



Guidelines for professional practice

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United Kingdom Central Council
for Nursing, Midwifery and Health Visiting

Protecting the public through professional standards



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Contents

	Page
Preamble	5
Introduction	6
Accountability – answering for your actions	8
Duty of care	10
Patient and client advocacy and autonomy	13
Communicating	15
Truthfulness	15
Consent	17
Making concerns known	21
Working together	23
Conscientious objection	24
Confidentiality	26
Advertising and sponsorship	31
Complementary and alternative therapies	33
Research and audit	34
Conclusion	37

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Preamble

The UKCC has produced this booklet to provide a guide for reflection on the statements within the Code of Professional Conduct. For students and those of you who are new to the professions, we hope that you find it useful; others of you may be very familiar with the guidance provided. This booklet has been produced to help to reflect on the many challenges that face us in day-to-day practice. The booklet should be read as a whole and care should be taken to use each section in the context of all the guidance provided. It is important that time is taken to read and consider the whole document. You may find yourself in a crisis when there is no opportunity to reach for a book. At these times, you may need the guidance offered to make the professional judgement needed for that specific situation.

Once you have read the booklet, you will be able to dip into the relevant sections and we hope that you will use it regularly and reflect on the many subjects covered. Throughout this booklet, many general ethical and legal issues have been covered. However, it is important that you get to know the specific circumstances, safeguards, policies and procedures needed to provide treatment or care relevant to your area of practice.

The development of these guidelines has been a consultative process with input from individuals with different employment, education, consumer and practice backgrounds. It has been produced in order to replace and update the information provided in the following three documents; Exercising Accountability (March 1989), Confidentiality (April 1987) and Advertising by Registered Nurses, Midwives and Health Visitors (March 1985).

With the many challenges facing nurses, midwives and health visitors and the speed in which practice changes, we acknowledge that these guidelines for professional practice will require regular review. We will formally review the contents by June 1998 and, in the meantime, would welcome any comments you have. These should be sent to the Professional Officer, Ethics, at the UKCC's address.

Introduction

- 1 The UKCC's responsibilities are set out in the Nurses, Midwives and Health Visitors Acts for 1979 and 1992 and our main responsibility is to protect the interests of the public. To do this, we set standards for education, training and professional conduct for registered nurses, midwives and health visitors (registered practitioners). The motto on our coat of arms – 'care, protect, honour' – reflects these responsibilities. We hope that this booklet will help you to:
 - 'care' in a way that reflects your code of professional conduct (the UKCC Code of Professional Conduct 1992);
 - 'protect' patients and clients and
 - 'honour' your responsibilities as a registered practitioner.
- 2 With so many codes and charters about, it is easy to be confused about how they relate to your professional and personal life. The Code of Professional Conduct was drawn up by the UKCC under the powers of the Nurses, Midwives and Health Visitors Act 1979 to give advice to registered practitioners. This code sets out:
 - the value of registered practitioners;
 - your responsibilities to represent and protect the interests of patients and clients and
 - what is expected of you.
- 3 The role of the UKCC in protecting the public is firstly to maintain a register of people who are recommended to be suitable practitioners and who have demonstrated knowledge and skill through a qualification registered with the UKCC. Secondly, we can remove people from that register either because they are seriously ill or because a charge of misconduct has been proven against them. The code is used as the standard against which complaints are considered.
- 4 This booklet gives guidance on all sixteen clauses of the code. It deals with areas such as consent, truthfulness, advocacy and autonomy. It cannot deal with every conflict which a registered practitioner may face. We recognise

that professional practice and decision-making are not straightforward. The circumstances we work under are always changing. The way we work must be sensitive and relevant and must meet the needs of patients and clients. We must be able to adjust our practice to changing circumstances, taking into consideration local procedures, policies and cultural differences.

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Accountability – answering for your actions

- 5 As a registered practitioner, you hold a position of responsibility and other people rely on you. You are professionally accountable to the UKCC, as well as having a contractual accountability to your employer and accountability to the law for your actions. The Code of Professional Conduct sets out your professional accountability – to whom you must answer and how. The code begins with the statement that:

“Each registered nurse, midwife and health visitor shall act, at all times, in such a manner as to: safeguard and promote the interests of individual patients and clients; serve the interests of society; justify public trust and confidence and uphold and enhance the good standing and reputation of the professions.”

Each clause of the code begins with the statement that:

“As a registered nurse, midwife or health visitor, you are personally accountable for your practice and, in the exercise of your professional accountability, must ...”

No one else can answer for you and it is no defence to say that you were acting on someone else's orders.

- 6 In exercising your professional accountability, there may be conflict between the interests of a patient or client, the health or social care team and society. This is especially so if health care resources are limited. Whatever decisions you take and judgements you make, you must be able to justify your actions.
- 7 Accountability is an integral part of professional practice, as in the course of practice you have to make judgements in a wide variety of circumstances. Professional accountability is fundamentally concerned with weighing up the interests of patients and clients in complex situations, using professional knowledge, judgement and skills to make a decision and enabling you to account for the decision made. Neither the Code of Professional Conduct nor this booklet seek to state the circumstances in which accountability has to be exercised, but instead they provide principles to aid your decision making.

