

# **National Institute of Medical Herbalists**

## **Code of Ethics and Practice**

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### **About this Code**

The Code of Ethics and Practice is published by the National Institute of Medical Herbalists (the Institute) for the guidance of our members and for the protection of our patients. It sets out to define the ethical principles, values and standards of practice which are expected by the members of the Institute.

By being a member of the Institute, you have agreed to be bound by this Code, the Memorandum and Articles of Association, and any related documents, and to act in the best interests of the Institute, your patients and your herbal colleagues. Members have a continuing obligation to maintain their professional standards and fitness to practise, and to submit to the jurisdiction of any Institute committee established to consider conduct, fitness to practise, complaints and disciplinary matters. These committees have the power to judge as unethical any behaviour which breaches this Code, the Memorandum and Articles of Association, and related codes and standards and which reflects badly upon the practice of herbal medicine or upon the Institute. Allegations against a member will be examined by the committee(s) in accordance with the procedures outlined in the Complaints Procedures and Disciplinary Procedures.

The Complaints and Disciplinary Procedures are available from Head Office. Members will be notified of any changes or updates to the Institute's complaints and disciplinary procedures.

As the Code of Ethics and Practice does not address every possible situation arising in practice the Institute provides further guidance notes on key topics in the Code. These guidance notes are available from Head Office. They will be updated in accordance with developments within the profession and notified to members.

The Code of Ethics and Practice should be consulted in the first instance on matters relating to professional conduct. The Code of Ethics and Practice is applicable in all situations, including social media. If the matter is not completely clear, you are strongly advised to consult the Institute Head Office which will refer you to the relevant person or committee. If considered appropriate you may be advised to consult with an independent adviser.

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This Code is available from the Institute Head Office and on the Institute website [www.nimh.org.uk](http://www.nimh.org.uk).

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## **Your Obligations to Your Patients**

### **Your duty of care**

1. You have a duty to your patients to maintain high standards of care, competence and conduct.
  
2. The relationship between you and your patient is that between a professional and a client who is entitled to put complete trust in you as a professional. It is your duty not to abuse this trust in any way.
  
3. Any patient consulting you has the right to expect that you will:
  - 3.1 make their care your primary concern while you are working with them
  - 3.2 listen to them carefully and respect their confidentiality
  - 3.4 explain your findings to them in terms that they understand
  - 3.5 inform them clearly of the nature and purpose of any proposed treatment
  - 3.6 respect their autonomy and encourage their freedom of choice
  - 3.7 ensure that they know how, when and where you may be contacted
  
4. In providing care you must:
  - 4.1 assess any condition thoroughly, with appropriate examination and investigation
  - 4.2 recognise the limits of your professional competence and work within them
  - 4.3 provide, where appropriate and with the patient's consent, relevant information to other health professionals who are caring for them
  - 4.4 consult others and refer for investigation and treatment elsewhere, when necessary
  - 4.5 keep accurate and comprehensive case notes and records
  - 4.6 review the patient's treatment and progress at agreed intervals and assess the suitability of further herbal medicine treatment
  - 4.7 encourage patients promptly to seek other forms of medical treatment if you feel that herbal medicine is no longer the most appropriate means of treating their problems
  - 4.8 act promptly and appropriately if you become aware of an error on your

part, ensuring that the your insurers are informed prior to any further action or comment

4.9 act promptly if a patient complains about any aspect of your professional practice and keep a record of the complaint and any actions taken

## **Fees**

5. When a patient consults you this involves entering into a contractual relationship. The patient will normally pay a fee. Even if the patient does not pay a fee, or where there is no explicit contractual relationship (e.g. in an emergency) you still have a duty to apply the standard of care expected of a professional herbalist.

6. A notice of your fee structure must be made readily available in your clinic or treatment room. This notice, and any advertisement quoting fees, must quote charges for both initial and subsequent sessions and must make clear what each fee covers.

## **Case notes**

7. You must keep accurate, comprehensive, easily understood, contemporaneous and dated case notes recording:

- the patient's personal details (name, address, telephone number, email and date of birth)
- the presenting complaint and symptoms reported by the patient
- relevant medical and family history (including the GP's practice name and address)
- your clinical findings
- any treatment given and details of progress of the case, including reviews of treatment rationale and any prescription given; your prescription should be traceable
- any information and advice that you give, especially when referring the patient to any other health professional
- any decisions made in conjunction with the patient concerning their treatment
- records of the patient's consent to treatment, or the consent of their legal guardian if appropriate

8. You are required to keep patient records for a minimum of seven years following the last occasion when treatment was given. In the case of minors these records must be kept until the patient reaches at least the age of 25 (seven years after reaching 18). This applies even when you have referred a patient on, or you have left the practice where you administered the treatment.

