



Chinese Medicine Council of New Zealand

Professional Boundaries Guidance

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Purpose

The Professional Boundaries Standard outlines sexual, emotional, and professional boundaries, including physical boundaries when examining and treating sensitive areas. This guidance document expands on this to include the treatment of family members and whānau. 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 guidance supplements and expands on the [Professional Boundaries Standard](#) available on the Council website.

Effective Communication

Effective communication is the cornerstone of building respect, trust, and partnership in clinical practice. Effective communication covers everything from informed consent, active listening, written notes, appropriate communications with other service providers etc. Effective communication also includes the use of appropriate language and detail, use of appropriate verbal and non-verbal cues and confirming that the tangata whai ora has understood. Effective communication means the ability to understand the therapeutic situation, to adapt to the situation and context, and with those people communicating with each other.

In clinical practice this means:

- Listening to tangata whai ora speaking about their health needs, respecting their views about their health, and responding to their concerns and preferences
- Embedding culturally safe and competent practices into all aspects of clinical practice
- Ensuring consideration is given to the cultural beliefs, values, and practices of tangata whai ora
- Informing tangata whai ora of the nature of, and need for, all aspects of their clinical management, including examination and investigations, and giving them adequate opportunity to question or refuse intervention and treatment
- Confirming that tangata whai ora have understood their CM practitioner's recommendations for treatment and ongoing clinical management
- Responding to the questions of tangata whai ora, and
- Effectively engaging in interdisciplinary communication.

Professional boundaries provide the safety for a therapeutic relationship in which tangata whai ora receive best practice care. A therapeutic relationship is distinct from other forms of relationship. The following sections specifically clarify the standards practitioners need to uphold as registered Health care practitioners.

Sexual and Emotional Boundaries

Key points

- There is an inherent power imbalance in the practitioner-tangata whai ora relationship, which may result in breaches of trust
- Correct and clear communication, that meets the Council's Codes of Professional Conduct, is the most effective way to avoid misunderstandings in the practitioner-tangata whai ora relationship
- CM practitioners are responsible for maintaining professional boundaries in the practitioner-tangata whai ora relationship
- Sexual misconduct is an abuse of the practitioner-tangata whai ora relationship and may cause significant and lasting harm

- It is never appropriate for a CM practitioner to engage in a sexual relationship with a tangata whai ora currently in their care
- A CM practitioner must only conduct physical examinations of sensitive areas of tangata whai ora when it is clinically indicated, using a chaperone when appropriate, and only with informed consent. This includes when there is potential exposure and/or palpation that may be uncomfortable for Tangata whai ora e.g., exposing lower back or upper buttocks
- CM practitioners should always explain, and seek permission to expose (including feet, arms, any part of the body) for the purpose of diagnosis and/or treatment and seek verbal consent.

Guidance on maintaining sexual and emotional boundaries

The start of a sexual relationship between a CM practitioner and tangata whai ora may not always be immediately obvious to either party. CM practitioners need to be alert to warning signs that could indicate that boundaries are being, or are about to be, crossed.

Professional judgment can be impaired, especially when practitioners are working in isolation. It is recommended that CM practitioners engage and seek out opportunities for professional or peer supervision and take an active role in protecting their own well-being through implementing self-care strategies, particularly during times of stress and fatigue.

Warning signs include but are not limited to:

- A CM practitioner revealing intimate details about their life, especially personal crises, or sexual desires or practices
- A CM practitioner who finds themselves daydreaming or fantasising about a tangata whai ora
- Either party making contact outside the therapeutic environment
- Inviting each other out socially
- Tangata whai ora requesting or receiving non-urgent appointments at unusual hours or locations, especially when other staff are not present
- Tangata whai ora asking personal questions, using sexually explicit language or being overly affectionate, and
- Tangata whai ora giving or attempting to give gifts.

If a CM practitioner senses any of these warning signs, or if a tangata whai ora talks about or displays inappropriate feelings towards a CM practitioner or exhibits sexual behaviour, the practitioner should identify that this behaviour is inappropriate and places both parties at risk. In these situations, the CM practitioner should constructively re-establish professional boundaries and seek advice from an experienced and trusted colleague, their professional body, and/or indemnity insurer about how to best manage the situation.