- 8 If you delegate work to someone who is not registered with the UKCC, your accountability is to make sure that the person who does the work is able to do it and that appropriate levels of supervision or support are in place.
- 9 The first four clauses of the code make sure that you put the interests of patients, clients and the public before your own interests and those of your professional colleagues. They are as follows:
- “As a registered nurse, midwife or health visitor, you are personally accountable for your practice and, in the exercise of your professional accountability, must ...
- 1 act always in such a manner as to promote and safeguard the interests and well-being of patients and clients;
 - 2 ensure that no action or omission on your part, or within your sphere of responsibility, is detrimental to the interests, condition or safety of patients and clients;
 - 3 maintain and improve your professional knowledge and competence;
 - 4 acknowledge any limitations in your knowledge and competence and decline any duties or responsibilities unless able to perform them in a safe and skilled manner;”
- 10 The code does not cover the specific circumstances in which you make decisions and judgements. It presents important themes and principles which you must apply to all areas of your work.

Duty of care

- 11 You have both a legal and a professional duty to care for patients and clients. In law, the courts could find a registered practitioner negligent if a person suffers harm because he or she failed to care for them properly. Professionally, the UKCC's Professional Conduct Committee could find a registered practitioner guilty of misconduct and remove them from the register if he or she failed to care properly for a patient or client, even though they suffered no harm.
- 12 Lord Atkin defined the duty of care when he gave judgement in the case of *Donoghue v Stephenson* (House of Lords) (1932). He said that:
- “You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who, then, in the law is my neighbour? The answer seems to be persons who are so closely and directly affected by my act that I ought to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called in question.”

How circumstances can affect your duty of care

- 13 If there is a complaint against you, the UKCC's Professional Conduct Committee and possibly the courts would decide whether you took proper care. When they do this, they must consider whether what you did was reasonable in all the circumstances.
- 14 The following examples show how the duty of care changes according to the circumstances. Each example shows a skilled adult intensive care nurse in a different situation.

Example 1

The nurse is on duty in the intensive care unit when a patient suffers a cardiac arrest.

Here, it is reasonable to expect the nurse to care for the patient as competently as any experienced intensive care unit nurse.

Example 2

The nurse is walking along a hospital corridor and finds a woman completely alone giving birth.

In this situation, it is not reasonable to expect the nurse to care for the woman as a midwife would. But it is reasonable to expect the nurse to call a midwife or obstetrician and to stay with the woman until appropriate help arrives.

Example 3

The nurse is walking along a street and comes across a person injured in a road traffic accident.

In this situation, the nurse does not have a legal duty to stop and care for the injured person. But if she does, she then takes on a legal duty to care for the person properly. In these circumstances, it is reasonable to expect her to care for the person to the best of her skill and knowledge. Although the nurse has no legal duty to stop and give care in this example, she does have a professional duty. The Code of Professional Conduct places a professional duty upon her at all times. However, in this situation it could be reasonable to expect the nurse to do no more than comfort and support the injured person.

What is reasonable?

- 15 The courts and the Professional Conduct Committee must decide whether your actions were reasonable. The case of Bolam v Friern Hospital Management Committee (1957) produced this test of what is reasonable:

“The test is the standard of the ordinary skilled man exercising and professing to have that special skill. A man need not possess the highest expert skill at the risk of being found negligent ... it is sufficient if he exercises the skill of an ordinary competent man exercising that particular art.”

- 16 This test is usually called the Bolam test. Although the case concerned a doctor, the Bolam test can be used to examine the actions of any professional person. The case of Wilsher v Essex AHA (1988) set the standard of

reasonable care to be expected of students and junior staff. The standard is that of a reasonably competent practitioner and not that of a student or junior. You have a duty to ensure that the care which you delegate is carried out at a reasonably competent standard. This means that you remain accountable for the delegation of the work and for ensuring that the person who does the work is able to do it. The Code of Professional Conduct provides principles which you can apply to any situation. If you use these principles, you will be able to carry out your legal and professional duty of care.

Withdrawing care to protect the public and yourself

- 17 There may be circumstances of conflict where the registered practitioner may consider withdrawing his or her care. A situation like this might occur if the registered practitioner fears physical violence or if there are health and safety hazards involved in providing care. There may be other situations where the registered practitioner may seek support or consider withdrawing care, for example due to sexual or racial harassment. Any decision to withdraw care has to be taken very carefully and you should first discuss, if possible, the matter with managers, the patient's or client's family and, if appropriate and wherever possible, the patient or client themselves. In certain circumstances, you may need help to make sure that the public are safe. If possible, you should discuss this with other members of the health care team. However, in areas of practice where violence may occur more frequently, such as in some areas of mental health care and in accident and emergency departments, there must be protocols to deal with these situations. Appropriate training and on-call support arrangements should also be available. In all cases, you should make a record of the fact that you withdrew care so that if your actions or decisions are questioned, you can justify them.

Patient and client advocacy and autonomy

- 18** Recognising a patient's or client's right to choose is clearly outlined in clauses 1 and 5 of the code. Although the words advocacy and autonomy are not specifically used, it is this section which states the registered practitioner's role in these respects. The code states that:

"As a registered nurse, midwife or health visitor, you are personally accountable for your practice and, in the exercise of your professional accountability, must ...

