

PRINCIPLES OF ETHICS

The South African Speech, Language, Hearing Association (SASLHA) recognizes its responsibility to promote ethical conduct amongst its members. The following revised Code of Ethics is a response to changes in society at both national and international levels, to amendments to the Health Professions Act No 56 of 1974 that have direct relevance to our professions and to new developments in the professions during the past decade.

There are moral theories that describe how we ought to engage with the world and those we encounter in it. These theories serve as the ground for the principles we derive to guide our clinical practice and decision-making as professionals and as individuals. They express our professional values. In setting out these principles, the Ethics and Standards Committee hopes to inspire members of the association and of the professions to aspire to standards of excellence in practice and research and to conduct respectful relationships with clients and professionals alike. Members shall observe these principles as affirmative obligations and duties for practice, under all conditions.

From time to time we are faced with complex situations that require an ethical response. In such cases the principles should be carefully considered relative to the nature of the problems and their context. Occasionally principles may be in conflict therefore a defensible and carefully considered decision needs to be reached by sound ethical reasoning.

The principles are beneficence, non-maleficence, autonomy, justice; truth-telling and promise-keeping.

PRINCIPLE I

Members of the professions of Speech Language Therapy and Audiology shall at all times act in the best interests of and avoid harm to people receiving their services or participating in research, involve people fully in the planning and decision-making that are part of the therapeutic process and respect their beliefs and values.

This general principle refers to autonomy, beneficence and non-maleficence, truth-telling and fidelity.

PRINCIPLE II

Members of the professions of Speech Language Therapy and Audiology shall promote their professions by providing accurate information to the public regarding the scope of the professions, new developments, the services we provide and where to access them.

This general principle refers to beneficence, non-maleficence and truth-telling.

PRINCIPLE III

Members of the professions of Speech Language Therapy and Audiology shall ensure that services are made available and accessible to persons with communication disorders and that these services are appropriate to particular individual and community needs.

This principle refers to beneficence, social and distributive justice, and fidelity.

PRINCIPLE IV

Members of the professions of Speech Language Therapy and Audiology shall uphold the dignity of the professions, maintain harmonious relationships with colleagues, students and other professionals, and practice in close adherence to the Ethical Rules of the Health Professions Council of South Africa.

This principle refers to beneficence, non-maleficence and fidelity.

PRINCIPLE V

Members of the professions of Speech Language Therapy and Audiology shall act responsibly regarding their ongoing professional development and maintain competence in their fields of practice whilst simultaneously safeguarding their personal welfare.

This principle refers to beneficence and truth-telling.

GLOSSARY

Morality is about a set of guidelines that we apply to the complex circumstances of life to help us decide whether an act, a value, a character trait is right or wrong. Knowledge of the moral norms of society enables us to reflect on our circumstances, clarify our thoughts and choose to live in ways that promote good relations and harmony. Socrates said that *the unexamined life is no life for a human being*. Morality is about making choices, 'right' choices.

Moral theories are attempts to pull together a collection of concepts into a coherent whole in order to answer an ethical question or solve an ethical problem (Mizzoni, 2010; page 5).

Ethics is the systematic analysis of and reflection on morality. For our purposes we are concerned with *normative ethics*, that branch of ethics that is concerned with concrete, practical questions related to the morality of our character traits and actions. This is directly relevant to us in the practice of our professions when we need to know what makes something right or wrong.

Principles may be viewed here as 'perspectives' (they are also the premises of a logical argument). We may apply principles as we attempt to decide whether to act in one way or another. In doing so we obtain different perspectives, understand what the consequences of a particular course of action might be.

There are *four primary principles* in bioethics:

Autonomy is the capacity to think, decide and act on the basis of such thought and decision, freely and independently (Gillon, 1986; Hope, 2004)

Beneficence emphasizes the moral importance of doing good to others; in the context of bioethics it refers to the promotion of what is best for the patient.

Non-maleficence is often referred to as the opposite side of the coin to beneficence. It states that we should not harm patients. It differs from beneficence in the scope of its application: we have a *prima facie* duty not to harm *anyone*.

