APPENDIX: CODE OF ETHICS

Conduct, complaints, and discipline

Preamble

Medical Herbalism involves a relationship between Practitioners and Patients that is based on principles of integrity, trust and beneficence. Medical Herbalism supports and enables individuals, families, groups, and communities to restore, maintain or improve their health.

This Code of Ethics (COE) has been developed for Medical Herbalism within the New Zealand context and shares many aspects with the ethical practice of Medical Herbalism in the wider Western world.

This COE is a set of principles to guide good professional conduct for Medical Herbalists. These principles delineate the nature of the relationship that exists between a Medical Herbalist and their patients, colleagues, professional acquaintances, and the public at large. It sets expectations for professional conduct for members of the New Zealand Association of Medical Herbalists (the Association). This COE cannot resolve all ethical issues but does provide a framework for addressing ethical and practice-related issues that may arise.

This COE expresses the general principles applicable to all Medical Herbalists registered with the Association and then identifies the specific areas of ethical practice along with annotations. The general principles are incorporated within each specific area.

Due to the changes that occur over time within the health care environment, this COE will be reviewed every three years or, if deemed necessary, at short notice.

General Principles

The general principles of this Code of Ethics are as follows:

- Respect for Autonomy
- Non-malfeasance
- Beneficence
- Justice
- Protection of Privacy

Specific Areas of Ethical Practice

The specific areas of ethical practice of this COE are as follows:

1 Compliance with the Code of Ethics
2 Relations with Patients
3 Relations with Colleagues
4 Relations with the Public
5 Competence
6 Practice Management
7 Infringement of the Code of Ethics
8 Complaints Procedures
9 Disciplinary Procedures

Definitions

Code of Ethics: refers to this document and its latest version.

Association: refers to the New Zealand Association of Medical Herbalists.

Member: refers to any member of the New Zealand Association of Medical Herbalists.

Practitioner: refers to a Professional Practising Member.

Patient: refers to any person being treated by the Practitioner.

Treatment: refers to any prescriptive dietary, herbal or nutritional advice or recommendation given to the Patient.

Consultation: refers to a formal session between Patient and Practitioner where Treatment is provided.

Herbal Medicines: refer to plant-derived therapeutic products.

1. Compliance with the Code of Ethics

Members and Practitioners of the Association shall at all times comply with this COE and shall not bring the Association into disrepute.

1.1. Compliance to this COE will be considered when a complaint is made against a Member or Practitioner of the Association or a person who was a Member or Practitioner when the alleged offence took place. Practitioners failing to meet the requirements of this COE may be subject to disciplinary action on the grounds of unacceptable professional conduct (see section 7).

1.2. Members and Practitioners are reminded that this COE is no substitute for either medical or civil law.

1.3. Members, particularly Practitioners, are actively encouraged to be covered by professional and public liability insurance.

1.4. Members must comply with the Privacy Act (2020), which informs areas such as confidentiality and safekeeping of Patient information, and with all other New Zealand laws and regulations.

2. Relations with Patients

2.1 Practitioners shall recognise an obligation towards the Patient at all times and shall practise their profession to the best of their ability for the benefit of the Patient. The Patient's comfort, welfare, and future health must always have priority.

2.2 No discrimination will be made against Patients on any grounds including age, race, colour, gender, religion, education, sexual orientation, social class, political belief, philosophical persuasion, or disability.

2.3 All actions and Treatment applied to a Patient must be carried out with the informed consent of that patient or the caregiver of that Patient; if there is a significant risk of adverse effects this needs to be recorded in writing. A person from whom informed consent for examination or Treatment is sought, must possess the necessary intellectual and legal capacity to give consent. A Patient will have the intellectual capacity if able to understand in simple language what the examination or Treatment is, its purpose, and why it is being proposed, to understand its principal benefits, risk and alternatives, and to retain the information long enough to make an effective

decision with free choice. If the Patient does not have this capacity, the caregiver is required to provide consent on their behalf.

2.4 Written or spoken consent must be obtained from the parent or caregiver of Patients under the age of sixteen (16) years who seek Treatment. Physical examination of a child under the age of sixteen (16) years requires the presence of a third party, usually the parent or caregiver.

