board, Ministry of Health, 19 March 1999.

DECLARATIONS

1. DECLARATIONS BY PROFESSIONAL MEDICAL ASSOCIATIONS

a. THE WORLD MEDICAL ASSOCIATION

- Declaration of Geneva
- Twelve Principles of Provision of Health Care in any National Health Care System
- International Code of Medical Ethics
- Regulations in Time of Armed Conflict
- Declaration of Helsinki
- (Recommendations Guiding Physicians in Biomedical Research Involving Human Subjects)
- Recommendations Concerning Medical Care in Rural Areas
- Statement on Family Planning
- Declaration of Sydney Statement on Death
- Declaration of Oslo Statement on Therapeutic Abortion
- Statement on the Use of Computers in Medicine
- Declaration of Tokyo (Guidelines for Medical Doctors Concerning Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment in relation to Detention and Imprisonment)
- Statement on the Use and Misuse of Psychotropic Drugs
- Declaration of Sao Paulo Statement on Pollution
- Resolution on Physician Participation in Capital Punishment
- Declaration on Principles of Health Care for Sports Medicine
- Declaration of Venice on Terminal Illness
- Recommendations Concerning Boxing
- Statement on Medical Manpower I
- Statement on Medical Manpower II
- Statement on Child Abuse and Neglect
- Statement on Freedom to Attend Medical Meetings

- Statement on Medical Manpower III
- Declaration on Human Rights and Individual Freedom of Medical Practitioners
- Statement on Live Organ Trade
- Declaration on Physician Independence and Professional Freedom
- Declaration on Madrid on Professional Autonomy and Self-Regulation
- Declaration on Rancho Mirage on Medical Education
- Statement on In-Vitro Fertilization and Embryo Transplantation
- Declaration on Euthanasia
- Declaration on Human Organ Transplantation
- World Medical Association Interim Statement on AIDS
- Statement on Genetic Counseling and Genetic Engineering
- Statement of Policy on Infant Health
- Statement on Access to Health Care
- Statement on the Professional Responsibility of Physicians in Treating AIDS Patients
- Statement on Academic Sanctions or Boycotts
- Resolution on Medical Group Practice
- World Medical Association Resolution
- Statement on Health Hazards of Tobacco Products
- Declaration on the Role of Physicians in Environmental and Demographic Issues
- Statement on Animal Use in Biomedical Research
- Statement on Generic Drug Substitution
- Statement on Fetal Tissue Transplantation
- Statement on Persistent Vegetative State
- Statement of Policy on the Care of Patients with Severe Chronic Pain in Terminal Illness
- Statement on Tobacco Manufacture, Import, Export, Sale and Advertising
- Declaration of Hong Kong on the Abuse of the Elderly
- Declaration of Chemical and Biological Weapons
- Resolution on Human Rights
- Resolution on Therapeutic Substitution
- Statement on Traffic Injury
- Declaration on Injury Control
- Statement on Adolescent Suicide

- Declaration of Malta on Hunger Strikers
- Declaration of WMA Fifth World Conference on Medical Education
- Resolution to Prohibit Smoking on International Flights
- Declaration on the Human Genome Project
- Statement on Physician-Assisted Suicide
- Statement on Home Medical Monitoring
- Telemedicine and Medical Ethics
- Resolution of the Council of the World Medical Association
- Statement on Noise Pollution
- Statement on Medical Malpractice
- Statement on Alcohol and Road Safety
- Statement on Issues Raised by the HIV Epidemic
- Statement on Body Searches of Prisoners
- Statement on Patient Advocacy and Confidentiality
- Statement on Safety in the Workplace
- Statement on Condemnation of Female Genital Mutilation
- Statement on the Right of a Woman to Contraception
- Resolution on Rededication to the Principles of the World Medical Association Ethical Standards
- Resolution on the Refugee Problem Around the World
- Resolution on Physician's Conduct Concerning Human Organ Transplantation
- Statement on Medical Ethics in the Event of Disasters

b. WORLD PSYCHIATRY ASSOCIATION

- WPA Statement and Viewpoints on the Rights and Legal Safeguards of the Mentally Ill
- Declaration of Hawaii/II
- Declaration on the Participation of Psychiatrists in the Death Penalty

c. ACOEM - CODE OF ETHICAL CONDUCT

This Code establishes standards of professional ethical conduct with which each member of the American College of Occupational and Environmental Medicine (ACOEM) is expected to comply. These standards are intended to guide occupational and environmental medicine physicians in their relationship with the individuals they serve employers and workers' representatives, colleagues in the health professions, the public and all levels of government including the judiciary.

