Doctors who provide care to themselves or those close to them

Background

Purpose
The Medical Council of New Zealand (Council) has recently reviewed its standards and policies as they relate to doctors who provide care to themselves, friends and family members. As a result of this review we are proposing to amend our Statement on providing care to yourself and those close to you, and to cease the practice of issuing practising certificates to doctors who have retired from practice for the purpose of allowing those doctors to provide care to themselves and family members.

The Council
The Council is a regulatory authority with the primary purpose of protecting public health and safety. We have the following key functions:

- Registering doctors
- Setting standards and guidelines
- Recertifying and promoting lifelong learning for doctors
- Reviewing practising doctors if there is a concern about competence, professional conduct or health.

History of the statement
In August 2001, the Council published a Statement on self care and family care. The purpose of this statement was to ensure that, where possible, doctors and relations of doctors receive an objective and appropriate assessment of their medical condition. The statement outlined that providing care to self and family was generally unwise due to the potential for the doctor to lack objectivity and for there to be a negative impact on the patient’s continuity of care, but allowed for care to be provided in certain circumstances including:

- When doctors prescribe for themselves and family members for a continuing condition and their GP will monitor the treatment at regular agreed intervals.
- Minor or self-limiting conditions.
- In an emergency.
- When the doctor is employed in a small community where there are family members. Doctors in this situation were encouraged to have a low threshold for referring patients to an independent doctor.

In October 2004 the Council reviewed two cases involving sexual boundary issues. One of these cases, HDC case file 03/11070, discussed whether it is appropriate for doctors to provide care to a sexual partner and in his report the Health and Disability Commissioner recommended that Council review the statement on Self and family care to clarify its position on this question. The Council agreed that the scope of the statement should probably be extended to cover more than just ‘self and family’, and also discussed whether the 2001 statement should be reviewed to further limit the situations in which care can appropriately be delivered.

After consulting with its stakeholders, Council published a revised edition of the statement in August 2006. This statement:

- Expanded the focus to include non-family members, such as work-mates, partners and friends.
- Provided a clear statement about when providing treatment to yourself or those close to you is never appropriate (for example, when prescribing drugs of dependence or undertaking psychotherapy).
- Made explicit that provision of care to yourself or those close to you is also inappropriate in most other circumstances.
- Acknowledged that there are a few situations in which treatment of self and those close to you is the only reasonable course of action.
- Provided guidance outlining the steps that must be taken if there is no other reasonable course of action open except to provide care to self or those close to you.

The statement was updated again in June 2007. The purpose of this further update was simply to amend a reference to Good medical practice. That resource was itself updated earlier in the year, and the statement was amended to reflect that.

**Reviewing the statement**

One of the aims of the current review is to consider whether the thresholds outlined in the 2007 statement remain appropriate, or whether expectations have shifted since it was published. In particular, the Council wants to explore the question of when it is appropriate for a doctor to provide care to himself or herself, or to those close to him or her. We are very interested in your views on this question.

**Consultation question**

1. When is it appropriate for a doctor to provide care to himself or herself, or to those close to him or her?

The Council’s provisional view is that the thresholds should probably change. Council members are not comfortable with the concept of self and family care in the majority of clinical situations, and are conscious of the potential risks. In particular, members are concerned that it can be difficult for a doctor to be objective in these circumstances and that such care can impact on the patient’s continuity of care (because the care provided may not be properly documented, and because the patient’s usual doctor might not be notified).

To further inform its position on this question the Council has looked at the requirements published by other authorities, including regulatory and advocacy bodies in New Zealand, Australia, the USA, the UK and Canada. A summary of our literature review is outlined in Appendix 2.

In reviewing the literature, we have noted that the UK’s General Medical Council (GMC) now prohibits self-care and prescribing for self and those close to you, and also states that providing other care to those close to you should be avoided ‘wherever possible’. We have also noted that a number of jurisdictions have made self-prescribing illegal, and that there is a trend towards limiting other types of care to emergency situations only.

