

The 1996 CMA Code of Ethics Annotated for Psychiatrists
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This paper was developed in collaboration with the Canadian Psychiatric Association's Standing Committee on Professional Standards and Practice and was approved by the Canadian Psychiatric Association's Board of Directors on April 19, 2002.

I. Introduction

The General Council of the Canadian Medical Association (CMA) approved a Code of Ethics in August 1996 (1). The Canadian Psychiatric Association (CPA) continues to accept the CMA Code of Ethics as the guide to ethical practice in psychiatry. In 1980, the CPA produced a position paper, "The CMA Code of Ethics Annotated for Psychiatrists," prepared by Clive Mellor (2). Although many aspects of the 1980 CPA position paper remain pertinent to current psychiatric practice, there are several areas in which the 1996 CMA Code of Ethics has expanded its purview. These deserve special note by psychiatrists. They include consent to treatment, peer review, multidisciplinary collaboration, and physician health. The reader should be aware that the CPA publishes position papers that expand on specific topics related to ethical practice in psychiatry, on an ongoing basis. Consulting this literature and experienced colleagues will assist in guiding psychiatrists faced with ethical dilemmas.

II. The 1996 CMA Code of Ethics

The 1996 CMA Code of Ethics incorporates enduring ethical principles of medicine and more recent developments in bioethics, human rights issues, and jurisprudence. It is somewhat broader in its scope than the previous Code of Ethics but remains based on fundamental ethical principles of respect, compassion, justice, and beneficence–nonmaleficence. Numerous articles from the previous code have been deleted, such as those that dealt with specific bioethical topics (for example, euthanasia and transplantation) and other articles peripheral to ethics (for example, contracting and advertising). It is important to understand that the Code of Ethics is not a declaration of patient or physician rights, and articles related to this area have also been removed from the updated code. Instead, the code defines standards of conduct for physicians. It is divided into 5 subsections: "General Responsibilities," "Specific Responsibilities to the Patient," "Society," "The Profession," and "Oneself."

The 1996 CMA Code of Ethics

Annotations for Psychiatrists

a) General Responsibilities

1. Consider first the well-being of the patient.

Self-explanatory

2. Treat all patients with respect; do not exploit them for personal advantage, whether physical, sexual, emotional, religious or financial, or for any other reason.

The psychiatrist–patient relationship remains the pivot upon which treatment turns. By its very nature, it is a relationship in which patient vulnerabilities are more exposed than in any other branch of medicine. As such, psychiatrists can hold considerable influence over their patients and must ensure that this does not lead to exploitation for personal gain, whether physical, emotional, religious, financial, sexual, or for any other reason. In recent years, society and professionals have become increasingly aware of sexual misconduct by physicians. The CPA deems sexualization of the therapeutic relationship by the psychiatrist and sexual activity of any kind between a psychiatrist and his or her patient to be unethical conduct. Further, the CPA considers sexual relationships with former patients to be unethical (3). Boundary issues can become problematic in

- a psychotherapeutic relationship. The ethical psychiatrist will scrupulously maintain respect for the patient at all times and recognize and appropriately address transference and countertransference issues.
3. Provide for appropriate care for your patient, including physical comfort and spiritual and psychological support, even when cure is no longer possible.
- Self-explanatory
4. Practise the art and science of medicine competently and without impairment.
- Special mention is made of the impaired physician. Psychiatric colleagues are encouraged to intercede in such situations by encouraging impaired physicians to seek appropriate professional help, or by reporting to the appropriate regulatory body, or both.
5. Engage in lifelong learning to maintain and improve your professional knowledge, skills, and attitudes.
- Although not new, this article is relevant for psychiatrists because continuing professional development and peer review have become statutory obligations in many jurisdictions. Through its support of continuing professional development programs, the CPA recognizes the psychiatrist's ethical obligation to remain abreast of developments in the art and science of psychiatry. The ethical practice of psychiatry requires both sound training and lifelong learning.
6. Recognize your limitations and the competence of others, and when indicated, recommend that additional opinions and services be sought.
- Psychiatrists often work in multidisciplinary team settings where nonphysician as well as physician colleagues will be involved in the care of a psychiatrically ill patient. A psychiatrist must recognize the patient's right to request a second opinion. In complicated cases, the psychiatrist should request this, particularly when patients are not competent to make such a request on their own behalf.
- Particularly in multidisciplinary settings, the psychiatrist should recognize and respect the sphere of competence of others and not expect to delegate duties that lie outside this sphere (4).