Justice is a principle with four components: distributive justice; respect for the law; rights and retributive justice. Distributive justice is concerned with the equitable allocation of resources; the second refers to whether the fact that an act is or is not against the law, is of moral relevance; rights are considered to be special advantages with correlative duties to provide them; retributive justice refers to making right when a wrong has been perpetrated.

In addition we have these duties:

Fidelity refers to meeting the patient's reasonable expectations regarding respect, competence, subscribing to a professional code of conduct, following policies and procedures honoring agreements made between clinician and patient.

Truth-telling relates to the disclosure of information in a respectful and compassionate way.

A code of ethics sets out the principles and accompanies them with their application in context as a set of rules. Naturally a principle is broader than the rules it expresses.

The *Ethical Rules for the Health Professions* (Amendments R717 4th August 2006 and R9016 2nd February 2009 of the Health Professions Act No 56 of 1974) place upon members of the association and professions a statutory obligation to adhere to the rules that flow from these principles. These rules are set out below under headings that indicate respectively our duties to our clients, the public, professional colleagues, institutions and professional bodies and to ourselves.

We trust that, read together, these principles and the rules will inform good judgment and guide ethical decision-making in the complex clinical and research scenarios in which we practice.

Principle I Members of the professions of Speech Language Therapy and Audiology shall at all times act in the best interests of and avoid harm to people¹ receiving their services or participating in research, involve people fully in the planning and decision-making that are part of the therapeutic process, and, respect their beliefs and values.

Performance of professional acts

(Rule 21, Amendment R717 4th August 2006 of the Health Professions Act No 56 1974)

A practitioner shall perform, except in an emergency, only a professional act:

- (a) for which he or she is adequately educated, trained and sufficiently experienced; and*
- (b) under proper conditions and in appropriate surroundings.²*

Professional confidentiality (Rule 13 *ibid.*)

- 1) A practitioner shall divulge verbally or in writing information regarding a patient which he or she ought to divulge only –*
 - a) in terms of a statutory provision;*
 - b) at the instruction of a court of law; or*
 - c) where justified in the public interest.*

- 2) Any information other than the information referred to in sub-rule (1) shall be divulged by a practitioner only –*
 - a) with the express consent of the patient;*

¹ 'Patient' and 'client': The terms are used interchangeably to refer to the people who receive Speech-Language Therapy and Audiology services.

² Scope of practice: The revised Scope of the Professions of Speech Therapy and Audiology is set out in the amendment of 21st November 2009 (Regulation Number pending).

- b) *in the case of a minor under 12 years, with the written consent of his or her parent or guardian; or*
- c) *in the case of a deceased patient, with the written consent of such deceased patient's estate.*

Secret remedies (Rule 19 *ibid.*)

A practitioner shall in the conduct and scope of his or her practice, use only –

- a) *a form of treatment, apparatus or health technology which is not secret and which is not claimed to be secret; and*
- b) *an apparatus or health technology which proves upon investigation to be capable of fulfilling the claims made in regard to it.*

Impeding a patient (Rule 11 *ibid.*)

A practitioner shall not impede a patient or, in the case of a minor, the parent or guardian of such minor, from obtaining the opinion of another practitioner or from being treated by another practitioner.

Signing of official documents (Rule 15 *ibid.*)

A student, intern or practitioner who, in the execution of his or her professional duties, signs official documents relating to patient care, such as prescriptions, certificates (excluding death certificates), patient records, hospital or other reports, shall do so by signing such document next to his or her initials and surname printed in block letters.

Certificates and reports (Rule 16.4 *ibid.*)

A practitioner shall issue a brief factual report to a patient where such patient requires information concerning him- or herself.