9. Your patient's case notes and records are your property, and you must ensure you have access to them.

9.1 Although a patient can by written application seek access to notes they have no legal rights of ownership.

9.2 If a patient requests a copy of their notes, you must follow the procedure laid out in data protection legislation and keep a record of this on the file.

9.3 Your professional insurance policy may require you to keep records for seven years, so it is important that you know where they are at any time in order to fulfil the requirements of your insurance to defend an allegation against you.

10. You may pass on a copy of your records if you sell or otherwise transfer your practice, provided

- (a) the new owner will be subject to the same or similar rules to those headed 'Case Notes' above and
- (b) the patient is informed in writing in advance of the transfer and given the opportunity to object, in which event you must not pass on a copy of the records.

11. If your patient re-locates or moves to another practitioner you may pass on a copy of your notes but you should retain the original notes. It is best practice to take a fresh case history should a patient transfer to your practice. You should seek to access their records to ensure continuity of care.

You must also ensure that patients are kept fully informed and offered appropriate choices about their continuing care and the safe keeping and location of their original records.

12. If you practise out of a clinic or are part of a group practice you should be aware of your responsibilities in relation to your patient's case notes.

12.1 It is your individual responsibility to retain access to the case notes of all the patients that you see/treat both in private practice and in a clinic.

12.2 When joining a practice or clinic you should ensure as part of your agreement that you are able to access and preferably keep copies of all notes in the event that you leave.

12.3 Not being able to produce copies of notes may invalidate your insurance cover and may prejudice your position if a claim is brought against you.

12.4 Where members are operating a clinic or running a practice they should appoint someone to be responsible for the safety and security of notes/records and to deal with all requests. Access to case notes and records should be maintained for all herbalists currently or previously members of the clinic/practice.

13. If, as a clinical supervisor, you oversee a student's work you should ensure, as part of your agreement, that you are able to access and preferably keep copies of all notes in the event that you leave.
14. You must not use knowledge gained from patients or from their records in any other context for personal or professional gain.
15. Patient records must be kept secure and confidential at all times. Storage of patient records must comply with the applicable data protection legislation. Health records are considered sensitive data and require greater protection. (See [www.ico.org.uk](http://www.ico.org.uk))
- 15.1 You must develop and maintain an understanding of information governance that is appropriate to your role.
- 15.2 You must make sure any personal information about patients that you hold or control is effectively protected at all times against improper access, disclosure or loss.
- 15.3 You should not leave patients' records or other notes you make about patients unattended, either on paper or on screen.
- 15.4 You should be registered with the Information Commissioners Office in line with current data protection legislation.
16. You may destroy old records, in accordance with clause 8, in a secure manner. The method of disposal is not regulated but burning or secure shredding are the most appropriate methods. You must also make appropriate arrangements for the safe keeping and transfer of patient notes in the event of your death, serious injury or the activation of an Enduring or Lasting Power of Attorney.
17. If you write your case notes in any language other than English it will be your responsibility to provide a full translation, if called upon to do so by the Institute, in the event of a complaint being made, or the records being required for official purposes, or a request being made by the patient under the terms of data protection legislation.

### **Delegation of professional duties**

18. When delegating your professional duties you must delegate to a person who is competent to undertake them, carries professional indemnity insurance and, if they are not members of the Institute, is made aware of and agrees by contract with you to be bound by the Institute Code of Ethics and Practice.
19. The practitioner is responsible for dispensing. If this responsibility is delegated

to a dispenser they should be competent, trained, and, if they are not members of Institute, made aware of and agree by contract with you to be bound by the Institute Code of Ethics and Practice.

### **Absence from practice**

20. Should you be away from your practice for any length of time it is your duty to ensure patients are informed about where they may seek appropriate treatment in your absence.

### **Retiring from practice**

21. Should you retire from practice you must inform your patients that you are retiring and ensure that they are aware of other practitioners in your area and of the location of their original case notes and records. You should retain/destroy patient notes in line with clauses 8 and 15 above.

### **Professional Standards**

22. The Institute Code of Ethics and Practice has been produced to ensure that you meet and maintain the high standards within the profession. You must familiarise yourself with the Code of Ethics and Practice and related guidance and you must ensure that your practice of herbal medicine and your premises meet the required standards.