b) Responsibilities to the Patient

The section on responsibilities to the patient is divided into 5 subsections.

i) Initiating and Dissolving a Patient–Physician Relationship

7. In providing medical service, do not discriminate against any patient on such
- This article does not preclude psychiatrists' refusing to accept the care of patients to shape their practices

grounds as age, gender, marital status, medical condition, national or ethnic origin, physical or mental disability, political affiliation, race, religion, sexual orientation, or socioeconomic status.

according to their skills and interests (5).

8. Inform your patient when your personal morality would influence the recommendation or practice of any medical procedure that the patient needs or wants.

In dealing with patients, psychiatrists not infrequently encounter social behaviours (for example, abortion, sexual conduct, divorce, drug use, or extramarital infidelity) that may not be in keeping with their own moral standards. Ethical psychiatrists will recognize their own personal moral bias and refrain from allowing it to interfere with their professional judgement in the management of a psychiatric problem.

9. Provide whatever appropriate assistance you can to any person with an urgent need for medical care.

Self-explanatory

10. Having accepted professional responsibility for a patient, continue to provide services until they are no longer required or wanted, until another suitable physician has assumed responsibility for the patient, or until the patient has been given adequate notice that you intend to terminate the relationship.

The nature of certain psychiatric disorders and the nature of the physician–patient relationship in the treatment of those disorders augments our responsibility to ensure that patients are not subject to arbitrary discontinuation of psychiatric services. The termination of care should be adequately explained to a patient beforehand, and the available alternatives should be discussed.

11. Limit treatment of yourself or members of your immediate family to minor or emergency services and only to when another physician is not readily available; there should be no fee for such treatment.

Although the definition of “immediate family” is a matter of judgement, clearly, the nature of the psychiatrist–patient relationship generally precludes the psychiatric treatment of anyone whose personal or family history is familial knowledge.

ii) Communication, Decision Making, and Consent

12. Provide your patients with the information they need to make informed decisions about their medical care, and answer their questions to the best of your ability.

Self-explanatory

13. Make every reasonable effort to communicate with your patients in such a way that information exchanged is understood.

Self-explanatory

14. Recommend only those diagnostic and therapeutic procedures that you consider to be beneficial to your patient or to others. If a procedure is recommended for the benefit of others, as for example in matters of public health, inform the patient of this fact and proceed only with explicitly informed

consent. Informed consent is a core value in the ethical practice of medicine and psychiatry. The elements of consent include disclosure, capacity, and voluntariness. The question of competence to consent should be specifically evaluated for each patient, and it should be recognized that competence to consent may fluctuate with the patient’s clinical state. Psychiatrists should be prepared to review competence to

consent.

provide consent on an ongoing basis. Where a patient is not competent, substituted consent should be obtained in accordance with the laws of the jurisdiction. As with other areas of medicine, there may arise psychiatric emergency situations that are of such a pressing nature as to preclude advance informed consent. In these circumstances, patient safety and well-being should guide ethical psychiatrists in their administration of emergency treatment without consent.

15. Respect the right of a competent patient to accept or reject any medical care recommended.

The right of a competent patient to forgo treatment is based on the ethical principle of autonomy. As with medical treatments, competent patients have the right to refuse psychiatric treatments, provided that their capacity for decision making is not impaired by psychiatric symptoms (for example, delusions) or other illness-related processes (for example, gross lack of insight).

Sometimes, psychiatrists are asked to ascertain whether a patient is competent to consent to medical treatment—usually when the patient is refusing a treatment (for example, surgery, chemotherapy, or ongoing medical therapy). Psychiatrists should limit their opinions to whether the presence of a psychiatric disorder is rendering the patient incompetent to reject or accept the recommended medical care, remembering that refusing medical treatment does not in itself necessarily imply psychiatric disorder.

In special circumstances, this physician responsibility may need to be balanced with a patient's need to receive adequate care. With respect to the treatment of persons with mental illness, the ethical principle of autonomy may need, on occasion, to be balanced with the principles of doing no harm, acting in the best interest, and serving justice.