- 1 ... act always in such a manner as to promote and safeguard the interests and well-being of patients and clients; (advocacy) ...
- 5 ... work in an open and co-operative manner with patients, clients and their families, foster their independence and recognise and respect their involvement in the planning and delivery of care;" (autonomy)

- 19** The registered practitioner must not practise in a way which assumes that only they know what is best for the patient or client, as this can only create a dependence and interfere with the patient's or client's right to choose. Advocacy is concerned with promoting and protecting the interests of patients or clients, many of whom may be vulnerable and incapable of protecting their own interests and who may be without the support of family or friends. You can do this by providing information and making the patient or client feel confident that he or she can make their own decisions. Advocacy also involves providing support if the patient refuses treatment/care or withdraws their consent. Other health care professionals, families, legal advisers, voluntary agencies and advocates appointed by the courts may also be involved in safeguarding the interests of patients and clients.
- 20** Respect for patients' and clients' autonomy means that you should respect the choices they make concerning their own lives. Clause 5 of the code outlines your professional role in promoting patient/client independence. This means discussing with them any proposed treatment or care so that

they can decide whether to refuse or accept that treatment or care. This information should enable the patient or client to decide what is in their own best interests.

- 21 Registered practitioners must respect patients' and clients' rights to take part in decisions about their care. You must use your professional judgement, often in conjunction with colleagues, to decide when a patient or client is capable of making an informed decision about his or her treatment and care. If possible, the patient or client should be able to make a choice about his or her care, even if this means that they may refuse care. You must make sure that all decisions are based on relevant knowledge. The patient's or client's right to agree to or to refuse treatment and care may change in law depending on their age and health (refer to the section on consent on pages 17–20). Particular attention to the legal position of children must be given, as their right to give consent or refuse treatment or care varies in different parts of the United Kingdom and depending on their age.

Communicating

- 22 Communication is an essential part of good practice. The patient or client can only make an informed choice if he or she is given clear information at every stage of care. You also need to listen to the patient or client. Listening is a vital part of communication. Effective communication relies on all our skills. Building a trusting relationship will greatly improve care and help to reduce anxiety and stress for patients and clients, their families and their carers. For effective communication, you may need to consult other colleagues with specialist knowledge, or you may need the services of interpreters to make sure that information is understood. It is important to create an environment for good communication so that you can build a relationship of trust with the patient or client. Employers should recognise the importance of communication when they plan staffing structures and levels.
- 23 To ensure that you gain the trust of your patients and clients, you should recognise them as equal partners, use language that is familiar to them and make sure that they understand the information you are giving. Your records must also be clear, legible and accessible to the patient or client, as outlined in the UKCC's document Standards for Records and Record Keeping and under the terms of the Data Protection Act 1984 and the Access to Health Records Act 1990. Written communication is as important as verbal communication.

Truthfulness

- 24 Patients and clients have a legal right to information about their condition; registered practitioners providing care have a professional duty to provide such information. A patient or client who wants information is entitled to an honest answer. There may be rare occasions when a person's condition and the likely effect of information given at a specific time might lead you to be selective (although never untruthful) about the information you give. Any

decision you make about what information to give must be in the best interests of the patient or client.

- 25 There is potential for disagreement or even conflict between different professionals and relatives over giving information to a patient or client. When discussing these matters with colleagues or relatives, you must stress that your personal accountability is firstly to the patient and client. Any patient or client can feel relatively powerless when they do not have full knowledge about their care or treatment. Giving patients and clients information helps to empower them. For this reason, the importance of telling the truth cannot be over-estimated. If patients or clients do not want to know the truth, it should not be forced upon them. You must be sensitive to their needs and must make sure that your communication is effective. The patient or client must be given a choice in the matter. To deny them that choice is to deny their rights and so diminish their dignity and independence.

Consent

- 26 You must obtain consent before you can give any treatment or care. The patient's or client's decision whether or not to agree to treatment must be based on adequate information so that they can make up their mind. It is important that this information is shared freely with the patient or client, in an accessible way and in appropriate circumstances. In emergency situations, where treatment is necessary to preserve life and the patient or client cannot make a decision (for example because they are unconscious), the law allows you to provide treatment without the patient's or client's consent, always acting in the best interests of the patient or client. You should also know that if the patient or client is an adult, consent from relatives is not sufficient on its own to protect you in the event of challenge, as nobody has the right to give consent on behalf of another adult.
- 27 When the patient or client is told about proposed treatment and care, it is important that you give the information in a sensitive and understandable way and that you give the patient or client enough time to consider it and ask questions if they wish. It is not safe to assume that the patient or client has enough knowledge, even about basic treatment, for them to make an informed choice without an explanation. You must respect the patient's or client's decision, regardless of whether he or she agrees to or refuses treatment.
- 28 It is essential that you give the patient or client adequate information so that he or she can make a meaningful decision. If a patient or client feels that the information they received was insufficient, they could make a complaint to the UKCC or take legal action. Most legal action is in the form of an allegation of negligence. In exceptional cases, for example where a patient's or client's consent was obtained by deception or where not enough information was given, this could result in an allegation of battery (or civil assault in Scotland). However, only in the most extreme cases is criminal law likely to be involved.