Financial interests in hospitals (Rule 23A *ibid.*)

A practitioner may have a direct or indirect financial interest or shares in a hospital or other health care institution: Provided that

- (a) such interests or shares are purchased at market-related prices in arm's length transactions;*
- (b) the purchase transaction or ownership of such interest or shares does not impose conditions or terms upon the practitioner that will detract from the good, ethical and safe practice of his or her profession;*
- (c) the returns on investment or payment of dividends is not based on patient admissions or meeting particular targets in terms of servicing patients;*

- (d) such practitioner does not over-service patients and to this end establishes appropriate peer review and clinical governance procedures for the treatment and servicing of his or her patients at such hospital or health care institution;*
- (e) such practitioner does not participate in the advertising or promotion of the hospital or health care institution, or in any other activity that amounts to such advertising or promotion;*
- (f) such practitioner does not engage in or advocate the preferential use of such hospital or health care institution;*
- (g) the purchase agreement is approved by the council based on the criteria listed in paragraphs (a) to (f) above; and*
- (h) such practitioner annually submit a report to the council indicating the number of patients referred by him or her or his or her associates or partners to such hospital or health care institution and the number of patients referred to other hospitals in which he or she or his or her associates or partners hold no shares.*

Referral of patients (Rule 24 *ibid.*)

- 1) A practitioner who has a financial interest or shares in a private clinic or hospital shall refer a patient to such a clinic or hospital only if a conspicuous notice is displayed in his or her waiting room indicating that he or she has a financial interest in such clinic or hospital and if the patient is duly verbally informed about the fact that the practitioner has an interest or shares in a clinic or hospital to which said patient is referred and the patient's informed written consent is obtained prior to such referral.*

Dual registration (Rule 27 *ibid.*)

A health practitioner who holds registration for more than one statutory council or professional board shall at all times ensure that –

- a) no conflict of interest arises from such dual registration in the rendering of health services to patients;*
- b) patients are clearly informed at the start of the consultation of the profession in which the practitioner is acting;*
- c) informed consent regarding the profession referred to in paragraph (b) is obtained from said patient;*
- d) patients are not consulted in a dual capacity or charged fees on such dual consultation; and*
- e) the ethical rules applicable at a given moment to the profession in which the practitioner is acting, are strictly adhered to.*

Principle II Members of the professions of Speech Language Therapy and Audiology shall promote their professions by accurate information to the public regarding the scope of the professions, new developments, the services we provide and where to access them.

Advertising and canvassing or touting³

(Rule 3, Amendment R68 2nd February 2009 of the Health Professions Act No 56 1974)

(1) A practitioner shall be allowed to advertise his or her services or permit, sanction or acquiesce to such advertisement: Provided that the advertisement is not unprofessional, untruthful, deceptive or misleading or causes consumers unwarranted anxiety that they may be suffering from any health condition.

(2) A practitioner shall not canvass or tout or allow canvassing or touting to be done for patients on his or her behalf.

Information on professional stationery (Rule 4, Amendment R717 4th August 2006 of the Health Professions Act No 56 1974)⁴

(1) A practitioner shall print or have printed on letterheads, account forms and electronic stationery information pertaining only to such practitioner's –

- a) name;*
- b) profession;*
- c) registered category;*
- d) speciality or subspeciality or field of professional practice (if any);*
- e) registered qualifications or other academic qualifications or honorary degrees in abbreviated form;*
- f) registration number;*
- g) addresses (including email address);*
- h) telephone and fax numbers;*
- i) practice or consultation hours;*
- j) practice code number;*

(2) A group of practitioners practicing as a juristic person which is exempted from registration in terms of section 54A of the Act, or a group of practitioners practicing in partnership, shall print or have printed on letter head, account forms and electronic stationery information pertaining only to such juristic person or partnership practitioners' –

- a) name;*
- b) profession;*

³ "Touting means conduct which draws attention either verbally or by means of printed or electronic media, to one's offers, guarantees or material benefits that do not fall in the categories of professional service or items, but are linked to the rendering of a professional service or designed to entice the public to the professional practice" (Amendment No R. 68, 2nd February 2009).

⁴ The relevant sections for partnership and other business models, covering (locums), sharing rooms, fees and commissions are to be found in Rules 7, 8, 8A and 9 of the Act. The SASLHA *Guidelines for Speech Language Therapy and Audiology Services in the Private Sector* contains the details of these Rules.

- c) *registered category;*
- d) *speciality or subspeciality or field of professional practice (if any);*
- e) *registered qualifications or other academic qualifications or honorary degrees in abbreviated form;*
- f) *registration number;*
- g) *addresses (including email address);*
- h) *telephone and fax numbers;*
- i) *business hours;*
- j) *practice code number.*

Naming of a practice (Rule 5 *ibid.*)

(1) A practitioner shall use his or her own name or the name of a registered practitioner or practitioners with whom he or she is in partnership or with whom he or she practices as a juristic person, as a name for his or her private practice.