16. Recognize the need to balance the developing competency of children and the role of families in medical decision making.

In the areas of child and adolescent psychiatry, the new code specifically reminds us to evaluate the competency of children and to consider the role of families when making psychiatric treatment plans. At times, the rights of the child may need to be balanced with those of the parents, especially where confidentiality and consent are concerned. The child's social and cognitive developmental level should be considered. Psychiatrists should also be aware of any applicable provincial or territorial laws pertaining to the age of consent to treatment.

17. Respect your patient's reasonable request for a second opinion from a physician of the patient's choice.

It is recognized that all patients have the right to ask for a consultation with another physician. When a patient is not competent to make such a request, or is a minor, the request of the next of kin (or substitute decision maker) should be respected. Ethical psychiatrists shall take it upon themselves to seek a second opinion in doubtful or complicated cases, and at all times prior to any proposed psychosurgery.

18. Ascertain wherever possible and respect your patient's wishes about the initiation,

Self-explanatory

continuation, or cessation of life-sustaining treatment.

19. Respect the intentions of an incompetent patient as they were expressed (for example, through an advance directive or proxy designation) before the patient became incompetent.

This article will have increasing relevance to psychiatrists with the evolution of certain provincial and territorial laws and with increasing patient awareness of the recurrent nature of some psychiatric disorders (which has led, for example, to the creation of "living wills"). Psychiatrists should explore with competent patients the issue of advance directives and should address any potential conflicts with the provisions of the relevant mental health acts.

20. When the intentions of an incompetent patient are unknown and when no appropriate proxy is available, render such treatment as you believe to be in accordance with the patient's values or, if these are unknown, the patient's best interests.

Self-explanatory

21. Be considerate of the patient's family and significant others and cooperate with them in the patient's interest.

Psychiatrists recognize well the need to obtain the cooperation of relatives in providing collateral information and supporting treatment plans. They also recognize the need to assuage relatives' anxiety about the care of their family member. However, ethical psychiatrists will recognize that relatives' needs come second to the obligation to maintain confidentiality with the patient.

iii) Confidentiality

22. Respect the patient's right to confidentiality, except when this right conflicts with your responsibility to the law, or when the maintenance of confidentiality would result in a significant risk of substantial harm to others or to the patient if the patient is incompetent; in such cases, take all reasonable steps to inform the patient that confidentiality will be breached.

The psychiatrist-patient relationship has at its core both privilege and confidentiality, concepts protected by law. However, there are some circumstances wherein breaching confidentiality may be mandated by law (for example, suspicion of child abuse or concerns about a patient's ability to operate a motor vehicle safely). Like other physicians, psychiatrists have an ethical obligation to report these circumstances to the appropriate authority. Although psychiatrists are required to report such circumstances, the patient should nevertheless be informed before confidentiality is breached.

Breaching confidentiality when required to protect intended victims from harm is ethical, but it may be insufficient action to prevent harm. The issue of protecting intended victims from harm may be more easily addressed in some circumstances by detaining the patient under the relevant mental health act and securing appropriate psychiatric treatment. The duty to warn does not obviate the physician's duty to protect (6).

In rare situations, courts order psychiatrists to reveal confidential patient information without the consent of the patient. Psychiatrists may be ethically prohibited but legally obliged to do so if the need for disclosure is demonstrated by the courts. In this instance, only information that is required by law should be divulged.