**Proposed changes**

Council is proposing to strengthen some of the language in its statement by being more explicit about its expectations. For example in paragraph 5, we suggest replacing the statement that providing some specific types of care ‘should be avoided’ with the phrase that doctors ‘must never’ provide such care to themselves or someone close to them. The Council’s proposed changes are outlined in full in Appendix 1.
In addition to strengthening the language generally, the Council is also proposing one specific change. This is to replace the term 'surgery' with the broader term 'invasive procedures' in the list of situations where self and family care should never occur.

A number of additional minor changes have been proposed, and these changes have also been tracked in the version of the statement attached as Appendix 1. These changes are not intended to change the content of the statement, but are merely aimed at making it easier to read.

**Consultation question**
2. Do you agree with the proposed wording changes that are discussed above, and which are fully outlined in Appendix 1?

**Use of the statement when issuing practising certificates**

The Council regularly receives requests from doctors who wish to maintain their practising certificate, but who are not currently working and who do not intend seeking employment as a doctor. The majority of these doctors are retirees.

Council staff currently issue practising certificates to these doctors, but with a condition stating that their:

‘... scope of practice is limited to prescribing in accordance with Council’s statement on *Providing care to yourself and those close to you.*’

A doctor who has this condition on his or her practice is not required to undergo recertification, but a general practitioner is required to act as a colleague and to certify that the doctor is competent.

This practice is intended to allow retired doctors to retain their practising certificate. The Council introduced this policy because it believed that it would be useful and appropriate to allow retired doctors:
1. To provide medical care and issue prescriptions in an emergency.
2. To treat friends and family members so long as this is limited to the circumstances outlined in the statement.

The Council has now formed the view that issuing practise certificates in this way is inappropriate, and it is proposing to cease to do so. We are proposing this change because:
1. Section 8 of the Health Practitioners Competence Assurance Act 2003 already allows a doctor who does not hold a practising certificate to provide care (but not issue prescriptions) during an emergency.

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1 It is noted that an emergency is generally defined as being a short-term unpredictable situation (such as a car accident), and would not include – for example – responding to a pandemic or the aftermath of a disaster such as an earthquake. The Council has another mechanism available to it, a special purpose scope of practice for pandemics or disasters, that would allow retired doctors (along with students and doctors from other countries) to practise medicine in the event of a pandemic or disaster.
2. There appears to be a tension between this policy (which permits doctors to hold a practising certificate for the purpose of providing treatment to those close to them) and the statement (which discourages doctors from providing treatment to those close to them).

3. There is a question of whether it is appropriate for the Council to issue a ‘practising certificate’ to a practitioner who is not actually practising medicine on a regular basis.

**Consultation question**

3. Are there any emergency situations in which it would be useful to allow a retired doctor to prescribe medicines, and which would justify retaining the current policy?

**Consultation question**

4. Do you agree with Council’s proposal to end the practice of issuing practising certificates with a condition that a doctor’s ‘...scope of practice is limited to prescribing in accordance with Council’s statement on Providing care to yourself and those close to you’? If not, why not?
Appendix 1 – Proposed amendments to the Statement on providing care to yourself and those close to you

The Medical Council recognises that there are some situations where treatment of those close to you may occur but this should only occur when overall management of patient care is being monitored by an independent practitioner. Wherever possible doctors should avoid treating it is generally unwise for medical practitioners to treat people with whom they have a personal relationship rather than a professional relationship. Providing care to yourself or those close to you is neither prudent nor practical due to the lack of objectivity and discontinuity of care. The Medical Council recognises that there are some situations where treatment of those close to you may occur but maintain that this should only occur when overall management of patient care is being monitored by an independent practitioner.

Introduction

01 All patients are entitled to a good standard of care from a doctor. It is the responsibility of the doctor to provide care that meets the acceptable clinical and ethical standards of the profession. An objective assessment of the patient and the medical condition is necessary for good practice and care.

02 Every doctor should have his or her own general practitioner because an individual doctor cannot provide objective assessment of his or her own condition.

Assessment of yourself and those close to you

02 Every doctor should have his or her own general practitioner because an individual doctor cannot provide objective assessment of his or her own condition.

03 Self assessment may impair judgement about the diagnosis or treatment. Concern about personal and professional commitments may mean that you do not seek and receive proper care.

