

Annex 1



**ASSOCIATION OF MEDICAL COUNCILS OF  
AFRICA**

---

**AMCOA PROTOCOL  
ON  
MEDICAL AND DENTAL MALPRACTICE**

---

**25 AUGUST 2016**

## AMCOA PROTOCOL ON MEDICAL AND DENTAL MALPRACTICE

WHEREAS dealing with “Medical and Dental Malpractice” in the member Boards/Councils of AMCOA take various forms both in structure and content; and

RECOGNISING the need to advance the objectives for enhancing and ensuring improved quality of care in relation to “Medical and Dental Malpractice”; and

FURTHER RECOGNISING the need to harmonize the procedures in the AMCOA region for the enhancement of management of “Medical and Dental Malpractice”.

NOW THEREFORE THE PARTIES TO THIS PROTOCOL DO HEREBY ADOPT THE PRINCIPLES ENshrined HEREIN AS A FRAMEWORK FOR DEALING WITH “MEDICAL AND DENTAL MALPRACTICE” IN THE REGION:-

### 1. DEFINITIONS

In this Protocol, unless the context otherwise indicates:-

“A code of conduct” is a set of principles that characters good medical practise and makes explicit the standards of ethical and professional conduct expected of doctors by their professional peers and the community.

### 2. CODE OF CONDUCT

It is agreed that Boards/Councils shall ensure that the following is observed in order to have standardized processes at national, regional and continental levels in the following areas namely:

#### 2.1 Duties of a Doctor and other health professionals to:

- (a) patients;
- (b) colleagues; and,
- (c) society.

##### 2.1.1 Duty to patients;

- (a) respect the patient’s autonomy/privacy;
- (b) confidentiality;
- (d) adhering to the patient’s Rights Charter;
- (e) acting in the best interest of patients;
- (f) uphold the dignity of the patients;
- (g) protecting the welfare of patients;
- (h) obtain informed consent;
- (i) report alleged abuse;
- (j) understand Cultural diversity;
- (k) non-discrimination;
- (l) duty of care, and
- (m) Attend to a patients in cases of emergencies

##### 2.1.2 Duty to Colleagues and other healthcare professionals:

- (a) respect;
- (b) honesty;
- (c) transparency;
- (d) communication;
- (e) teamwork, and

(f) knowledge sharing.

### 2.1.3 Duty to the Society

To maintain the highest standards of honour, integrity and dignity.

### 2.1.4 Three components of performance

- (a) Knowledge,
- (b) attitude, and
- (c) skills

## 2.2 Professional and Ethical Conduct

### 2.2.1 Standard of care

- (a) Evidence based practise;
- (b) shared decision making;
- (c) attend to a patients in cases of emergencies Referrals, delegation and handover in an appropriate manner;
- (d) accurate patient record keeping;
- (e) work within one's scope of practise; and,
- (f) provide reference and reports where necessary.

### 2.2.2 Maintain Good Professional Standing

- (a) Maintenance of registration and licensure;
- (b) continuing Professional Development ("CPD");
- (c) follow the expected standard of care to minimize risks;
- (d) understanding medico-legal issues;
- (e) appropriate use of available resources;
- (f) adherence to research ethics, and
- (g) health education and promotion

### 2.2.3 Ensuring Fitness to practise

Boards/Councils shall ensure practitioners adhere to the fitness to practise guidelines.

### 2.2.4 Advertising

Boards/Councils shall ensure practitioners observe guidelines on advertising as prescribed by their Regulatory Authorities.

### 2.2.5 Conflict of Interest

Boards/Councils shall ensure practitioners observe guidelines on conflict of interest as prescribed by their respective Regulatory Authorities.

## 3. PROFESSIONAL MISCONDUCT INQUIRIES AND ITS PROCESSES

It is agreed that Boards/Councils shall ensure that the following are observed in order to have standardized processes at national, regional and continental levels in the following areas namely -

### 3.1 Complaints

3.1.1 Boards/Councils may receive written or verbal complaints from;

- (a) patient;
- (b) next of kin; and,
- (c) Third party complainant. (should include a written consent by the patient where applicable).

3.1.2 The complaints shall be submitted in a standardised form or format.

### 3.2 Information

Boards/Councils may receive information from:

- (a) media or any other source where the Law permits;
- (b) anonymous complaints which may be dealt with within the constraints the Law;
- (c) whistle blowers (protection of complainant within the prescripts of the laws.)

### 3.3 Review of the complaint

3.3.1 A complaint shall be sorted, investigated and reviewed administratively to ensure that the matter is appropriately categorised and dealt with. The administrative team should have the required skill and capacity to deal with the initial sorting and categorisation of complaints.

3.3.1.1 The secretariat may mediate on complaints that are not of a serious nature and conclude them accordingly.

3.3.1.2 Complaints that cannot be concluded post mediation may be referred to the standing committee of the Boards/Councils for further action.

3.3.2 The documents that are served at the standing conduct committee of the Board / Council should include the outcome of the investigation and the response from the practitioner, among other appropriate document.

3.3.3 Complaints not resolved by the standing Committee shall be referred to an Independent Committee constituted by the Board/Council.

### 3.4 Stages of inquiry

The levels of inquiry shall be as follows:

- (a) Secretariat level as set out clause in 3.3.1.1 above.
- (b) Standing Committee of the Board/Council.
- (c) Independent Conduct Committee constituted by Board / Council.

### 3.5 Competency requirements

Boards/Councils are encouraged to ensure that at all stages of inquiry, incorporate health care and law practitioners. However, the second and third stages under clause 3.4 shall require the inclusion of a member to the public (public participation) who should not be registered by the respective Board/ Council.