(2) A practitioner referred to in sub-rule (1) may retain the name of such private practice even if another practitioners, partner of such partnership or member of such juristic person is no longer part of such private practice: Provided that the express consent of the past practitioner or, in the case of a deceased practitioner the consent of the executor of his or her estate or his or her next-of-kin, has been obtained.

(3) A practitioner shall not use, in the name of his or her private practice, the expression 'hospital', clinic, or institute or any other expression which may give the impression that such private practice forms part of, or is in association with, a hospital clinic or institute.

Itinerant practice (Rule 6 *ibid.*)

A practitioner may conduct a regularly recurring itinerant practice at a place where another practitioner is established if, in such itinerant practice, such practitioner renders the same level of service to patients, at the same fee as the service which he or she would render in the area in which he or she is conducting a resident practice.

Medicines and Medical Devices (Rule 23 *ibid.*)

(2) A practitioner shall not engage in or advocate the preferential use or prescription of any medicine or medical device which, save for the valuable consideration he or she may derive from such preferential use or prescription, would not be clinically appropriate or the most cost-effective option.

(4) A practitioner referred to in subrule (3) shall display a conspicuous notice in his or her waiting room and also duly inform his or her patient about the fact that he or she -

- (a) owns shares or has a financial interest in a listed public company that manufactures or markets the medicine or medical device prescribed for that patient; or*

(b) is in the employ of or contractually engaged by the pharmaceutical or medical device company that manufactures such medicine or medical device, and shall, subject to subrule (5), obtain the patient's informed written consent prior to prescribing such medicine or medical device for that patient; and

(5) A practitioner may prescribe or supply medicine or a medical device to a patient: Provided that such practitioner has ascertained the diagnosis of the patient concerned through a personal examination of the patient or by virtue of a report by another practitioner under whose treatment the patient is or has been and such medicine or medical device is clinically indicated, taking into account the diagnosis and the individual prognosis of the patient, and affords the best possible care at a cost-effective rate compared to other available medicines or medical devices and the patient is informed of such other available medicines or medical devices;

Principle III **Members of the professions of Speech Language Therapy and Audiology shall ensure that services are made available and accessible and that these services are appropriate to particular individual and community needs.**

We may not discriminate against any person on the grounds of gender, ethnic origin, culture, sexual orientation, disability, religion or language according to the Constitution of the Republic of South Africa Act No. 108, 1996; the National Patient's Rights Charter, July 2002; the National Health Act No. 61, 2003; Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA), Act No. 4, 2000.

Principle IV **Members of the professions of Speech Language Therapy and Audiology shall uphold the dignity of the professions, maintain harmonious relationships with colleagues, students and other professionals and practice in close adherence to the Ethical Rules of the Health Professions Council of South Africa.**

Fees and commissions (Rule 7, Amendment R717 4th August 2006 of the Health Professions Act No 56 1974)

(1) A practitioner shall not accept commission or any material consideration, (monetary or otherwise) from a person or from another practitioner or institution in return for the purchase, sale or supply of an good, substances or materials used by him or her in the conduct of his or her professional practice.

- (2) *A practitioner shall not pay commission or offer any material consideration, (monetary or otherwise) to any person for recommending patients.*
- (3) *A practitioner shall not offer or accept any payment, benefit or material consideration (monetary or otherwise) which is calculated to induce him or her to act or not to act in a particular way, not scientifically, professionally or medically indicated or to under-service, over-service or over-charge patients.*
- (4) *A practitioner shall not share fees with any person or with another practitioner who has not taken a commensurate part in the services for which such fees are charged.*
- (5) *A practitioner shall not charge or receive fees for services not personally rendered, except for services rendered by another practitioner in his or her employment or with whom he or she is associated as a partner, shareholder or locum tenens.*

Partnership and juristic persons (Rule 8 *ibid.*)