Who should obtain consent?

- 29 It is important that the person proposing to perform a procedure should obtain consent, although there may be some urgent situations where another practitioner can do so. Sometimes you may not be responsible for obtaining a patient's or client's consent as, although you are caring for the patient or client, you would not actually be carrying out the procedure. However, you are often best placed to know about the emotions, concerns and views of the patient or client and may be best able to judge what information is needed so that it is understood. With this in mind, you should tell other members of the health care team if you are concerned about the patient's or client's understanding of the procedure or treatment, for example, due to language difficulties.

Types of consent

- 30 Although the most important aspect of obtaining consent is providing and sharing information, the patient or client may demonstrate their decision in a number of ways. If they agree to treatment and care, they may do so verbally, in writing or by implying (by co-operating) that they agree. Equally a patient or client may withdraw or refuse consent in the same way. Verbal consent, or consent by implication, will be enough evidence in most cases. You should obtain written consent if the treatment or care is risky, lengthy or complex. This written consent stands as a record that discussions have taken place and of the patient's or client's choice. If a patient or client refuses treatment, making a written record of this is just as important. You should make sure that a summary of the discussions and decisions is placed in the patient's or client's records.

When consent is refused

- 31 Legally, a competent adult patient can either give or refuse consent to treatment, even if that refusal will shorten their life. Therefore you must respect the patient's refusal just as much as you would their consent. You must make sure that the patient is fully informed and, when necessary, involve other members of the health care team. As before, you should make

sure that a summary of the discussions and decisions is placed in the patient's or client's records.

- 32 Increasingly, the law and professional bodies are also recognising the power of advanced directives or living wills. These are documents made in advance of a particular condition arising and they show the patient's or client's treatment choices, including the decision not to accept further treatment in certain circumstances. Although not necessarily legally binding, they can provide very useful information about the wishes of a patient or client who is now unable to make a decision and therefore should be respected.

Consent of people under 16

- 33 If the patient or client is under the age of 16 (a minor), you must be aware of local protocols and legislation that affect their care or treatment. Consent of patients or clients under 16 is very complex, so you may need to seek local, legal or membership organisation advice. Some of the laws relating to a minor's consent have been referenced at the back of this booklet.

Consent of people who are mentally incapacitated

- 34 It is important that the principles governing consent are applied just as vigorously to all forms of care with people who are mentally incapacitated as with a competent adult. A patient or client may be described as mentally incapacitated for a number of reasons. There may be temporary reasons such as sedatory medicines or longer term reasons such as mental illness, coma or unconsciousness.
- 35 When a patient or client is considered incapable of providing consent, or where the wishes of a mentally incapacitated patient or client appear to be contrary to the interests of that person, you should be involved in assessing their care or treatment. You should consult relevant people close to the patient or client, but respect any previous instructions the patient or client gave.

- 36** In some cases of legal incapacity, such as when a patient is in a persistent vegetative state, certain decisions will need court authority. Court authority may also be necessary or desirable in decisions concerning selective non-treatment of handicapped infants, dealing with certain circumstances of neonate care or sterilisation of a mentally handicapped individual.

Mental Health Acts

- 37** If you are involved in the care or treatment of patients or clients detained under statutory powers in the Mental Health Acts, you must get to know the circumstances and safeguards needed for providing treatment and care without consent.

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Making concerns known

- 38** Employers have a duty to provide the resources needed for patient and client care, but the numerous requests to the UKCC for advice on this subject indicate that the environment in which care is provided is not always adequate. You may find yourself unable to provide good care because of a lack of adequate resources. Also, you may be afraid to speak out for fear of losing your job. However, if you do not report your concerns, you may be in breach of the Code of Professional Conduct. You may also have concerns over inappropriate behaviour by a colleague and feel it necessary to make your concerns known. You will need to report your concerns to the appropriate person or authority, depending on the type of concerns. You may feel it necessary to discuss these decisions with other colleagues or a membership organisation.
- 39** The clauses of the code which relate specifically to these issues are numbers 11, 12 and 13:
- “As a registered nurse, midwife and health visitor, you are personally accountable for your practice and, in the exercise of your professional accountability, must ...
- 11 report to an appropriate person or authority, having regard to the physical, psychological and social effects on patients and clients, any circumstances in the environment of care which could jeopardise standards of practice;
 - 12 report to an appropriate person or authority any circumstances in which safe and appropriate care for patients and clients cannot be provided;
 - 13 report to an appropriate person or authority where it appears that the health or safety of colleagues is at risk, as such circumstances may compromise standards of practice and care;”
- 40** These clauses give advice on the minimum action to be taken. This will help to make sure that those who manage resources and staff have all the

information they need to provide an adequate and appropriate standard of care. You must not be deterred from reporting your concerns, even if you believe that resources are not available or that no action will be taken. You should make your report verbally and/or in writing and, where available, follow local procedures. The manager (who may also be registered with us) should assess the report and communicate it to senior managers where appropriate. This is important because if, subsequently, any complaint is made about the registered practitioners involved in providing care, this may require senior managers to justify their actions if inadequate resources are seen to affect the situation.