2. DECLARATIONS BY UNITED NATIONS

- Principles of Medical Ethics
- The Protection of Persons with Mental Illness and the Improvement of Mental Health Care
- Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care

3. DECLARATIONS BY COUNCIL OF EUROPE

- Recommendation 818 (1977) on the Situation of the Mentally Ill
- Recommendation 1046 (1986) on the Use of Human Embryos and Fetuses for Diagnostic, Therapeutic, Scientific, Industrial and Commercial Purposes
- Recommendation No. R (78) 29 on Harmonization of Legislation's of Member States Relating to Removal Grafting and Transplantation of Human Substances
- Recommendation No. R (81) 1 to Member States on Regulations for Automated Medical Data Banks
- Recommendation No. R (83) 2 to the Member States Concerning the Legal Protection of Persons Suffering from Mental Disorder Placed as Involuntary Patients

- Recommendation No. R (90) 3 to Member States Concerning Medical Research on Human Beings

- Recommendation No. R (80) 15 to Member States Concerning a Better Distribution of Medical Care Inside and Outside Hospitals

- Recommendation No. R (90) 13 to the Member States on Prenatal Genetic Screening, Prenatal Genetic Diagnosis and Associated Genetic Counseling

You can peruse copies of these Declarations at the MMA Secretariat.

RULES OF THE ETHICS COMMITTEE
(APPENDIX I OF THE MMA CONSTITUTION)

RULE 1

- (i) Where a complaint is brought to the notice of the Honorary General Secretary of the Association regarding the professional conduct of a member of the profession, a direction shall be obtained by the Secretary from the Chairman of the Ethics Committee as to whether in his opinion there is a prima facie for investigation by the Association. If the complaint is unsigned or does not contain the original newspaper cutting (in the case of a complaint relating to alleged advertising), the Secretary will write to the complainant to rectify such defects before proceeding further on any complaint. All anonymous complaints, i.e. without a name or contact address will not be further acted upon, save at the discretion of the Ethics Committee in matters of serious concern to the Association. The Secretary shall keep the Chairman of the Ethics Committee informed of all correspondence on matters related to the Ethics Committee.

- (ii) In a case submitted by a member of the profession (hereinafter called "the complainant") who considers that he has been (or is) directed affected by what he alleges to be unprofessional conduct of another member of the profession, it shall be the duty of the Honorary Secretary of the Association before taking any further action to ascertain whether the complainant has communicated in writing with the other member of the profession (thereinafter called "the respondent") intimating that he contemplates the initiation of a complaint through the ethical machinery of the Association. If the complainant fails to take this step within two (2) weeks, the propriety of his action in having made the complaint may itself be made a matter for consideration. A copy of such a letter should be extended to the Honorary General Secretary.

- (iii) If any information is brought to the notice of the Chairman of the Ethics Committee whereby it appears that the professional conduct of a member of the profession has been open to question, it shall be competent for the Chairman to direct that the matter be treated as a complaint within the meaning of paragraph (i) hereof and (if necessary) further to direct the Honorary General Secretary or such other member of the secretariat staff of the Association as he may appoint, shall perform such of the duties of a complainant as he may be necessary under these Rules.