2.5 Examination or Treatment of any intimate area of any Patient regardless of age or gender requires the presence of a third party unless explicitly agreed to by the patient. Consent for examination or Treatment without the presence of a third party should be recorded in writing.

2.6 In an emergency situation where the Patient, or the Patient's caregiver, is unable to give consent, Treatment may be given if it is deemed to be in the Patient's best health interests.

2.7 The confidence of the Patient, and diagnostic findings acquired during Consultation, or in the course of Treatment, shall not be divulged to anyone without the Patient's consent, except where required to by law or where failure to take action would constitute a menace or danger to the Patient or another member of the community.

2.8 Practitioners shall not give guarantees regarding the results of any Treatment, nor exploit a Patient for financial gain or any other gain through inferences or misrepresentations of any sort.

2.9 Practitioners must act with consideration with regard to fees and the justification for any Treatment.

2.10 Practitioners shall not use their professional position to instigate, nor pursue, an improper relationship with a Patient, personal companion or relative of that Patient. This includes for personal, professional, political, financial, or sexual gain.

2.11 Where deemed necessary, the Practitioner should refer Patients promptly to another competent health professional and record this in Patient notes on the day of the Consultation.

2.12 Practitioners shall provide, to the satisfaction of the Patient, details of the Herbal Medicines and Treatments prescribed, if requested by the Patient to do so.

3. Relations with Colleagues

3.1 Members and Practitioners must at all times conduct themselves in a professional and respectful manner towards other health care professionals.

3.2 Members and Practitioners should be respectful towards the treatment philosophy of other health care providers.

3.3 Members and Practitioners must not speak publicly in a derogatory fashion of other health care providers.

3.4 Practitioners having Patients referred to them by another Practitioner shall return such Patients to the original Practitioner when the specified treatment is completed, unless otherwise by mutual agreement.

3.5 Members and Practitioners shall not denigrate another Practitioner's Treatment plan.

3.6 A Practitioner shall not knowingly interfere with any ongoing Treatment instigated by another Practitioner whilst the Patient is under that other Practitioner's care.

3.7 Practitioners concerned about a Patient's Treatment prescribed by another Practitioner must address the issue in a discreet and professional manner through an appropriate channel.

3.8 When Patients request a health care service outside the scope of practice of the Medical Herbalist it is the responsibility of the Practitioner to reasonably assist the Patient to find a suitable alternate practitioner.

3.9 Practitioners shall respect the intellectual property of other Practitioners and use it only with explicit consent and in accordance with any conditions specified.

4. Relations with the Public

4.1 Members and Practitioners must at all times conduct themselves in a professional manner towards the public, irrespective of the medium used (direct communication, newspaper, television, radio, internet, social media, or other media avenue).

4.2 Members and Practitioners must not make misleading claims regarding the ability to treat or cure illness, nor imply abilities beyond their competence.

4.3 Advertising must comply with legal requirements.

4.4 Advertising must be compatible and congruent with the standards of the profession of Medical Herbalism and must not contravene any of the points of this COE.

4.5 Members and Practitioners are permitted to lecture to the public on the topic of Medical Herbalism where the purpose is to promote and further the understanding of Medical Herbalism.

4.6 Practitioners shall not use titles or descriptions that give the impression of any medical or other qualifications to which they are not entitled.

5. Competence

5.1 Individuals are entitled to become Practitioner members of the Association on the completion of the training outlined in the education standards of the Association, or as approved by the committee.

5.2 Members actions must not bring the Association into disrepute.

5.3 Practitioners are responsible for undertaking their own continuing professional development (CPD) from within and outside of the Association.

5.4 Practitioners must be aware of current information and best practice regarding healing techniques they practise.

5.5 Practitioners must not claim competence that they do not possess.

5.6 Practitioners shall diligently monitor their fitness to practise with respect to their physical, mental, emotional, and spiritual health.