- (1) *A practitioner shall practice only in partnership or association with or employ a practitioner who is registered under the Act and only in respect of the profession for which such practitioner is registered under the Act.*
- (2) *A practitioner shall practice in or as a juristic person who is exempted from registration in tern of section 54A of the Act only if such juristic person complies with the conditions of such exemption.*
- (3) *A practitioner shall practice in a partnership, association or as a juristic person only within the scope of the profession in respect of which he or she is registered under the Act.*
- (4) *A practitioner shall not practice in any other form of practice which has inherent requirements or conditions that violate or potentially may violate one or more of these rules or an annexure to these rules.*

Sharing of rooms (Rule 8A *ibid.*)

A practitioner shall not share his or her rooms with a person or entity not registered in terms of the Act.

Covering (Rule 9 *ibid.*)

- (1) *A practitioner shall employ as a professional assistant or locum tenens or in any other contractual professional capacity for a period not exceeding 6 months, only a person -*
 - a. who is registered under the Act;*
 - b. whose name currents appears on a register kept by the Registrar under section 18 of the Act;*
 - c. and who is not suspended from practicing his or her profession.*
- (2) *A practitioner shall help or support only a person registered under the Act, the Pharmacy Act, 1974 (Act No. 53 of 1974), the Nursing Act, 1978 (Act No. 50 of 1978), the Social Service Professions Act, 1978 (Act No. 110 of 1978), the Dental Technicians Act, 1979 (Act No. 19 of 1979) or the Allied Health Professions Act, 1982*

(Act No. 63 of 1982), if the professional practice or conduct of such person is legal and within the scope of his or her profession.

Supersession (Rule 10 *ibid.*)

A practitioner shall not supersede or take over a patient from another practitioner if he or she is aware that such patient is in active treatment of another practitioner, unless he/she –

- a) takes reasonable steps to inform the other practitioner that he or she has taken over the patient at such patient's request; and*
- b) establishes from the other practitioner what treatment such patient previously received, especially what medication, if any was prescribed to such patient and in such case the other practitioner shall be obliged to provide such required information.*

Professional reputation of colleagues (Rule 12 *ibid.*)

A practitioner shall not cast reflection on the probity, professional reputation or skill of another person registered under the Act or any other health Act.

Exploitation (Rule 22 *ibid.*)

A practitioner shall not permit himself or herself to be exploited in any manner.

Reporting of impairment⁵ or of unprofessional, illegal or unethical conduct
(Rule 25 *ibid.*)

1) A student, intern or practitioner shall –

- a) report impairment in another student, intern or practitioner to the board if he or she is convinced that such student, intern or practitioner is impaired*
- b) report his or her own impairment or suspected impairment to the board concerned if he or she is aware of his or her own impairment or has been publicly informed, or has been seriously advised by a colleague to act appropriately to obtain help in view of an alleged or established impairment, and*
- c) report any unprofessional, illegal or unethical conduct on the part of another student, intern or practitioner.*

⁵ Impairment : 'a mental or physical condition which affects the competence, attitude, judgement or performance of professional acts by a registered practitioner' (Amendment R717 2006)

Principle V **Members of the professions of Speech Language Therapy and Audiology shall act responsibly regarding their ongoing professional development and maintain competence in their fields of practice whilst simultaneously safeguarding their personal welfare.**

Continuing Professional Development⁶

For the purpose of updating knowledge of developments in the profession/s and maintaining clinical competence, Section 26 of the Health Professions Act, 1974 (Act No. 56 of 1974) the HPCSA prescribes -

(a) conditions relating to continuing education and training to be undergone by persons registered in terms of this Act in order to retain such registration;

(b) the nature and extent of continuing education and training to be undergone by persons registered in terms of this Act; and

(c) the criteria for recognition by the HPCSA of continuing education and training courses and education institutions offering such courses.

Regarding Research involving human participants it should be noted that there are Ethics Review Boards at institutions and agencies that oversee applications and periodically review research according to general ethical principles. Members of the professions who engage in research should comply with the requirements of these agencies prior to commencing research and at various stages in the research process.

⁶ CPD: Details of the requirements for CPD for speech therapists and audiologists are to be found at http://www.hpcsa.co.za/downloads/cpd/cpd_guidelines_2010.pdf