- Particular care must be taken when working in multidisciplinary settings. Shared information must remain confidential within the multidisciplinary team. Shared information should be relevant to the patient's treatment by the multidisciplinary team.
- Clinical information used for teaching, research, publications, or scientific gatherings should be sufficiently disguised to preserve patient anonymity.
23. When acting on behalf of a third party, take reasonable steps to ensure that the patient understands the nature and extent of your responsibility to the third party.
- Sometimes, a psychiatrist is asked to examine a patient as the agent of another party, usually to satisfy legal or employment requirements. The psychiatrist is ethically obliged at the beginning of the interview to discuss the special nature of the psychiatrist–patient relationship in these particular circumstances. This discussion should include the purpose of the examination, the nature of the information being sought, and the obligation to disclose it to a third party. Information obtained from prior physician–patient relationships should not be used for the third-party assessments without patient consent (2).
24. Upon a patient's request, provide the patient or a third party with a copy of his or her medical record, unless there is a compelling reason to believe that information contained in the record will result in substantial harm to the patient or others.
- Patients have an ethical as well as a legal right to this information, and psychiatrists have both an ethical and a legal responsibility to provide it (5). Psychiatrists will need to use judgement with regard to what constitutes a "compelling reason" but must ensure that nondisclosure is for protection of the patient's, and not the psychiatrist's, best interests.
- iii) Clinical Research**
25. Ensure that any research in which you participate is evaluated both scientifically and ethically, is approved by a responsible committee, and is sufficiently planned and supervised that research subjects are unlikely to suffer disproportionate harm.
- Self-explanatory
26. Inform the potential research subject, or proxy, about the purpose of the study, its source of funding, the nature and relative probability of harms and benefits, and the nature of your participation.
- Self-explanatory
27. Before proceeding with the study, obtain the informed consent of the subject, or proxy, and advise prospective subjects that they have the right to decline or withdraw from the study at any time, without prejudice to their ongoing care.
- There has been extensive debate in Canadian psychiatry over clinical psychiatric research, particularly in regard to consent. Psychiatrists have a special duty to ensure that patients suffering from mental illness are competent to give free and informed consent to research procedures. However, the ethical principle of justice applies: incapable persons should not be deprived of the potential benefits of participation in research, but neither should they be forced to bear a disproportionate share of the burden and risks of research. Care must be taken that individuals incapable of giving consent are not exploited as subjects. The informed consent of an appropriate substitute decision maker must

be obtained, and the subject must also assent when research is conducted with individuals who are under some form of constraint. In the case of persons detained under a mental health act, for example, the need for free and informed consent is especially crucial.

iii) Professional Fees

28. In determining professional fees to patients, consider both the nature of the service provided and the ability of the patient to pay, and be prepared to discuss the fee with the patient.

The psychiatrist's bill should reflect the services actually rendered by the psychiatrist. Fees for third party services (for example, forensic or insurance examinations) should be based on the nature of the service provided. Contingency fees should not be accepted, because they create problems in regard to honesty and efforts to attain objectivity. Conversely, retainer fees do not inhibit in this regard and therefore may be accepted (7).

Fee-splitting is not ethical.

c) Responsibilities to Society

29. Recognize that community, society and the environment are important factors in the health of individual patients.

Self-explanatory

30. Accept a share of the profession's responsibility to society in matters relating to public health, health education, environmental protection, legislation affecting the health or well-being of the community, and the need for testimony at judicial proceedings.

Psychiatrists can, and should, continue to have an important role in educating the general public on mental health matters and in advising and consulting with government on legislative and judicial matters relating to mental health.

Psychiatrists may at times feel obliged to comment publicly on certain social issues (for example, on poverty, homelessness, or abortion) as they may relate to mental health. However, it is important for the profession to state clearly whether the comment or opinion is a personal or professional one and not to use one's professional status to augment the validity of a personal opinion.

The need for psychiatrists to appear as expert witnesses at judicial proceedings is well recognized. Here, the guiding ethical principles are to be honest and to strive for objectivity, with special attention paid to the usual precepts of consent and confidentiality, which may differ in judicial settings. As a treating psychiatrist, the fiduciary duty is to the patient; as a psychiatric expert, however, the fiduciary duty is to the court. The task of the psychiatric expert is to render credible and useful testimony to assist the court in its deliberations. Psychiatric experts must be comprehensive, honest,

objective, and unbiased in their assessments and should declare openly to the court any factors that interfere with these aims. They should limit testimony to areas of actual expertise.

31. Recognize the responsibility of physicians to promote fair access to health care resources.

Self-explanatory

32. Use health care resources prudently.

The process of deinstitutionalization and the shift toward community-based care has of necessity shifted resources from one focus to another. The introduction of new medications and therapies has clearly brought the treatment of mental illness into a new realm, and with it have come financial implications (sometimes burden) for individuals and the public. Against this is balanced the potential for diminished hospital inpatient stays, reduced morbidity and mortality, and enhanced quality of life. However, psychiatrists must continue to keep in mind that health care resources are finite. The new code requires us to be responsible in using existing resources efficiently and effectively. Psychiatrists should consider potential financial hardships that a patient may incur if prescribed unaffordable medications or therapies. Psychiatric administrators have the responsibility to recognize when available resources cannot adequately meet the psychiatric needs of a population and to determine what constitutes "fairness of access" in this setting.