- (iv) If the Chairman or the Honorary Secretary of the Ethics Committee or a Branch Ethics Sub-Committee is aware of any information either in writing or verbally or becomes aware of any publication or circulars or stationery or of any broadcast in Radio or Television or of any sign or notice or writing on or near the premises of a Medical Practitioner, or of any publication in any other communication media, and if any of these appear to refer to one or more than one Medical Practitioner and it appears to be in contravention of The Code or the Code of Professional Conduct of the Malaysian Medical Council, the Chairman or the Honorary Secretary of the Committee or Committees above said shall write confidentially and by registered letter to the Medical Practitioner or Practitioners concerned setting forth the above said information and giving the Medical Practitioner two weeks to confirm or deny the truth of the information. If from the information supplied by the Medical Practitioner, it appears his professional conduct is open to question, or if the Medical Practitioner fails to reply within fourteen days, the matter may be treated as a complaint under para (i) and (ii) hereof.

RULE 2

Complaints regarding the professional conduct of individual members of the profession shall be considered by the Ethics Committee in the following circumstances :

- i) Upon reference from a Branch Committee.

- ii) Upon a report being made to the Council of the Association by a Branch Committee that the propriety of a member of the Association remaining a member may be called into question.

- iii) Upon a report from a member or non-member of the Malaysian Medical Association or a member of the public, whether the complainant is personally affected or not.
- iv) Where a matter is treated as a complaint under the provision of Rule 1 (iii).

RULE 3

An investigation regarding the professional conduct of a member of the profession may be held either at an ordinary meeting of the Ethics Committee or at a special meeting, at the discretion of the Chairman of the Ethics Committee. Not less than twenty-one day's notice of the meeting shall be given away to every member of the committee and to all parties concerned.

RULE 4

i) In cases other than appeal to the Council of the Association :

- (a) The Honorary General Secretary of the Association shall inform the respondent that a complaint regarding his conduct is to be brought to the notice of the Ethics Committee and shall invite him to submit his written observation on the matter or to supplement any explanation he has given on a previous occasion. If a reply is not received within 14 days, a further two reminders will be sent allowing an extension of 14 days each. Such letters shall be titled "First Reminder" and "Final Reminder".
- (b) Each party shall send to the Honorary General Secretary not less than 14 days prior to the date of the meeting of the Committee at which the complaint is to be investigated copies of all documents on which he intends to reply. Except with the consent of the Chairman and of other party, no other documents shall be considered but it may be considered or heard at an adjourned.

- (c) The committee shall investigate the facts of the case and shall take such evidence as shall be deemed by the Committee necessary for the purpose.
 - (d) The hearing of an appeal shall be held as a hearing de novo, but no party shall be entitled to adduce evidence additional to that called before the Ethics Committee by whom the case has previously been investigated without the permission of the President of the Council. Any application for permission to adduce additional evidence shall be made to the Honorary General Secretary not less than fourteen days before the date fixed for the hearing of the appeal.
- (ii) In cases of Appeal :
- a. The Honorary General Secretary of the Association shall inform both the complainant and the respondent that the appeal is to be considered by the Council of the Malaysian Medical Association and shall invite them to supplement any observation or explanations given on any previous occasion in writing.
 - b. Paragraphs (i) (b) shall apply to the Council of the Association when hearing an appeal.
 - c. Paragraphs (i) (c) and (i) (d) shall apply only as regards documents not relied on before the Ethics Committee.
 - d. No party shall be entitled to adduce evidence additional to that called before the Ethics Committee by whom the case has previously been investigated without the permission of the President of the Council. Any application for permission to adduce additional evidence shall be made to the Honorary General Secretary not less than 14 days before the date fixed for the hearing of the appeal.
- (iii) Legal assistance either paid or unpaid is not permitted on either side at the hearing, but the President may allow any person concerned in the investigation to be

assisted in presenting his case by a colleague who, except by permission of the Council, shall not be permitted to address the Council or to examine or cross examine witnesses.

RULE 5

Where the case is one affecting only the parties concerned, it shall be competent for the Committee after due investigation and investigation of the case under these Rules to approach both the complainant and the respondent with suggestions or advice regarding an amicable resolution of the dispute for their acceptance. If all parties adopt and subsequently put into effect such suggestions or advice the Committee may at its discretion, declare the case to be finally resolved. On receipt of information that such suggestions or advice have not been put into effect, the Committee shall with the permission of the Chairman, further consider the case at a further meeting of which notice shall be given under Rule 3 and for which the procedures shall be as laid down in Rule 4.