- 41** As outlined in clauses 11, 12 and 13 of the code, the registered practitioner's role is to make sure that safe and appropriate care is provided. This means:
- promoting staff support throughout health care settings;
 - telling senior colleagues about unacceptable standards;
 - supporting and advising colleagues at risk;
 - reporting circumstances in the environment which could jeopardise standards of practice;
 - making sure that local procedures are in place, challenged and/or changed;
 - being aware of new codes, charters and registration body guidelines;
 - keeping accurate records and
when necessary, obtaining guidance on how to present information to management.

Working together

- 42** The UKCC recognises the complexity of health care and stresses the need to appreciate the contribution of professional health care staff, students, supporting staff and also voluntary and independent agencies. Providing care is a multi-professional, multi-agency activity which, in order to be effective, must be based on mutual understanding, trust, respect and co-operation. Patients and clients are equal partners in their care and therefore have the right to be involved in the health care team's decisions.
- 43** Under clause 6 and clause 14 of the Code of Professional Conduct:

“As a registered nurse, midwife or health visitor, you are personally accountable for your practice and, in the exercise of your professional accountability, must ...

- 6** work in a collaborative and co-operative manner with health care professionals and others involved in providing care, and recognise and respect their particular contributions within the care team; ...
- 14** assist professional colleagues, in the context of your own knowledge, experience and sphere of responsibility, to develop their professional competence and assist others in the care team, including informal carers, to contribute safely to a degree appropriate to their roles;”

These clauses emphasise the importance of support and co-operation and also the importance of avoiding disputes and promoting good relationships and a spirit of co-operation and mutual respect within the health and social care team. It is clearly impossible for any one profession to possess all the knowledge, skills and resources needed to meet the total health care needs of society. Good care should be the product of a good team.

- 44** Good team work is important but co-operation and collaboration are not always easily achieved, for example, if:
- individual members of the team have their own specific and separate objectives or

- one member of the team tries to adopt a dominant role without considering the opinions, knowledge and skills of its other members.

In such circumstances, achieving good team work needs hard work and negotiation between all the health care professionals involved. In all the discussions, it is important to stress that the interests of the patient or client must come first.

- 45 Discrimination has no place in health care. This means making sure that equal opportunities policies are in place, challenged and/or changed and ensuring that no one has to endure racial or sexual harassment. Each member of a team is entitled to equality and must not be discriminated against because of gender, age, race, disability, sexuality, culture or religious beliefs. There needs to be effective communication and team work to make sure these principles are not neglected.

Conscientious objection

- 46 In today's developing health service, you may find yourself in situations which you find very uncomfortable. There may be many circumstances in which a practitioner, due to personal morality or religious beliefs, will not wish to be involved in a certain type of treatment or care. Clause 8 of the Code of Professional Conduct states that:

"As a registered nurse, midwife or health visitor, you are personally accountable for your practice and, in the exercise of your professional accountability, must ...

- 8 report to an appropriate person or authority, at the earliest possible time, any conscientious objection which may be relevant to your professional practice;"

- 47 In law, you have the right conscientiously to object to take part in care in only two areas. These are the Abortion Act 1967 (Scotland, England and Wales), which gives you the right to refuse to take part in an abortion, and the Human Fertilisation and Embryology Act 1990, which gives you the

right to refuse to participate in technological procedures to achieve conception and pregnancy.

- 48** However, in an emergency, you would be expected to provide care. You should carefully consider whether or not to accept employment in an area which carries out treatment or procedures to which you object. If, however, a situation arises in which you do not want to take part in a form of treatment or care, then it is important that you declare your objection in time for managers to make alternative arrangements. In certain circumstances, this may mean providing counselling for the staff involved in these decisions. You do not have the right to refuse to take part in emergency treatment.
- 49** Refusing to be involved in the care of patients because of their condition or behaviour is unacceptable. The UKCC expects all registered practitioners to be non-judgmental when providing care. This is one of the issues addressed by clause 7 of the code, which states that:

“As a registered nurse, midwife or health visitor, you are personally accountable for your practice and, in the exercise of your professional accountability, must ...

- 7 recognise and respect the uniqueness and dignity of each patient and client, and respect their need for care, irrespective of their ethnic origin, religious beliefs, personal attributes, the nature of their health problems or any other factor;”

Confidentiality

50 To trust another person with private and personal information about yourself is a significant matter. If the person to whom that information is given is a nurse, midwife or health visitor, the patient or client has a right to believe that this information, given in confidence, will only be used for the purposes for which it was given and will not be released to others without their permission. The death of a patient or client does not give you the right to break confidentiality.

51 Clause 10 of the Code of Professional Conduct addresses this subject directly. It states that:

“As a registered nurse, midwife or health visitor, you are personally accountable for your practice and, in the exercise of your professional accountability, must ...

- 10 protect all confidential information concerning patients and clients obtained in the course of professional practice and make disclosures only with consent, where required by the order of a court or where you can justify disclosure in the wider public interest;”

Confidentiality should only be broken in exceptional circumstances and should only occur after careful consideration that you can justify your action.

52 It is impractical to obtain the consent of the patient or client every time you need to share information with other health professionals or other staff involved in the health care of that patient or client. What is important is that the patient or client understands that some information may be made available to others involved in the delivery of their care. However, the patient or client must know who the information will be shared with.