### 3.6 Stages of appeal

Subject to statutory or legal provisions applicable to respective Boards/Councils appeals shall be as follows;

- 3.6.1 An appeal arising from the secretariat stage, shall be referred to the standing Committee of the Boards /Councils of the member state.
- 3.6.2 An appeal arising from the standing Committee of the Boards/Councils, shall be referred to the Independent Conduct Committee constituted by the Board / Council.
- 3.6.3 An appeal arising from the Independent Conduct Committee constituted by the Boards/Councils, shall be referred to the High Court or as the applicable law prescribes.

### 3.7 Suspension under special circumstances

Where a practitioner or an institution, poses an imminent danger to the public or himself, a precautionary /preventive suspension may apply subject to an inquiry.

### 3.8 Decisions

A decisions of an inquiry shall spell out details of the complaint, the findings and a reasoned decision that may impose any of the following orders / sanctions:

- (a) an acquittal;
- (b) a caution/warning or reprimand;
- (c) a fine;
- (d) supervised practice;
- (e) Board examination / re-training;
- (f) restricted practice;
- (g) suspensions;
- (h) erasure / removal from the register;
- (i) restitution: or
- (j) such other orders or sanctions as may be prescribed by the applicable law.

### 3.9 Sentencing guidelines

Boards/Councils are encouraged to develop sentencing guidelines to ensure relative consistency in their decisions.

## 4. REGULATING IN LIMITED RESOURCES AND COMPLEX EMERGENCIES

It is agreed that Councils/Boards shall ensure that the following are observed in order to have standardized processes at national, regional and continental levels in the following areas namely -

### 4.1 Self-Regulation

- 4.1.1 Boards/Councils are encouraged to put in place structures for self-regulation which permits practitioners to licence and regulate the practice of medical and dental practitioners or health care organisations in their Jurisdiction.
- 4.1.2 All Regulations should uphold the expected standards of training, professional development, quality control and continued professional development.

#### 4.2 Direct Action by Government

The Boards/councils in an affected area is encouraged to liaise with the respective Government for provision of the highest attainable services to patients and putting in place appropriate regulations.

#### 4.3 Regulating Third Party Health Care Providers

4.3.1. The Boards/councils in affected jurisdictions shall put in place structures to Licence or regulate the provisions of medical or dental services by International faith based organizations or Non-Governmental Organizations, as well as the private sector.

4.3.1. The Boards/Councils shall put in place structures to confirm registration or Licensing of organizations with other Jurisdictions.

### 5. ENSURING PATIENT SAFETY

It is agreed that Councils/Boards shall ensure that the following are observed in order to have standardized processes at national, regional and continental levels in the following areas namely -

#### 5.1 Provision of services by Qualified practitioners

The Boards/councils shall ensure that;

- (a) health care providers working in their jurisdiction are qualified and duly licenced;
- (b) practitioners offer highest attainable services with the available resources, and
- (c) only institutions that meet the minimum requirements on human resource and that are appropriately equipped operate.


#### 5.2 Disclosure of information

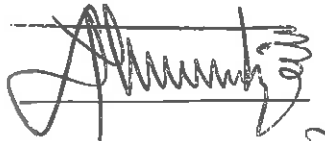






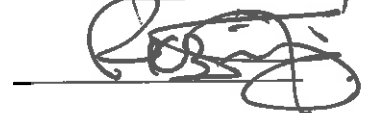
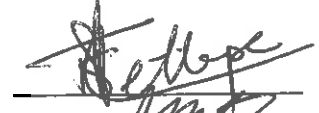


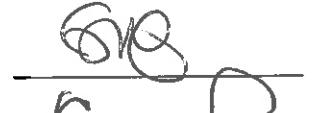
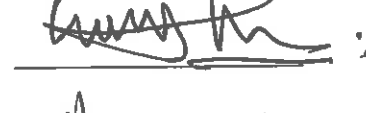
Patients shall have the right to choose the practitioner or institution from whom or where to obtain services and they shall also have the right to be informed appropriately.

### 6. ENABLING FRAMEWORK

All member countries that are signatories to this protocol agree to pursue processes of aligning or developing legislative and other policy frameworks to facilitate the implementation of the principles enshrined in this protocol.

THUS DONE AND SIGNED AT MAKOKOLA RETREAT, MANGOCHI, MALAWI, ON THIS DAY, FRIDAY, 26<sup>TH</sup> AUGUST, 2016

Country	Name	Signature
1. Botswana	Dr K. Lekau-Tacheba	

2.	Ghana	<u>DR EKI AINPUI</u>	
3.	Kenya	<u>Prof GEORGE MAGANDA</u>	
4.	Lesotho	<u>M. J. THABANE</u>	
5.	Liberia	<u>DR JOHN MULLBAH</u>	
6.	Malawi	<u>Prof JOHN CHISI</u>	
7.	Mauritius	<u>Dr. S.K. JAGAN</u> <u>ABEYARATNE</u>	
8.	Namibia	<u>Dr. AR KAARA</u>	
9.	Rwanda	<u>DR. E. RUDAKEMWA</u>	
10.	Sierra Leone	_____	_____
11.	South Africa	<u>DR T.K.S. LETLAPPE</u>	
12.	South Sudan	<u>Prof JOHN ODONG</u>	
13.	Swaziland	<u>Dr. Velephi Okello</u>	
14.	Tanzania	_____	_____
15.	Uganda	<u>At. Prof Saet Olullo</u>	
16.	Zambia	<u>Dr JM GOMA</u>	
17.	Zimbabwe	<u>MR. A. MACHENKA</u>	