6. Practice Management

6.1 Practitioners must uphold the integrity of the profession of Medical Herbalism.

6.2 Practitioners must act with honesty and integrity.

6.3 Practitioners must manage their practice with due diligence.

6.4 All external notices and name plates advertising any professional practice must conform to legal and professional requirements.

6.5 Any persons employed within a clinical practice are required to be suitably trained for their position.

6.6 The Practitioner is responsible for any actions undertaken by an employee or assistant working within their practice who is not registered as a Member of the Association.

6.7 Practitioners must provide a 'Practice Complaints Procedure' notice within their practice that is clearly visible to patients, in accordance with the New Zealand Health & Disability Consumer Code of Rights (https://www.hdc.org.nz/your-rights/about-the-code/code-of-health-and-disability-services-consumers-rights/). A standard complaints procedure notice for Practitioners to display is available from the Association.

6.8 Practitioners shall display their current practising certificate in a prominent position in their premises within easy viewing of the patient and provide this Code of Ethics if requested.

6.9 Practitioners' premises must be maintained in a safe and hygienic condition and Practitioners must follow all public health requirements regarding safe practice.

6.10 Practitioners are responsible for the safe and effective disposal of items deemed unsafe.

6.11 Where a face-to-face consultation is not practical, the Practitioner may provide an online or a phone consultation. In doing so, the practitioner must ensure:

a) that where deemed necessary and appropriate according to clinical judgement, the Patient is recommended to be assessed in person by an appropriately qualified health practitioner; and

b) the Practitioner has the responsibility to review any available and supplied reports generated from consultations conducted by another appropriately qualified practitioner; and

c) if at all possible, in the course of treatment the Patient is seen in person at least once.

6.12 Patient confidentiality is a legitimate expectation of Patients and must be adhered to at all times. Practice personnel must maintain the same level of confidentiality as the Practitioner, as per the Privacy Act 2020.

6.13 The safekeeping of Patient records is the responsibility of the Practitioner and/or practice manager, as per the Privacy Act 2020.

6.14 Patient records must be kept in a safe and secure place for no less than ten (10) years from the date of the last appointment, unless transferred to another practitioner, or to the Patient. Disposal of Patient notes must comply with the Privacy Act 2020.

6.15 The transfer of Patient records is to be carried out only with the written consent of the Patient.

6.16 Patients or registered caregivers must be given access to Patient records if requested.

6.17 Patient records can be disclosed without Patient or caregiver consent in situations of legal requirement or where failure to disclose would constitute a menace or danger to the Patient or another member of the community.

6.18 Patient records and the information contained therein may be used in instances of clinical trial, clinical audit, case-history reporting, qualitative research or any other method of research only with the written informed consent of the Patient or caregiver concerned. This must be accompanied by an assurance of maintenance of confidentiality.

6.19 Whenever acting as a *locum tenens*, Practitioners must not attempt to secure the future care of any Patients.

6.20 Practitioners in private practice are expected to prescribe Treatment in combinations that are individualised to the needs of the Patient that they are treating at that time.

6.21 Practitioners should not use herbal medicines derived from any wild species that are known to be threatened or endangered in their natural habitat. Practitioners have a responsibility to ensure that they are aware of the population status of medicinal herbs. Practitioners should be aware of, and respect, any treaties and national laws relating to medicinal plant conservation, especially the 1993 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

6.22 Practitioners should respect Article 24 of the 2007 United Nations Declaration on the Rights of Indigenous Peoples, namely that *"Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants... ".*

6.23 The Association is opposed to genetic engineering and/or modification of medicinal plants as being contrary to and not conforming with traditional usage. Members therefore should not prescribe or recommend plant medicines or foods derived from this technology.

6.24 Practitioners must continue to develop their professional knowledge and are encouraged to share this knowledge with colleagues, other relevant health professionals and the public.

7. Infringement of the Code of Ethics

7.1 Infringement of this COE may render members liable to disciplinary action with subsequent loss of privileges, and/or benefits of registration with the Association, or a fine.

7.2 Any complaint against any Member can only be upheld if there is shown to be a breach of the Constitution and this associated COE.

7.3 The committee of the Association has discretion to determine what constitutes an infringement of this COE.