



Chinese Medicine Council of New Zealand

Professional Boundaries Standard

Purpose	2
Values underpinning professional conduct	2
Examination and treatment of sensitive areas.....	2
Sexual and Emotional Boundaries	3
Breaches of sexual and emotional boundaries	3
Obligation to notify.....	4
Disciplinary Action	4
Acknowledgements	5

Purpose

The Professional Boundaries Standard outlines sexual, emotional, and professional boundaries, including physical boundaries, when examining and treating sensitive areas. Professional boundaries are integral to a good therapeutic relationship, they promote good care for tangata whai ora and protect both parties in the therapeutic relationship. This Standard includes the treatment of family members and whānau and should be read in conjunction with the Standard Guidance document available on the Council website.

Professional boundaries allow CM practitioners and tangata whai ora to engage safely and competently in a therapeutic relationship. Professional boundaries ensure the clear separation of professional conduct aimed at meeting the health needs of tangata whai ora, and the CM practitioners' personal views, feelings and relationships which are not relevant to the therapeutic relationship.

The Council recognises and seeks to give effect to Te Tiriti o Waitangi as the foundational governance document in Aotearoa New Zealand, and affirms the rights of iwi, hapū, and Māori in the shaping and governance of our nation. Te Tiriti o Waitangi also influences our roles and responsibilities as citizens in our community and shapes personal and professional conduct. As such, CM practitioners must embed culturally safe and competent practices into all aspects of clinical practice and ensure that conduct demonstrates respect for the cultural beliefs, values, and practices of all tangata whai ora.

In this document the term 'tangata whai ora' (which means 'a person seeking health') has been used instead of the term's patient/client/health consumer/service user. This is to encompass persons who may be engaging with CM in both clinical and/or non-clinical settings.

Values underpinning professional conduct

The Professional Boundaries Standard should be read in conjunction with the [Code of Health and Disability Services Consumers' Rights](#) (the Code) and the Council's Standards of Professional Conduct, Clinical Competencies, and Informed Consent Standard for CM practitioners which provide a foundation for the safe, professional, and competent behaviour of CM Practitioners in New Zealand.

Right 1 of the Code all consumers have the right to be treated with respect, and under Right 2 all consumers have the right to be free from harassment and sexual, financial and other exploitation.

The Council Standards and competencies state that CM practitioners must uphold the values that underpin professional conduct being; **Respect, Trust, Partnership, and Integrity.**

Tangata whai ora must be able to trust that their CM practitioner will act in their best interests, treat them professionally, not breach their privacy and never take advantage of them. The exploitation of the relationship between CM practitioner and tangata whai ora undermines the trust that tangata whai ora have in their CM practitioners and the community has in the profession. Breach of this trust may compromise the care of tangata whai ora, cause profound psychological harm, and result further in downstream barriers to health seeking engagement.

Examination and treatment of sensitive areas

A physical examination is an important part of the CM consultation as it can provide valuable information to assist in diagnosis. However, intimate examinations can be stressful and embarrassing. Therefore, a CM practitioner must only conduct a physical examination of tangata whai ora when it is clinically indicated and with informed consent.

The definition of an intimate examination depends upon the perspective of the person/s being examined, which may be affected by cultural values and beliefs. An intimate examination usually means examination of the breasts, genitalia, and/or surrounding areas. CM practitioners should be sensitive and respectful of differing perspectives when discussing the reasons for an intimate examination, and should ensure comfort, dignity and privacy when conducting one.

An unwarranted physical examination may constitute sexual assault. This includes conducting or allowing others, such as students, to conduct examinations when explicit consent has not been given.

Sexual and Emotional Boundaries

CM practitioners must always act in the best interests of tangata whai ora and not use their position of power and trust to exploit tangata whai ora physically, sexually, emotionally, or psychologically.