04 A lack of objectivity can also be problem when providing care to family members, those you work with and close friends. Those with whom you have close emotional ties should have a general practitioner who can provide appropriate care after an objective medical assessment.

When providing care to yourself or those close to you is inappropriate

05 The following are specific situations when you must not treating yourself, family members, people you work with and friends that should be avoided:

- Prescribing or administering drugs of dependence.
- Prescribing psychotropic medication.
- Undertaking psychotherapy.
- Issuing certificates.
- Performing surgery invasive procedures (unless an appropriate referral process has been followed).

06 You should also avoid it is also inappropriate to provide care to yourself and those close to you in the majority of other clinical situations.

Exceptions in certain situations

07 The Council acknowledges that there are some exceptions where providing care to yourself or those close to you may be unavoidable or where the alternative is impractical. In particular:
• When doctors you prescribe for themselves yourself or and those close to them you for a continuing condition and their a general practitioner will is monitoring the treatment at regular agreed intervals.

• In an emergency, where you may be required to doctors may provide treatment to themselves and yourself or those close to them you until another doctor is available.

• If the doctor is you are employed in a small community where there are people close to them you who are patients because of access issues. However, in this situation there may be additional pressures and doctors you should be aware that objectivity may be compromised. The Council recommends you should have a low threshold for referring these patients to an independent doctor for consultation.

Steps that should be taken when providing care to yourself or those close to you

08 In the above circumstances, and in any other situation where there is no reasonable alternative to providing care to yourself or someone close to you, you should take extra care to ensure that:

• The care involves an adequate assessment of the patient’s condition, based on the history and clinical signs and an appropriate examination.

• You refer the patient to another doctor, when indicated.

• The details of the consultation are recorded in clear, accurate and contemporaneous patient records that report the relevant clinical findings, the decisions made, the information given to the patient and any drugs or other treatment prescribed.\(^2\)

• The care is monitored by another doctor.

Note

Prescribing is included in the definition of practice of medicine and therefore an annual practising certificate is required.

June 2007 April August 2012

This statement is scheduled for review by June 2012 August 2017. Legislative changes may make this statement obsolete before this review date.

\(^2\) The first three points are requirements for all consultations, as outlined in Good medical practice. For further information on the requirements for documenting a consultation, please see the Council’s statement on The maintenance and retention of patient records, October 2005 August 2008.
Appendix 2 - Standards in other jurisdictions

To help inform this current review of the statement, the Council looked at the requirements published by other authorities, including regulatory and advocacy bodies in New Zealand, Australia, the USA, the UK and Canada.

New Zealand authorities
In 2002 the New Zealand Medical Association (NZMA) published a position statement on *Self and family treatment*. The preface to this position statement states “That the NZMA advise members that it is not good clinical practice for members to treat themselves or members of their families unless there is no other available and appropriately qualified medical practitioner. Medical practitioners should exercise great discretion in carrying out any such treatment(s).” An explanatory note states that this area is highly complex and somewhat controversial because of the changing nature of familial relationships and concepts of dependency. This note acknowledges “…that there are a number of factors that impact on the need to treat oneself and/or family ... [however] not all of these factors are ... negative.”

The NZMA’s view is that doctors should use their own professional ethics and judgement in arriving at a decision whether to treat themselves or a family member, but notes that they should exercise great care in the prescribing of potentially addictive drugs to family members.

The Royal New Zealand College of General Practitioners (RNZCGP) has developed a comprehensive 54 page booklet on *Self care for general practitioners*. This resource is intended to promote self care amongst general practitioners, assist them in assessing their level of self care and encourage them to look after their own needs. However, the booklet also discusses boundary issues, the need to have your own GP and self-prescribing.

The Dental Council of New Zealand’s *Conditions of practice* booklet includes a clause stating that:

> Dentists should not prescribe medicines and controlled drugs for themselves and should not prescribe for family members or friends, unless they are patients and the medicine or drug relates to dental treatment requirements.

The Psychotherapist’s Board *Standards of Ethical Conduct* includes a brief segment on the subject of looking after your own health, but no advice on treating family or friends.