RULE 6

The Committee or Council shall, subject in Rule 5 after due investigation adopt a resolution in one of the following forms or in such other form as it may consider appropriate :

(I) IN ALL CASES OTHER THAN CASES OF APPEAL

- (i) That in the opinion of the Committee, the complaint has not been established, and that the case be dismissed.
- (ii) That in the opinion of the Committee, there has been no violation of the Articles, Rules (or Resolutions) of the Association or Branch, or of the generally accepted principles of professional conduct, and that no action be taken.

- (iii) That in the opinion of the Committee, the complaint is frivolous, and that the case be dismissed.
- (iv) That in the opinion of the Committee....has committed an indiscretion and error of judgement in that he has.....but that his conduct does not call for censure.
- (v) That in the opinion of the Committee....has violated :
 - (a) the Articles, Rules (or Resolutions) of the Association or Branch (and)
 - (b) the generally accepted principles of professional conduct, in that he has.....but that, in consideration of faults on the part of others concerned, the case be dismissed.
- (vi) That in the opinion of the Committee.....has violated :
 - (a) the Articles, Rules (or Resolutions) of the Association or Branch (and)
 - (b) the generally accepted principles of professional conduct, in that he has.....and that he be, and hereby is censured.
- (vii) That in the opinion of the Committee.....has violated :
 - (a) the Articles, Rules (or Resolutions) of the Association or Branch (and)
 - (b) the generally accepted principles of professional conduct, in that he has.....and that he be and hereby be referred to the Malaysian Medical Council.

- (viii) That in the opinion of the Committee, the conduct ofhas been (or is)
- (a) in violation of the Articles, Rules (or Resolutions) of the Association or Branch (and)
 - (b) detrimental to the honour or interests of the Association (and)
 - (c) detrimental to the honour or interests of the medical profession in that he has.....and (if a member) resolve that he be informed of this finding of the Committee and allowed until.....to consider his position; that the Honorary General Secretary of the Association be instructed to report in due course to the Committee upon his reply if any, and that, if upon, such further report the Committee shall consider his reply unsatisfactory, or if no reply be received within the time specified, it be recommended to the Council of the Association that the Council in the exercise of its power under the Articles of the Association do expel.....from membership of the Malaysian Medical Association.
- (ix) That it is recommended to the Council of the Association that the Council in the exercise of its powers under the Articles of Association do expel from membership of the Malaysian Medical Association.....of.....a member of theBranch, on the ground that his conduct is deemed by the Council to have been (or to be) :
- (a) detrimental to the honour and interests of the Association, (and)
 - (b) detrimental to the honour and interests of the medical profession, (and)
 - (c) calculated to bring the profession into disrepute, (and)
 - (d) such that he has wilfully and persistently refused to comply with the Regulations of the Association (or the Rule of the.....Branch).

In all cases in which a resolution is adopted by the Committee in terms of one of the alternatives contained in sub-paragraph (vii) or (ix) hereof the Committee shall prepare a statement for the information of the Council and such statement shall consist of the following :

- (i) all necessary particulars concerning the parties and the date and place of investigation, the nature of the evidence adduced before the Committee and such other matters of a like nature as the Committee shall think proper.
- (ii) a summary of the facts of the matter in dispute as found by the Committee to have been proved; and
- (iii) a statement of the inferences (if any) material to the issues in dispute drawn by the Committee from such facts.

(II) IN ALL CASES OF APPEAL EITHER

- (i) a resolution that the Council of the Association uphold the decision of the Committee and dismiss the appeal, or
- (ii) a resolution in one of the forms set out in sub-paragraph (I) (i), (ii), (iii), (iv), (v), (vii), (viii) and (ix) and in addition one of the following resolutions :
 - (a) that the appeal be allowed, or
 - (b) that the appeal be dismissed, or
 - (c) that the decision of the Committee be modified accordingly.