53 Patients and clients have a right to know the standards of confidentiality maintained by those providing their care and these standards should be made known by the health professional at the first point of contact. These

standards of confidentiality can be reinforced by leaflets and posters where the health care is being delivered.

Providing information

- 54 You always need to obtain the explicit consent of a patient or client before you disclose specific information and you must make sure that the patient or client can make an informed response as to whether that information can be disclosed.
- 55 Disclosure of information occurs:
- with the consent of the patient or client;
 - without the consent of the patient or client when the disclosure is required by law or by order of a court and
 - without the consent of the patient or client when the disclosure is considered to be necessary in the public interest.
- 56 The public interest means the interests of an individual, or groups of individuals or of society as a whole, and would, for example, cover matters such as serious crime, child abuse, drug trafficking or other activities which place others at serious risk.
- 57 There is no statutory right to confidentiality but an aggrieved individual can sue through a civil court alleging that confidentiality was broken.
- 58 The situation that causes most problems is when your decision to withhold confidential information or give it to a third party has serious consequences. The information may have been given to you in the strictest confidence by a patient or client or by a colleague. You could also discover the information in the course of your work.
- 59 You may sometimes be under pressure to release information but you must realise that you will be held accountable for this. In all cases where you deliberately release information in what you believe to be the best interests of the public, your decision must be justified. In some circumstances, such as accident and emergency admissions where the police are involved, it may be appropriate to involve senior staff if you do not feel that you are able to deal with the situation alone.

- 60 The above circumstances can be particularly stressful, especially if vulnerable groups are concerned, as releasing information may mean that a third party becomes involved, as in the case of children or those with learning difficulties.
- 61 You should always discuss the matter fully with other professional colleagues and, if appropriate, consult the UKCC or a membership organisation before making a decision to release information without a patient's permission. There will often be significant consequences which you must consider carefully before you make the decision to withhold or release information. Having made a decision, you should write down the reasons either in the appropriate record or in a special note that can be kept in a separate file (outlined in the UKCC's booklet Standards for Records and Record Keeping). You then have written justification for the action which you took if this becomes necessary and you can also review the decision later in the light of future developments.

Ownership of and access to records

- 62 Organisations which employ professional staff who make records are the legal owners of these records, but that does not give anyone in that organisation the legal right of access to the information in those records. However, the patient or client can ask to see their records, whether they are written down or on computer. This is as a result of the Data Protection Act 1984, Access Modification (Health) Order 1987 and the Access to Health Records Act 1990.
- 63 The contracts of employment of all employees not directly involved with patients but who have access to or handle confidential records should contain clauses which emphasise the principles of confidentiality and state the disciplinary action which could result if these principles are not met.
- 64 As far as computer-held records are concerned, you must be satisfied that as far as possible, the methods you use for recording information are secure. You must also find out which categories of staff have access to records to which they are expected to contribute important personal and confidential

information. Local procedures must include ways of checking whether a record is authentic when there is no written signature. All records must clearly indicate the identity of the person who made that record. As more patient and client records are moved and linked between health care settings by computer, you will have to be vigilant in order to make sure that patient or client confidentiality is not broken. This means trying to ensure that the systems used are protected from inappropriate access within your direct area of practice, for example ensuring that personal access codes are kept secure.

- 65 The Computer Misuse Act 1990 came into force to secure computer programs and data against unauthorised access or alteration. Authorised users have permission to use certain programs and data. If those users go beyond what is permitted, this is a criminal offence. The Act makes provision for accidentally exceeding your permission and covers fraud, extortion and blackmail.
- 66 Where access to information contained on a computer filing system is available to members of staff who are not registered practitioners, or health professionals governed by similar ethical principles, an important clause concerning confidentiality should appear within their contracts of employment (outlined in the UKCC's position statement Confidentiality: use of computers, 1994).
- 67 Those who receive confidential information from a patient or client should advise them that the information will be given to the registered practitioner involved in their care. If necessary, this may also include other professionals in the health and social work fields. Registered practitioners must make sure that, where possible, the storage and movement of records within the health care setting does not put the confidentiality of patient information at risk.

Access to records for teaching, research and audit

- 68 If patients' or clients' records need to be used to help students gain the knowledge and skills which they require, the same principles of confidentiality apply to the information. This also applies to those engaged

in research and audit. The manager of the health care setting is responsible for the security of the information contained in these records and for making sure that access to the information is closely supervised. The person providing the training will be responsible for making sure that students understand the need for confidentiality and the need to follow local procedures for handling and storing records. The patient or client should know about the individual having access to their records and should be able to refuse that access if they wish.

69 In summary, the following principles concerning confidentiality apply:

- a patient or client has the right to expect that information given in confidence will be used only for the purpose for which it was given and will not be released to others without their permission;
- you should recognise each patient's or client's right to have information about themselves kept secure and private;
- if it is appropriate to share information gained in the course of your work with other health or social work practitioners, you must make sure that as far as is reasonable, the information will be kept in strict professional confidence and be used only for the purpose for which the information was given;
- you are responsible for any decision which you make to release confidential information because you think that this is in the public's best interest;
- if you choose to break confidentiality because you believe that this is in the public's best interest, you must have considered the situation carefully enough to justify that decision and
- you should not deliberately break confidentiality other than in exceptional circumstances.