If there is a possibility that sexual boundaries could be breached, or that the CM practitioner may not remain objective, they must transfer care to another practitioner. This should be done sensitively so that potentially vulnerable tangata whai ora are not further harmed.

Guidance for maintaining sexual and emotional boundaries with tangata whai ora formerly in care

It may be unethical and unprofessional for a CM practitioner to engage in a sexual relationship with tangata whai ora formerly in their care if this breaches the trust the tangata whai ora placed in the

practitioner. CM practitioners should recognise the influence they have had on tangata whai ora and that a power imbalance could continue long after the professional relationship has ended.

CM practitioners should consider carefully whether they could be exploiting the trust, knowledge and dependence that developed during the professional relationship before they decide whether to pursue or engage in a relationship outside therapeutic care.

When making a determination about the behaviour of a CM practitioner using a former professional relationship to engage in a sexual relationship with a tangata whai ora, the Council will consider a range of factors including:

- The duration, frequency and type of care provided; for example, if the practitioner had provided long-term emotional or psychological treatment
- The degree of vulnerability of tangata whai ora
- The extent of the dependence in the professional relationship
- The time elapsed since the end of the professional relationship
- The manner in which, and reason, the professional relationship ended or was terminated, and
- The context in which the sexual relationship started.

Guidance for maintaining sexual boundaries with individuals close to tangata whai ora

An individual, such as a carer, who has a personal or emotional relationship with tangata whai ora, and is involved or interested in their healthcare, may provide them with support and advice. In some cases, such as when they are the parent or guardian of a child, they may make decisions about health care on behalf of them about their healthcare. These individuals also rely on the CM practitioner and trust that the practitioner is acting in the best interests of tangata whai ora.

A sexual relationship between a CM practitioner and an individual close to a tangata whai ora may affect the judgement of both the practitioner and the individual and therefore undermine healthcare. Such a relationship may be unethical if the practitioner has used any power imbalance, knowledge or influence obtained as the practitioner of the tangata whai ora. This can present issues of betrayal, and/or rejection for tangata whai ora with the shift of attention to the other and may well impact the therapeutic relationship.

When deciding whether a CM practitioner used the professional relationship to engage in a sexual relationship with such an individual, the Council will consider a range of factors including:

- The duration, frequency and type of care provided by the practitioner to the tangata whai ora; for example, if they have provided long-term emotional or psychological treatment
- The degree of emotional dependence on the practitioner by the individual close to the tangata whai ora
- Whether any knowledge or influence obtained as the practitioner of the tangata whai ora was used to engage in a sexual relationship with the individual
- The importance of the clinical treatment to the tangata whai ora and to any individual close to them
- The extent to which the tangata whai ora is reliant on the individual close to them.

Guidance for the examination and treatment of sensitive areas

If you are proposing to examine or treat sensitive areas the Council recommends adopting the following procedures:

Before conducting a physical examination

Good clinical practice involves:

- Explaining why the examination is necessary, what it involves and providing an opportunity for tangata whai ora to ask questions or to refuse the examination. Use non-technical language to confirm understanding. It may be useful to use simple diagrams to help tangata whai ora understand the areas to be examined and/ or treated
- If the consultation includes examining or touching a sensitive area, the proposed technique or examination should be discussed. With agreement, the examination may be deferred and not undertaken on the day. Instead, the technique or examination may be offered as an option for a subsequent consultation, allowing tangata whai ora the opportunity to fully consider the matter
- The clinical rationale and consent or not, should be documented in the clinical records
- Obtaining and maintaining informed consent. The Council recommends obtaining written and signed consent particular to the proposed procedure. Whilst there is no legal requirement to obtain written consent the Council advises that in this area of practice (examination of sensitive areas) it is important to ensure that a CM practitioner has adequately managed the consent process and not breached the rights of the tangata whai ora
- If tangata whai ora declines to give written and signed consent, the reasons given for declining the consent should be carefully recorded in the clinical record. If the planned examination, technique, or treatment is considered essential for managing the diagnosis, then the practitioner should consult a senior colleague for advice
- Assessing whether a child or young person or who is impaired can give informed consent and if they are not capable, seeking consent from their representative
- Advising tangata whai ora that they have the right to bring a support person or chaperone and encouraging them to do so
- Allowing tangata whai ora to undress and dress in private
- It is not uncommon in clinical practice to ask to undo/ do up bras for women lying prone during treatment. It can also be common to assist clients with their socks, and repositioning leggings after treatment as part of care and avoiding any risks associated with post treatment dizziness, or for some stroke or paralysed clients, or those with high level pain. Whenever clothing is to be adjusted or moved in any way, permission must be sought from tangata whai ora. And should only be done so if the patient is unable to do it themselves, or if in doing so there is risk of harm.