23. You must comply with any rulings made by the Institute committees on conduct, fitness to practise, complaints and disciplinary committees in enforcing the Code of Ethics and Practice, the Memorandum and Articles of Association, and related codes and standards. Failure to comply may itself be subject to disciplinary measures on the grounds of professional misconduct.

### **Continuing Professional Development**

24. You must maintain and improve your professional knowledge and skills, and keep up to date with developments and changes affecting the practice of herbal medicine, throughout your working life, through active engagement and compliance with the Continuing Professional Development requirements of the Institute.

## **Your Ethical Boundaries in Relationships with Patients**

### **Inappropriate Relationships**

25. You must not enter into a sexual or improper emotional relationship with a patient. If you are becoming emotionally or sexually involved with a patient you

should end the professional relationship, and recommend to the patient an alternative source of appropriate care.

26. If a patient shows signs of becoming inappropriately involved with you, you should discourage them and, if necessary, end the professional relationship. You may wish to report such matters to the Institute, in your own interest, or seek advice from a colleague whilst maintaining the anonymity of the patient.

27. You must ensure that your behaviour in dealing with patients is professional at all times and not open to misunderstanding or misinterpretation. You must be aware that non-physical behaviour, gesture, unnecessary physical contact, verbal suggestion or innuendo can be construed as abusive or harassing.

28. You must allow the patient privacy if they are required to undress for physical examinations and you must also ensure that you provide adequate clean gowns, sheets or blankets for their use. (*See Guidance on chaperones*)

29. You may find yourself called upon to treat a relative or someone whom you consider to be a friend. There is no harm in this provided that clear boundaries are kept between the social and professional relationships.

30. You must ensure that past, present or anticipated relationships of any kind do not interfere with your professional duties, and you must avoid any behaviour which can be construed as compromising those duties.

## **Your Legal Obligations and Good Practice**

### **Patient Consent**

31. You must explain carefully the physical examinations, tests, procedures and treatment that you intend to administer, and must recognise that the patient is entitled to choose whether or not to accept advice or treatment. It can be construed as an assault to examine without their consent, or to continue to examine someone if they withdraw their consent in the middle of an examination.

32. Consent must be given by a legally competent person, must be given voluntarily and must be informed. Consent is not implied by a patient's presenting for consultation or treatment. You must seek explicit consent, in writing if necessary, and ensure that the patient understands what you propose to do. You are recommended to record all relevant information in the case notes.

33. You must record any subsequent explanation and consent obtained if the course of treatment extends beyond the original projection, if treatment continues beyond an agreed review date, or if the treatment itself involves significant changes in the prescriptions used or time taken.

34. You must not delegate the obtaining of consent to a receptionist or unqualified assistant. Informed consent requires that you (or an appropriately qualified colleague) must explain the procedure, be available to answer questions and be able to satisfy yourself that the patient understands what you have told them.

### **Consent of Minors**

35. You must seek the consent of a parent or guardian if the patient is under the age of 16. In the absence of such consent you must not offer treatment.

36. If you do treat a child under the age of 16, a parent or legally authorised guardian should be present in the treatment room throughout the whole of the consultation including examination and treatments. However if the child and parent/legally authorised guardian agree, the consultation could be carried out without an adult being present. An alternative chaperone for examination or treatment may carry out this role but not without the explicit written consent of the parent or legally authorised guardian.

### **Confidentiality**

37. You have a duty to keep all information, medical or otherwise, concerning your patients entirely confidential, and such information may only be released with the explicit consent of the patient. This also applies to any views that you may form about the patient. This duty, which survives the death of a patient, also extends to anyone you may employ in your practice.

38. The fact of a patient's attendance at your practice must be considered confidential. You must not discuss details of a patient's case with their partner or their relatives unless you have their explicit permission.

### **Disclosures without consent**

39. You must obtain a patient's consent before repeating information given to you in confidence. Only in very extreme cases, such as when you consider that your duty to society at large takes precedence would the lack of such consent be considered acceptable.

40. Disclosures without consent may be necessary. This may be because the patient is putting themselves or others at serious risk by, for example, the possibility of a violent or criminal act or failing to report a notifiable illness. In all circumstances you are advised to consult the Institute or take legal advice before making a decision to release information without a patient's permission.

41. A Court may order you to disclose information about a patient. If called upon to do this, you should seek advice from the Institute as to how best to proceed.