The Psychologists Board *Code of Ethics* contains the following advice:

3.4.1 Psychologists seek to avoid dual relationships where that might present a conflict of interest.

3.4.2 Where dual relationships are unavoidable, psychologists identify any real or potential conflicts of interest and take all reasonable steps to address the issue in the best interests of both of the parties.

Clarification was sought from the Psychologists Board about the term “dual relationship”, and they advised that it refers to a situation where a psychologist has a personal and professional relationship with a patient.

It is noted that some District Health Boards prohibit self-prescribing in their conditions of service.
Australian, US, Canadian and UK authorities
The Australian Medical Board’s edition of Good medical practice includes the following clauses:

3.14 Personal relationships
Whenever possible, avoid providing medical care to anyone with whom you have a close personal relationship. In most cases, providing care to close friends, those you work with and family members is inappropriate because of the lack of objectivity, possible discontinuity of care, and risks to the doctor and patient. In some cases, providing care to those close to you is unavoidable. Whenever this is the case, good medical practice requires recognition and careful management of these issues.

9.2 Your health
Good medical practice involves:
9.2.1 Having a general practitioner.
9.2.2 Seeking independent, objective advice when you need medical care, and being aware of the risks of self-diagnosis and self-treatment.
9.2.3 Making sure that you are immunised against relevant communicable diseases.
9.2.4 Conforming to the legislation in your State or Territory in relation to self-prescribing.
9.2.5 Recognising the impact of fatigue on your health and your ability to care for patients, and endeavouring to work safe hours wherever possible.
9.2.6 Being aware of the doctors’ health program in your State or Territory if you need advice on where to seek help.
9.2.7 If you know or suspect that you have a health condition or impairment that could adversely affect your judgment, performance or your patient’s health:
   • not relying on your own assessment of the risk you pose to patients
   • consulting your doctor about whether, and in what ways, you may need to modify your practice, and following the doctor’s advice.

It is also noted that legislation in the State of Victoria prohibits self-prescribing.

The College of Physicians and Surgeons of British Columbia (CPSBC) has published a statement on Self-treatment and self-prescribing. This says that doctors should “limit treatment of yourself or members of your immediate family to minor or emergency services and only when another physician is not readily available; there should be no fee for treatment”. The statement outlines similar rules for prescribing, with a further requirement that a physician should not “renew regular prescriptions for him or herself, or family members, on a continuing basis”.

The College of Physicians and Surgeons of Newfoundland and Labrador (CPSNL) has published a statement on Physicians prescribing narcotics, benzodiazepines and other controlled substances for themselves and family members. As the title indicates, the scope of this statement is limited to certain treatments.

The College of Physicians and Surgeons of Ontario (CPSO) has published a statement on Treating self and family members. This statement says that doctors “should generally refrain from treating themselves or family members”, but does allow for emergency care and “episodic care for minor conditions, because such care presents little risk to the individual receiving the care and, in the case of providing such care to family members, is unlikely to give rise to a physician-patient relationship”. The statement also includes an appendix that outlines questions a doctor should ask him or herself to evaluate the emotional nature of a relationship and therefore whether they should provide care to that person.
In the United Kingdom, the General Medical Council’s (GMC) edition of *Good medical practice* (currently under review) includes the following standards:

5. Wherever possible, you should avoid providing medical care to anyone with whom you have a close personal relationship.

...  

77. You should be registered with a general practitioner outside your family to ensure that you have access to independent and objective medical care. You should not treat yourself.

The GMC’s statement on *Good practice in prescribing medicines* also includes the following clause:

5. Objectivity is essential in providing good care; independent medical care should be sought whenever you or someone with whom you have a close personal relationship requires prescription medicines.

The American Medical Association has issued a policy on *Self-treatment or treatment of immediate family members*. This states that “Physicians generally should not treat themselves or members of their immediate family” and provides a useful rationale for why this is inappropriate. It adds that “it is not always inappropriate to undertake self-treatment or treatment of immediate family members” and states that emergency care is acceptable, and that while doctors should never be a primary or regular care provider for family members “there are situations in which routine care is acceptable for short-term, minor problems.”