Breaching sexual and emotional boundaries is always unethical and may be potentially harmful for many reasons, including:

Power imbalance: The practitioner-tangata whai ora relationship is inherently unequal. Tangata whai ora are often vulnerable and in some clinical situations may depend emotionally on their CM practitioner. To receive healthcare, tangata whai ora may reveal information that they would not normally share with anyone else and may also require a practitioner to conduct a physical examination. A breach of sexual boundaries in the clinical relationship exploits this power imbalance.

Trust: Tangata whai ora place trust in their CM practitioner. They have a right to know that examinations, particularly of an intimate nature, and treatment will only be undertaken in their best interests and never for an ulterior, sexual motive.

Safety: Tangata whai ora subjected to sexual behaviour from their CM practitioner may suffer emotional and physical harm.

Quality: A CM practitioner who sexualises tangata whai ora loses their professional independence and objectivity needed to provide the tangata whai ora with good quality healthcare.

Public confidence: Members of the community should never be deterred from seeking care, permitting intimate examinations, or sharing deeply personal information, because they fear potential abuse.

Breaches of sexual and emotional boundaries

There is a wide range of behaviour that breaches sexual and emotional boundaries, from making unnecessary comments about the person's body or clothing, to criminal behaviour such as sexual assault. Breaches of sexual and emotional boundaries also extend to interactions that occur outside the context of a consultation, for example, when contacting patients on social media.

Breaches of this nature include:

- Engaging or seeking to engage in a sexual relationship with tangata whai ora regardless of whether the CM practitioner believes they consented to the sexual relationship
- Conducting a physical examination which is not clinically indicated or when tangata whai ora have not consented to it. An unwarranted physical examination may constitute sexual assault or abuse
- Behaviours of a sexual nature including
 - Making sexual remarks including sexual humour or innuendo
 - Flirtatious behaviour

- Touching tangata whai ora in a sexual way
- Engaging in sexual behaviour in front of tangata whai ora, or
- Using words or acting in a way that might be interpreted as being designed or intended to arouse or gratify sexual desire
- Asking tangata whai ora about their sexual history or preferences, when these are not relevant to their healthcare, and without explaining why it is necessary to discuss these matters
- Sexual exploitation or abuse
- Sexual harassment, and
- Unwarranted or unnecessary physical examinations, or inappropriate touching during a consultation and examination may constitute sexual assault.

Other behaviours that may breach sexual and emotional boundaries include:

- Asking tangata whai ora to undress inappropriately or providing inadequate privacy screening or cover for a physical examination
- Engaging in a sexual relationship with an individual who is close to the tangata whai ora under the practitioner's care, such as a carer, guardian, spouse, family member or parent, or
- Engaging in a sexual relationship with tangata whai ora previously under your care as a CM practitioner.

Obligation to notify

If a CM practitioner receives or becomes aware of information that another CM practitioner may have breached professional boundaries; they have an ethical obligation to act, including informing the Council of their concerns.

If someone discloses an alleged breach of boundaries by their practitioner to another practitioner, the informed CM practitioner should help the complainant by explaining their options. These options will include contacting an advocacy service, making a complaint to the Health and Disability Commissioner, or speaking to the police.

If a CM practitioner is approached for advice from a colleague who feels attracted to someone in their care, but who assures them that they have not acted inappropriately, there is no ethical duty to inform anyone. They may counsel and advise the CM practitioner without having to notify the Council. Should, however, they feel that the CM practitioner, or tangata whai ora, may be at risk of breaching professional boundaries or need professional help, the Council recommends they ask for help.

If approached by a CM practitioner who has breached boundaries, the priority must be the safety of the tangata whai ora. In this case, it is recommended the Council be contacted for advice.

Disciplinary Action

The Council's role is to protect the public by putting appropriate safeguards in place. Complaints will be assessed by the Council and/or the Health and Disability Commissioner's office. After further investigation of a complaint by the Council's Notification Committee, this may result in a charge being laid with the Health Practitioners Disciplinary Tribunal (the Tribunal). The Tribunal is responsible for disciplinary decisions regarding health practitioners. Decisions on serious professional boundary transgressions and the tribunal process can be accessed on the Health Practitioners Disciplinary Tribunal website at www.hpdt.org.nz.

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