RULE 7

A copy of the Resolution of the Committee adopted under Rule 6 shall be sent by the Honorary General Secretary of the Association to the complainant and the respondent and to the Honorary General Secretary of such Branch (if any) as the Committee shall resolve to be directly concerned for the confidential information of the members of the Executive Committee of such Branch as the Committee shall resolve.

RULE 8

Save where the Committee has adopted a Resolution in terms of Rule 6 (I) (ix) if a medical practitioner shall make amends or express regret in writing to the satisfaction of the Ethics Committee, it shall be competent for the Committee subsequently by Resolution to rescind any Resolution passed under Rule 6 and to pass such further Resolution (if any) as may appear to them appropriate in all the circumstances.

RULE 9

The Resolution of the Committee upon a case, other than a case where the Committee has adopted a Resolution in terms of Rule 6 (I), (vii), (viii) or (ix) shall be final unless new facts shall subsequently be brought forward which, in the opinion of the Committee, justify the case being reopened. In a case where the Committee has adopted a Resolution in terms of Rule 6 (I) (vii), (viii) or (ix) such Resolution shall be final unless the case is referred back to the Committee by the Council and upon any reference back by the Council, it shall be open to the Committee to rescind such Resolution and to pass such further Resolution (if any) as may appear to them appropriate in all the circumstances.

RULE 10

- (i) In any case, where the Committee has adopted a Resolution in terms of Rule 6 (I) (vii), (viii) or (ix), the Honorary General Secretary of the Association shall communicate in writing with the respondent and the Honorary Secretary of the Branch of which the respondent is a member informing them of the date on which the Resolution will be considered by the Council and inviting them to submit prior to such date for the confidential information of the Council.
 - (a) In the case of the respondent, any representation which he desires to place before the Council; and
 - (b) In the case of the Honorary Secretary of a Branch, any report which the Executive Committee of the Branch shall resolve to place before the

Council in mitigation of the conduct of the respondent which report may refer to the character and status of the respondent and any other matter which such Branch Committee consider would further its purpose.

- (ii) Such communication from the Honorary General Secretary of the Association shall wherever reasonably practicable be sent so as to give both to the respondent and to the Honorary Secretary of the Branch not less than twenty-one days' notice and where an unreasonable delay would be caused by delaying the consideration of the matter until a later meeting of the Council.
- (iii) Any representation sent by the respondent and any report adopted by the Executive Committee of a Branch and submitted by the Honorary Secretary of such Branch under this Rule shall be communicated to the members of the Council and of the Ethics Committee only.

RULE 11

After a case has been referred to the Ethics Committee for investigation, if either party shall make any report or complaint or institute any proceedings based on the matter in dispute or anything in any way connected therewith, whether to any criminal or civil court or any body having statutory or other powers of discipline over either party while the matter is under consideration by the Ethics Committee or the Council, the Committee or the Council, as the case may be, may, at its discretion, adjourn or refuse to proceed with the investigation of the case.

RULE 12

- (i) If any member of the Ethics Committee shall have taken part in the previous investigation into any case, he shall be debarred from taking part in the consideration of such case as a member of the Council of the Association, but he shall not be debarred from giving evidence as to facts if called upon to do so.
- (ii) If any member of the Ethics Committee be personally concerned in a case or be principal or partner or assistant of any person so concerned, or have otherwise any

personal interest in or special knowledge of the case, he shall, before the consideration by the Ethics Committee of any report or recommendation thereon, disclose such interest to the Committee and, if so decided by the Committee, he shall retire from the meeting during such consideration, but he shall not be debarred from giving evidence as to facts if called upon to do so.

- (iii) Where the Chairman of the Ethics Committee is debarred from taking part in the consideration of a case under (i) or (ii) above, the Committee shall appoint one of its members to act as Chairman for the purpose of the case.