33. Refuse to participate in or support practices that violate basic human rights.

By virtue of the provincial mental health acts, and relevant statutes of the Criminal Code of Canada, it is at times appropriate and necessary to deprive patients of liberty, to enable psychiatric assessment or treatment. However, it is not acceptable to violate basic human rights outside the boundaries of our legislated powers.

34. Recognize a responsibility to give the generally held opinions of the profession when interpreting scientific knowledge to the public; when presenting an opinion that is contrary to the generally held opinion of the profession, so indicate.

Self-explanatory

d) Responsibilities to the Profession

This section is not greatly expanded, compared with similar sections of the old code.

35. Recognize that the self-regulation of the profession is a privilege and that each

Self-explanatory

physician has a continuing responsibility to merit this privilege.

36. Be willing to participate in teaching medical students, residents, colleagues, and other health professionals.

Self-explanatory

37. Avoid impugning the reputation of colleagues for personal motives; however, report to the appropriate authority any unprofessional conduct by colleagues, such as incompetence, practising while impaired, abuse of patients, and fraud.

Self-explanatory

38. Be willing to participate in peer review of other physicians and to undergo review by your peers.

The science of psychiatry is advancing at a rate that parallels many other areas of medicine, and we must keep abreast of these advances. Peer review is an essential element of self-regulation and a learning opportunity for those involved. Many psychiatric facilities have internal reviews or case conferences that encourage peer review, and psychiatrists should support these endeavours.

39. Enter into associations only if you can maintain your professional integrity.

Self-explanatory

40. Avoid promoting, as a member of the medical profession, any service (except your own) or product for personal gain.

Self-explanatory

41. Do not keep secret from colleagues the diagnostic or therapeutic agents and procedures that you employ.

Self-explanatory

42. Collaborate with other physicians and health professionals in the care of patients and the functioning and improvement of health services.

Psychiatrists often collaborate with other nonmedical professionals within the mental health field, including psychologists, social workers, counsellors, nurses, and others. Collaboration must be done in a manner that ensures patient needs are met by the expertise of the practitioner, regardless of discipline. The division of professional responsibilities should be clearly specified and understood by all the parties, including the patient (4).

e) Responsibilities to Oneself

This section is not greatly expanded, compared with similar sections of the old code.

43. Recognize that you cannot serve

This section is new and relevant to our branch of

patients, society, and the profession well if you do not care for your own physical and emotional health and well-being.

medicine. As psychiatrists, we are not immune from acquiring any of the illnesses we treat, but unfortunately, we are sometimes not very adept at seeking appropriate treatment in a timely manner.

III. Conclusion

The 1996 CMA Code of Ethics provides psychiatrists with improved direction in many areas. The injunctions against discrimination and exploitation of patients have been strengthened. The area of decision making and consent has been broadened. The art of good physician– patient communication, and the obligation to remain abreast in the science of our field, is addressed. The importance of responsible multidisciplinary collaboration is recognized, and we are asked to consider resource allocation. We are reminded of the need to consider the well-being not only of our patients but also of ourselves. The CPA fully endorses the 1996 CMA Code of Ethics.

Acknowledgements

These annotations were developed over a period by the Standing Committee on Professional Standards and Practice, first under the chairmanship of Dr Philip Beck and then under Dr Simon Brooks. All committee members contributed; those who served during this time were Dr Gary Chaimowitz, Dr Lisa McMurray, Dr Pierre Leichner, Dr Padraic E Carr, Dr Douglas F Maynes, Dr Jim R Willows, Dr Richard O'Reilly, Dr M S Renuka Prasad, Dr Eugenia Zikos, Dr Richard Eric Polley, Dr Nizar B Ladha, Dr Irena Straszak, Dr Laura Lucia Calhoun, Dr Frances Edye, Dr Alan Gordon, Dr Susan Faye Lazar, Dr J V O'Brien, and Dr James Leslie Karagianis.

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