Advertising and sponsorship

- 70 Clause 16 of the UKCC's Code of Professional Conduct addresses the subject of the promotion of commercial goods or services. It states that:

“As a registered nurse, midwife or health visitor, you are personally accountable for your practice and, in the exercise of your professional accountability, must ...

16 ensure that your registration status is not used in the promotion of commercial products or services, declare any financial or other interests in relevant organisations providing such goods or services and ensure that your professional judgement is not influenced by any commercial considerations.”

- 71 Patients or clients and their relatives or friends are often anxious when attending hospitals and other health care facilities. The environment of care should help to promote good health, healing and recovery and not be one of commercial advertising.

- 72 Clause 16 does not intend to prevent registered practitioners employed in positions such as the matron of a private nursing home or as a representative of a pharmaceutical company, or who are offering their professional services privately, from using their registration status on items such as business cards and headed note paper.

- 73 However, if a practitioner has a direct financial or other direct interest in an organisation providing commercial goods or services, for example, a ward sister who is discharging a patient to a nursing home owned and run by herself or one of her relatives, then that practitioner must make her interests known.

- 74 It is also unacceptable for registered practitioners to carry commercial advertising or promotional material on their uniforms.

- 75 Under the Code of Professional Conduct, registered practitioners must protect the interests of patients and clients, be worthy of public trust and confidence and avoid using professional qualifications in ways which might

compromise the independence of professional judgements upon which patients and clients rely. The vulnerability of patients and clients is reflected by these elements of the code, which also indicate the importance of trust between a registered practitioner and a patient as well as the expectation that the registered practitioner will respond to the patient's needs unconditionally.

Sponsorship

- 76 Funding for some posts, projects or services is sometimes offered by companies, some of which have a commercial interest in matters associated with health care. Sponsorship arrangements which affect the professional judgement of registered practitioners and patient or client choice should be brought to the attention of those who provide health care services.
- 77 Students on pre-registration and post-registration courses often need sponsorship to carry out their study, especially for overseas study visits. The decision to accept sponsorship must be made by the individual, taking account of the appropriateness of the support offered.

Receiving gifts

- 78 You may be offered gifts, favours or hospitality from patients or clients during the course of or after a period of care or treatment. The Code of Professional Conduct states that:
- “As a registered nurse, midwife and health visitor, you are personally accountable for your practice and, in the exercise of your professional accountability must ...
- 15 refuse any gift, favour or hospitality from patients or clients currently in your care which might be interpreted as seeking to exert influence to obtain preferential consideration;”

The important principle is not that the registered practitioner never receives gifts or favours but that they could never be interpreted as being given by the patient or client in return for preferential treatment.

Complementary and alternative therapies

- 79** Complementary therapies are gaining popularity and finding a more substantial place in health care. It is vitally important that you ensure that the introduction of any of these therapies to your practice is always in the best interests and safety of the patients and clients. Clause 9 of the code outlines your privileged relationship with patients and clients:

“As a registered nurse, midwife and health visitor, you are personally accountable for your practice and, in the exercise of your professional accountability must ...

- 9 avoid any abuse of your privileged relationship with patients and clients and of the privileged access allowed to their person, property, residence or workplace;”

The registered practitioner therefore must be convinced of the relevance and accountability of the therapy being used and must be able to justify using it in a particular circumstance, especially when using the therapy as part of professional practice. It should also be part of professional team work to discuss the use of complementary therapies with medical and other members of the health care team caring for the particular patient or client.

- 80** Some registered practitioners, who successfully complete courses in complementary or alternative therapies not usually associated with their professional practice, quote their registration status when advertising their services. The UKCC believes that a person's registration status should not be needed to support a complementary or alternative therapy course or qualification if the course is valid and credible. However, if it is a registered practitioner's registered status that gives credibility to the qualification, then the registered practitioner must use their own judgement and discretion to make sure that they are not misleading the public.
- 81** If a complaint is made against you, we can call you to account for any activities carried out outside conventional practice. You should carefully consider the content and status of any courses which you undertake and how you promote yourself.

Research and audit

- 82** Increasing numbers of registered practitioners are carrying out, or are involved in, research or audit. The results might improve practice, help to audit an aspect of clinical services, inform policy or be part of a graduate or postgraduate qualification. Other practitioners are employed or involved with clinical trials which focus on new treatments, new technology or improvements to patient care.
- 83** If you are involved in these activities, issues often arise which you need to consider. Is the research ethical? Is your role appropriate? Has the Local Research Ethics Committee (LREC) given its approval? Has local management given their approval? What is the make-up of the LREC? Are there registered practitioners on the LREC?

Types of research

- 84** The range of research carried out varies greatly. Outlined below are some of the types of research that are used in the health care setting.

Projects

- 85** An increasing number of students are being asked to do project work for diplomas or undergraduate degrees. Many educational institutions recommend that their diploma or undergraduate students do not become involved in clinically-based research.
- 86** As the number of these projects increases, contact with patients or clients might be refused. This is quite reasonable, as the care and comfort of patients or clients must always be considered. Projects by registered practitioners may be prompted by developments at clinical level, by involvement in practice development units or as a result of participating in clinical supervision.