## **Notifiable Diseases and STIs**

42. You must refer the patient to their doctor if you have concerns in relation to notifiable diseases.

43. Patients presenting with STIs must be referred to the relevant sexual health service.

## **Abortion**

44. It is illegal for anyone who is not a registered medical practitioner to attempt to procure an abortion; you must not knowingly administer an abortifacient nor known uterine muscle stimulant remedies to a pregnant patient, nor instruments for the purpose of procuring an abortion, nor assist in any illegal operation.

45. Before providing to any woman of child-bearing age any remedies that have an abortifacient or uterine stimulating action you are advised to obtain written confirmation from the patient that she is not likely to be pregnant.

## **Compliance with legislation**

46. You must comply with the terms of all relevant legislation relating to the practice of herbal medicine, herbal medicines, and health, safety and environmental protection.

47. Local Authorities are empowered by various Acts of Parliament to enact legislation that may impose requirements on medical herbalists and their premises, and have the power to prosecute practitioners who fail to comply with this legislation.

## **Your Commercial Obligations**

### **Advertising standards**

48. All advertising must be legal, decent, honest and truthful and must conform to relevant guidelines in the British Code of Advertising Practice, as well as the current advertising guidelines of the Institute. Your advertisements may include information about any qualifications and special interests other than those in herbal medicine that you may have, but must not make claims of superiority or disparage professional colleagues or other professionals.

49. All members may use the current Institute logo on practice literature. The crest of the Institute may only be used by members formally appointed and/or elected in connection with the business of the Institute.

50. Advertising must not mislead or deceive. It must not be sensational and make unrealistic, self-laudatory, or extravagant claims. Neither its content nor the manner in which it is distributed should be such as to put prospective patients under pressure. Advertising must not create unjustified expectations about the length or type of treatment or its prospects for relieving the condition concerned. Claims to cure conditions, as distinct from relieving symptoms, are strictly prohibited.

### **Placing and distribution of advertisements**

51. You must ensure that the design and contents of advertisements are legal and professional. Advertisements must appear in surroundings appropriate to professional advertisements, and must be distributed by similarly professional and legal means. When advertising in conjunction with practitioners of other therapies you must take reasonable steps to ensure that those other therapists are also registered with bona fide professional bodies.

### **Financial and commercial activities**

52. You must make a clear distinction between your herbal practice and any commercial activity in which you may be involved. There must be no suspicion of any business affairs having an influence over your attitude towards patients and their care.

53. To promote a product to patients for no good reason other than profit is highly unethical. If you sell or recommend any product or service to a patient, you must be satisfied this will be of benefit to the patient and that you are appropriately qualified to offer such products or advice.

54. You must not encourage your patients to give, lend or bequeath money or gifts which will directly or indirectly benefit you. You must also not put pressure on patients or their families to make donations to other people or organisations.

## **Your Obligations in Practice**

### **Membership of other professional organisations**

55. If you belong to other professional bodies whose ethical standards differ from those of the Institute, you must be aware that this cannot put you beyond the Institute jurisdiction where matters of professional conduct are concerned.

### **Practising other therapies**

56. If you practise other therapies you are advised to ensure that you are appropriately trained and qualified in those therapies, and that you are insured

with professional indemnity insurance to practise that therapy.

## **Using other techniques, supplements or equipment as an adjunct to treatment with herbal medicine**

57. If you use techniques or equipment which are not within the normal scope of herbal medicine practice, you must ensure that you are appropriately trained in and qualified and hold valid insurance for the use of the techniques, or equipment, and record your patient's consent to the treatment and techniques proposed.

## **Use of the title 'doctor'**

58. You must not use the title "doctor", either as a prefix in advertising your practices or in referring to yourself, nor allow yourself to be referred to as "doctor" in the context of being addressed as a herbalist, in such a way as to imply that you are registered with the General Medical Council, unless you are so registered.

59. Courtesy titles, doctorates in any other field, and post-graduate qualifications in herbal medicine are not acceptable as a basis for the use of the title 'doctor' as a prefix when being addressed as a herbalist.

## **Treatment of animals**

60. You must not administer any type of treatment to an animal unless you are a qualified vet. Under the Veterinary Surgeons Act 1966 treatment may only be carried out by registered veterinarians. The Royal College of Veterinary Surgeons will not allow animals to be treated with herbal medicines without a vet being present and taking responsibility for the diagnosis and treatment of the animal.

## **Your Relationship with Professional Colleagues**

### **Relationships with other practitioners**

61. If you treat the patient of another practitioner because of holiday, illness or any other reason, you must not attempt to solicit the patient, either directly or by default, to continue treatment with you. You must inform the original practitioner as to which patients had been treated and the treatment that had been given.