When conducting a physical examination

Good clinical practice involves:

- Being aware of any verbal or non-verbal sign that the tangata whai ora has withdrawn consent
- Not continuing with an examination when consent is uncertain, has been refused or has been withdrawn
- Providing privacy, a warm environment, and suitable covering during an examination so that tangata whai ora are covered as much as possible, to maintain their dignity, and
- Not allowing tangata whai ora to remain undressed for any longer than is necessary for the examination.

Use of observers or the presence of support person/s

CM practitioners may choose to have an observer present during an intimate examination of tangata whai ora. The observer is a witness to the consultation and is usually also employed at the CM practice. An observer can provide an account of the consultation, particularly if there is an allegation of improper behaviour, at the time or later. Their presence may also provide a level of comfort to tangata whai ora. This cannot be done without first obtaining explicit consent from tangata whai ora being examined.

The observer should:

- Be qualified e.g., a registered health practitioner or appropriately trained, that is, they understand the support role they are performing on behalf of the tangata whai ora
- Be a person acceptable to the tangata whai ora or their support person, and
- Respect the privacy, confidentiality, and dignity of the tangata whai ora.

Tangata whai ora have the right to decline the presence of an observer. In that case, the CM practitioner can proceed with the consultation without the observer or choose not to proceed. Tangata whai ora also have the right to ask to be accompanied by a support person of their choice who may be a parent, carer, guardian, spouse, family member or friend.

Treatment of family members, whānau and individuals close to the CM practitioner

Treating family members, or those close to you, has the potential to blur professional boundaries, result in poor clinical decision making, affect your professional and objective judgement, and encourage excessive or unnecessary treatment.

The Council considers “family” to encompass whānau, family members, and those close to the CM practitioner including other individuals who have or could be perceived to have a personal or close relationship with you, whether familial or not. This includes where there is a potential for a power imbalance or a perceived financial incentive between you and the person being treated. Examples include a close friend, work colleague, family members of the practice owner, or those with a financial interest in the practice.

The power dynamics present with whānau, family members, colleagues and those close to the practitioner:

- Make it difficult for the tangata whai ora to give an informed consent or consider an alternative provider and/or make a complaint, and
- Make it difficult for the CM practitioner to refuse to provide care.

While the Council recognises there are circumstances where treatment of family and those close to the practitioner may be unavoidable, or there are also situations where the practitioner may be the preferred provider by tangata whai ora. If a CM practitioner chooses to treat in these situations, it should be documented, including consideration of any impact on good clinical reasoning, conflict of interest or power imbalance concerns. It is a CM practitioner’s responsibility to ensure that the care provided meets the Council’s clinical, professional, and ethical standards.

When working as a treatment provider for ACC (Accident Compensation Corporation), other insurers, or third-party payers it is considered unethical for treatment providers to claim payment for treating family members and is unlikely to be funded unless in exceptional circumstances.

Exceptional circumstances

Exceptional circumstances for treatment of family members include:

- acute treatment provided in an emergency where, in your reasonable judgement, the need for treatment is urgent given the likely clinical effect on the person of any delay in treatment
- situations in rural areas where there is no other appropriately qualified treatment provider available to give the required treatment.

