Te Kaunihera Rata o Aotearoa
Medical Council of New Zealand

DRAFT FOR CONSULTATION

Using artificial intelligence (AI) in patient care

Introduction

Artificial intelligence (AI) refers to technologies that simulate human intelligence and have the ability to use data to learn, reason, self-correct and create new content.[1] In medical practice, AI is widely used to support diagnosis, assist with determining treatment options, streamline clinical documentation, and perform tasks that can improve quality, access, and efficiency.

It is vital that AI is used responsibly and in ways that prioritise and maintain patient safety and privacy. This statement outlines what doctors need to consider when they use AI in activities directly related to patient care. This includes scribing tools that support clinical note-taking. The statement does not apply to AI tools that assist with business or administrative activities, such as inbox management, although these AI applications should also be used with caution.

Council's standards for doctors using AI in patient care

Accountability and duty of care

1. The doctor-patient relationship and the delivery of patient-centred care remain central to medical practice no matter how advanced or efficient the technology you use. Before using an AI tool[2] in patient care, you should be satisfied that it is safe and appropriate for your patient and the task is clinically justified.

2. When using AI in your practice you must continue to work within your scope. Only use AI tools to support your practice where you are skilled, trained and competent to undertake that work without using AI.

3. You should be knowledgeable about the AI tool you are using and understand its functionality, capabilities and limitations. You must check that the information generated by the AI tool is suitable for your patient before acting on it.

4. AI is not a substitute for your clinical judgement. When using AI in your practice, you remain responsible for any decisions made, and any actions taken or not taken.

[1] PMCSA (2023). *Capturing the benefits of AI in healthcare for Aotearoa New Zealand*. Office of the PMCSA.
[2] We use the term 'AI tool' to broadly cover computer systems, applications and other tools that are based on artificial intelligence.

5. You should be aware that AI can make mistakes. This includes AI hallucinations where the AI tool presents inaccurate information as fact, ranging from minor errors to entirely made-up content.

6. Maintaining clear and accurate clinical records is a requirement for all aspects of medical practice. You must document when AI has been used, including whether you accepted or rejected any recommendations made by the AI tool, and record your reasons in the patient's records.

7. You must never use an AI tool to represent you in the practice of medicine, for example, by using an avatar, chatbot or deep-fake video to carry out a consultation.

Informed consent

8. It is important that the patient is involved in the decision to use AI in their care. You must uphold the patient's right to make informed decisions[3], including the decision whether to permit the use of an AI tool in their care.

9. Explain the AI tool to your patient, including how and why you want to use it, the tool's benefits, limitations and how you are managing any potential risks. Be prepared to answer your patient's questions and address any concerns. You should advise the patient of any potential implications that declining the use of AI may have for the nature or availability of their care. Document in the patient's records whether informed consent was given.

Patient data privacy, data security and patient safety

10. It is your responsibility to uphold patient data privacy, data security and patient safety when using AI tools.

11. Before using an AI tool, you must check that adequate cyber-security and privacy safeguards are in place. This includes checking that:
    a. you have appropriate patient consent before you collect, share or use any information about the patient
    b. the AI tool protects the patient's confidentiality
    c. the AI tool stores patient information securely and in line with relevant laws and best practice. This includes meeting the requirements of the Health Information Privacy Code[4], and upholding Māori data sovereignty[5].

12. The clinical safety and effectiveness of an AI tool is dependent on the quality of its data source as this directly impacts the quality of the AI tool's output. In selecting an AI tool, check that:
    a. the data source used is accurate and reliable to achieve optimal clinical outcomes and maximise patient safety

[3] See Council's statement on Informed consent: Helping patients make decisions about their care

[4] Office of the Privacy Commissioner (2020). *Health Information Privacy Code*.

[5] Māori data sovereignty is the inherent rights and interests that Māori have in relation to the collection, ownership and application of Māori data. See Kukutai, T., Campbell-Kamariera, K., Mead, A., Mikaere, K., Moses, C., Whitehead, J. & Cormack, D. (2023). *Māori data governance model.* Te Kāhui Raraunga.

b. any published clinical benchmarking you rely on is independent of the AI tool's developer or manufacturer
c. it has demonstrated the delivery of consistent, equitable and bias-free outcomes for patients. An AI tool's data source may be built on assumptions and characteristics specific to a population or context which, when applied to a different group, may generate inappropriate recommendations or inaccurate results.

13. You should only use an AI tool if you know it is subject to appropriate human clinical oversight. It must also undergo regular audit and evaluation for accuracy, bias, fitness for purpose, privacy, data security, and adherence to the legal requirements of the country where the data is stored (data sovereignty). Take reasonable steps to assure yourself that these safeguards are met. This may be done by checking that the AI tools you use have been assessed by your organisation or employer as meeting these criteria.

Continuing professional development

14. Since AI is a rapidly evolving field, it is important you frequently upskill so you can use AI tools safely and effectively. This includes staying up to date with the use of AI as recommended practice in your specialty. You should develop knowledge and understanding of how AI tools work, and an understanding of the associated challenges, risks and benefits and how to explain these clearly to your patients.