RULE 13

- (i) In every case in which the Ethics Committee shall, after due investigation in accordance with these Rules, have passed a Resolution declaring that in the opinion of the Committee, the conduct of any medical practitioner, whether by contravention of the Rules and Resolutions of a Branch, or otherwise, has been (or is) detrimental to the honour and interests of medical profession or of the Association, it shall be the duty of the Honorary General Secretary of the Association, if the Committee shall so resolve, to cause such Resolution to be brought directly to the knowledge of every member of the Branch in the area of which such practitioner resides, and every member of such other Branches as hereto, which Notice it shall be the duty of the Honorary General Secretary of the Association to authenticate by his signature. In the case of a Notice of which copies are made by a mechanical process, it shall suffice if the signature of the Secretary appears on the original Notice and is copied as part thereof.
- (ii) In any case in which the Ethics Committee shall, at the time of, or subsequently to, the adoption of a Resolution of the nature contemplated by paragraph (i) of this Rule, have also resolved that, in the opinion of the Committee, it is desirable that such Resolution shall be brought officially to the notice of any specified Branches of the Association, it shall be the duty of the Honorary General Secretary of the Association to transmit copies of the said Resolution to the Honorary Secretaries of the Branches so specified, whose duty it shall be to bring such Resolution in a proper manner to the notice of the Members of the Branch.

(iii) In any case in which the Committee has adopted a Resolution in terms of Rule 7 (I) (viii), no Resolution of the nature contemplated by paragraphs (i) or (ii) of this Rule shall be adopted by the Committee until after the consideration by the Committee of the report of the Honorary General Secretary under Rule 6 (I) (viii) and in any case in which Notices have been sent by the Honorary General Secretary under paragraphs (i) or (ii) of this Rule and in which the Committee subsequently rescinds its Resolution under Rule 8, it shall be the duty of the Honorary General Secretary to send to the recipients of the Notice so sent a further notice of such rescission and to take all reasonable steps to ensure that such further notice is received by all recipients of such original Notice.

FORM OF NOTICE REFERRED TO IN PARAGRAPH (i)

A. MALAYSIAN MEDICAL ASSOCIATION

(Private and Confidential)

NOTICE

In pursuance of Rule 14 of the Rules of the Ethics Committee of the Association relating to Complaints regarding Professional Conduct, Notice is hereby given that a meeting of the Committee, held at on the.....day of.....a Resolution in the following terms was duly passed :

"That, in the opinion of the Committee, the conduct of.....has been (or is) detrimental to the honour and interests of the medical profession and/or to the honour and interests of the Association in that he has....."

Signed in pursuance of the Rules of the Ethics Committee of the Malaysian Medical Association relating to the complaints regarding Professional Conduct.

Honorary General Secretary
Malaysian Medical Association

RULE 14

- (i) All notices or communication required by these Rules to be served on or sent to any person may in the case of a Member of the Association be served or sent either by personal delivery or by Registered Post in a prepaid letter addressed to such member at his address appearing in the Register of Members of the Association and in the case of a person who is not a member be served or sent either by personal delivery or by being sent through the post in a prepaid letter addressed to such person at his last known address. Any notice or communication if served by post shall be deemed to have been served on the day following that on which the letter is posted (unless such day following is a Sunday or other day on which no postal delivery is made, in which event the notice or communication shall be deemed to have been served on the day on which a postal delivery shall next be made) and in proving service, it shall be sufficient to prove that the letter was properly addressed and put into the Post Office.

- (ii) The Ethics Committee may appoint Ethics Sub-Committee in each of the Branches and delegate all or some of its functions to these Sub-Committees, which shall deal with all ethical complaints that arise within the Branch. Where an ethical complaint affects members in more than one Branch, it shall be referred to the Ethics Committee of the Association. In all ethical matters coming under the Ethics Sub-Committee, where the rules of the Ethics Committee or The Code refer to the Ethics Committee, this shall be read as referring to the Ethics Sub-Committee.

Each Ethics Sub-Committee shall consist of the Branch Chairman who shall be Chairman of the Sub-Committee, the Branch Secretary, who shall be the Secretary of the Sub-Committee, and three other members who shall be appointed by the Ethics Committee.

The Rules of the Ethics Committee shall generally apply to the Ethics Sub-Committee.