62. In all cases the wishes of the patient are paramount. If a patient decides to transfer from you to another practitioner, it is courteous, and in the patient's interest, for you and the other practitioner involved to communicate with each

other about this transfer, and for relevant information about the patient to be forwarded, with the patient's consent and in compliance with data protection legislation. You should retain your patient records in line with the clauses above.

## **Relationships with medical doctors**

63. It is good practice to maintain contact and communication with other healthcare professionals in the provision of integrated care of the patient. You should acknowledge referrals from a GP or RMP, and should also consider it good practice to inform and communicate with a patient's GP, with the patient's consent, when the patient has self-referred.

## **Criticism of other practitioners**

64. You may sometimes encounter criticism of the competence or professionalism of other practitioners voiced by patients or colleagues. If you hear such criticisms of other practitioners, whether they are members of the Institute or not, you must at all times act with the utmost discretion and professionalism, and must be extremely cautious about voicing any opinion. This applies equally if you yourself hold critical views of others, either in your own field or in another health care discipline.

65. You are expected to act with integrity, discretion, and respect for the views of others. You are entitled to put forward your views on good clinical practice in publications, seminars, etc. However, you must not criticise other healthcare disciplines or practitioners, either directly or by implication, over and above the standards which apply in the debates to which you contribute.

## **Dealing with concerns about other practitioners' behaviour**

66. If you have concerns about another practitioner's conduct, health or professional competence you must contact the Institute Head Office.

## **Your Obligations as a Teacher**

### **Teaching and Training in herbal medicine**

67. Members may teach and give training in herbal medicine.

68. You must ensure that you have obtained appropriate and, if necessary, additional insurance to teach and give training in herbal medicine.

69. You must ensure that anyone that you teach or train in herbal medicine is

aware that this does not qualify them to join the Institute unless the teaching or training is formally accredited by the Institute.

## **Assistants and Observers**

70. You are allowed to have students of herbal medicine, potential students of herbal medicine, or other individuals present as observers in your practice. An observer may only be present at a consultation with the explicit permission of the patient. You must take care to avoid 'coercive consent' where a patient feels that they are under pressure to allow an observer to be present.

## **Research**

71. If you are involved in research involving patients you must seek the approval of an appropriate research ethics committee. You must also obtain a patient's consent if they are involved in your research and must ensure above all that their care is not compromised in order to meet the needs of your research aims.

72. You must also ensure that the patient's confidentiality is respected in the sharing or publication of research findings. If the results of research cannot be aggregated in such a way as to conceal the identity of individual patients, any consent obtained from the patient for the use of such results must be based on full details of the distribution, publication, and ownership of these results. If a patient refuses consent for the disclosure of research results this choice must be respected.

## **Standards of Behaviour**

### **Upholding the high standards of the herbal medicine profession**

73. You must uphold the high standards of the herbal medicine profession at all times. You must not bring the profession into disrepute, or create the risk of such a result, by your personal behaviour.

### **Reporting important information about your conduct and competence**

74. You must inform the Institute Honorary General Secretary immediately in writing if you are charged with or convicted of, anywhere in the world, an offence including but not limited to offences relating to:

- violence
- sexual offences or indecency
- dishonesty
- alcohol or drug abuse

or if you:

- receive a conditional discharge for an offence
- accept a police caution, save for minor motoring offences

75. You must also tell the Institute if you are:

- disciplined by any organisation responsible for regulating or licensing a profession
- suspended or placed under a practice restriction by your employer or a similar organisation because of concerns about your conduct or competence
- suffering from an illness or medical condition which would affect your ability to practise.

## **Discrimination**

76. In providing services to the public, you have a legal duty to promote equality and address potential discrimination within your services. This duty extends both to your patients and your employees. The law prohibits discrimination on the grounds of gender, ethnicity, disability, religion or belief, sexual orientation, transgender status, age or marital status.

76.1 Your own views, values, beliefs and attitudes must never be allowed to prejudice the care and wellbeing of your patients.

76.2 If you are an employer you have the same duties to your employees as to your patients. You are also legally responsible for any discriminatory actions of your employees if these actions are committed in the course of their employment.

## **Complaints**

77. You must let patients know how they can make a complaint in the event that they are unhappy with any aspect of the service you have provided, and how to make a complaint to the Institute.

*The Institute wishes to acknowledge and thank the British Acupuncture Council from whose Codes of Professional Conduct and Safe Practice it drew material for use in this document.*