Higher degrees

- 87** Research for postgraduate degrees is supervised and guided throughout. It is important to gain approval for research in clinical areas from management in addition to consulting the local LREC before starting the work.

Other research work and clinical research trials

- 88** Research activities intended to benefit patient care or investigate practice are carried out by a wide range of clinicians, academics and others. Registered practitioners may be involved in this work as part of their job, because of academic interest or in response to a perceived or expressed need.
- 89** Contracts of employment specify how practitioners must work. They do not always cover concerns about the ethics of research, confidentiality, consent or other issues. Under European Community Directive 91/507/EEC, all elements of clinical trials carried out within the European Union must adhere to the guidelines on good clinical practice for trials on medical protocols in the EU. These guidelines provide a useful framework for nurses, midwives and health visitors to use when they are involved in research work.
- 90** If there is contact with patients or clients, it is important for you to discuss the benefits of the work with the appropriate manager. You must be certain that approval from the LREC is obtained. Repeated requests for patients and clients to fill in questionnaires or to be interviewed can be intrusive and potentially disruptive to care. For this reason, the views of patients, clients, and their associates will assist in determining prospective compliance.

Criteria for safe and ethical conduct of research

- 91** You must always refer to the UKCC's Code of Professional Conduct and The Scope of Professional Practice. These documents provide the framework for all actions of registered nurses, midwives and health visitors.
- 92** As well as using these documents, you need to be sure that the research or clinical trial you are carrying out meets specific criteria. These are that:

- the project must be approved by the LREC;
 - management approval must be gained where necessary;
 - arrangements for obtaining consent must be clearly understood by all those involved;
 - confidentiality must be maintained;
 - patients must not be exposed to unacceptable risks;
 - patients should be included in the development of proposed projects where appropriate;
 - accurate records must be kept and
 - research questions need to be well structured and aimed at producing clearly anticipated care or service outcomes and benefits;
- 93 You need to consider these criteria before submitting a research proposal to a LREC. You are expected to participate fully in the design process and this includes raising legitimate concerns when they arise. If no LREC exists in your area, it is important to refer to local policy for research.

Audit

- 94 Audit seeks to improve practice and treatment and to reduce risk by the systematic review of the process and outcome of care and treatment and by the evaluation of records and other data. There are occasions when contact with patients and clients, carers or relatives is necessary and therefore LREC clearance may be required. Consideration of the other points highlighted above is recommended.

Conclusion

- 95 We have produced this booklet to help you in your professional practice. It would be impossible to discuss all the issues faced by registered practitioners. Answers are not always straightforward. The Code of Professional Conduct and The Scope of Professional Practice apply to all registered practitioners and the interests of the public, patients and clients are of the greatest importance. You should also remember that being accountable and working with those who provide care is the foundation upon which the best standards are achieved. With the many challenges facing nurses, midwives and health visitors and the speed in which practice changes, it is acknowledged that these guidelines for professional practice will require regular review. We will formally review these guidelines by June 1998 and, in the meantime, would welcome any comments which you may have. Comments on this booklet should be sent to the Professional Officer, Ethics, at the UKCC's address.
- 96 In producing this booklet, we have been greatly helped by comments from representatives of practice, education, medical, professional, membership and consumer organisations. We have tried to produce the booklet in a form that is easily accessible in order to aid professional judgement and to outline basic principles.
- 97 If you need further information or advice, please contact our team of professional officers at the:

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Documents relevant to these guidelines

- 1 *Code of Professional Conduct*, UKCC, 1992
- 2 *The Scope of Professional Practice*, UKCC, 1992
- 3 *Midwives Rules*, UKCC, 1993
- 4 *The Midwife's Code of Practice*, UKCC, 1994
- 5 *Standards for Records and Record Keeping*, UKCC, 1993
- 6 *Standards for the Administration of Medicines*, UKCC, 1992
- 7 *Confidentiality: use of computers, position statement*, UKCC, 1992
- 8 *Complementary therapies, position statement*, UKCC, 1995
- 9 *Acquired Immune Deficiency Syndrome and Human Immune Deficiency Virus Infection (AIDS and HIV Infection)*, UKCC, 1994
- 10 *Anonymous Testing for the Prevalence of the Human Immune Deficiency Virus (HIV)*, UKCC, 1994

These documents are available on written request from the Distribution Department at the UKCC.

Laws relevant to these guidelines

- 1 Nurses, Midwives and Health Visitors Acts 1979 and 1992
- 2 Access to Health Records Act 1990
- 3 Family Law Reform Act 1969
- 4 Age of Legal Capacity (Scotland) Act 1991
- 5 Children Act 1989
- 6 Mental Health (Northern Ireland) Order 1986
- 7 Mental Health (England and Wales) Act 1983
- 8 Mental Health (Scotland) Act 1984
- 9 Abortion Act 1967
- 10 Human Fertilisation and Embryology Act 1990
- 11 Data Protection Act 1984
- 12 Access Modification (Health) Order 1987
- 13 Computer Misuse Act 1990
- 14 European Community Directive 91/507/EEC

These are available from your local branch of Her Majesty's Stationery Office (HMSO).

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