In the above circumstances, and in any other situation where there is no reasonable alternative to providing care particular care should be taken to ensure that:

- The care involves an adequate assessment of the condition, based on the history and clinical signs and an appropriate examination
- Informed consent is attained from the family member before any treatment is provided
- The care provided is consistent with what would be provided on a professional basis to tangata whai ora with the same condition and under the same circumstances
- The CM practitioner transfers or refers the tangata whai ora to another practitioner in a timely manner, ensuring that all relevant clinical information is provided
- Confidentiality of the health information is maintained, and only disclosed in accordance with the health information privacy rules
- The details of the consultation are recorded in clear, accurate and contemporaneous clinical records that report the relevant clinical findings, the decisions made, the information given to tangata whai ora and any treatment provided
- The care is monitored by another registered CM practitioner.

Professional Boundaries

At all times, you must maintain appropriate professional boundaries with tangata whai ora. Some areas pose particular difficulty, and, if not identified early and appropriately managed, could result in compromising the professional relationship and/or care provided.

The topics discussed below are not exhaustive, and do not cover every eventuality.

Gifts

- There may be situations when refusing a gift may be difficult, impolite or appear to be culturally insensitive. The giving of gifts may be an expectation under certain circumstances or within some cultures
- At times, tangata whai ora, or their whānau and/or families, may present you with small or consumable gifts or koha as a gesture of appreciation. These will generally be acceptable, provided they are token in nature, and do not include cash donations. It is recommended that the acceptance of gifts (which may be minimal in nature, such as flowers or chocolates) be recorded and / or a colleague informed
- Accepting gifts, favours or hospitality may compromise the professional relationship with tangata whai ora. Gifts of more than a token value could be interpreted as the CM practitioner gaining personal benefit from their position, taking advantage of a vulnerable tangata whai ora, an attempt to gain preferential treatment, or an indicator of a personal or emotional relationship
- CM practitioners should not seek or accept any inducement, gift or hospitality that may affect, or be perceived to have the capacity to affect the treatment of tangata whai ora.
- CM practitioners should never give gifts to tangata whai ora or feel obligated to give something in return or interpret the gift as an indicator of a personal relationship.

Bequests and loans

- CM practitioners must not encourage tangata whai ora to give, lend or bequeath money or gifts that will benefit the practitioner. As with a gift, the best option is to refuse a bequest with a polite explanation or request that it be reassigned. Document any actions taken in response to the bequest.

Financial transactions

- Financial transactions, other than the fees for care provided, may compromise the professional relationship. CM practitioners' access to personal and confidential information about tangata whai ora could place CM practitioners in situations that result in personal or monetary benefits
- CM practitioners must be honest and open with tangata whai ora, employers, insurers, and other organisations or individuals about any financial dealings that could compromise the care provided.

Acting as a representative or enduring power of attorney

- Tangata whai ora may develop a relationship of trust with CM practitioners and seek to involve them or ask them to accept responsibilities under an enduring power of attorney. In most instances accepting such a position is unwise, as it could be perceived that the practitioner has exerted undue influence.

Social media and electronic forms of communication

- CM practitioners must maintain professional boundaries in social media use. CM practitioners should keep personal and professional lives separate as far as possible and avoid online relationships with tangata whai ora either currently or formerly in their care
- Text messaging can be an appropriate form of professional communication, e.g., appointment reminders. However, CM practitioners must maintain professional boundaries and ensure communication via text messaging is not misinterpreted or used to communicate in a way that is not clinically focused. Where possible, do not use personal devices to contact tangata whai ora. It is good practice to document any electronic communication with tangata whai ora in their clinical record.

Resource

The following link may be useful to provide further information.

[Guidelines of professional Boundaries. Nursing Council.](#)

Acknowledgements

This document incorporates and acknowledges information from the Accident Compensation Corporation, Acupuncture New Zealand, Australian Medical Board, Chiropractic Board of New Zealand, Medical Council of New Zealand, Nursing Council of New Zealand, Osteopathic Council of New Zealand, Physiotherapy Board of New Zealand, and The New Zealand Acupuncture Standards Authority.