Health Professions Council
Investigating Committee, 16 November 2006

Standards of conduct, performance and ethics review: Draft standards

Executive Summary and Recommendations

Introduction

This paper puts forward draft proposals for the new standards and introduction, incorporating where possible the comments and suggestions received during the review.

Each section is structured around four areas:

(i) a summary of the comments and suggestions received as part of the review;
(ii) a commentary summarising the changes made to the standard in the draft and explaining the rationale for the changes made or not made;
(iii) a draft of the standard; and
(iv) an invitation to the committee to discuss/agree the text of the standard.

Where this is helpful, information from other regulators' standards is included. Where no changes are proposed to the text of the standard, it has not been reproduced.

The consultation draft of the introduction to the standards of proficiency is included at appendix 1.

Decision

The Committee is invited to discuss/ agree the text of the introduction and standards shown overleaf.

A further draft incorporating the fitness to practise committees' comments will be brought back to the committees at their meetings in January 2007. At that time the Health and Investigating Committees will be asked to recommend approval of the revised standards to the Conduct and Competence Committee. The Conduct and Competence Committee would then be asked to recommend to the Council that we should consult on the revised standards.

Background information

None

Resource implications

None

Financial implications

None

Background papers

None

Appendices

Appendix 1: The consultation draft of the introduction to the standards of proficiency

Date of paper

20th October 2006

Terminology, structure, approach

Comments and suggestions

A number of suggestions were made. One organisation felt that we might segment the standards further, but others at the discussion meetings disagreed with this approach.

Several people suggested providing further examples or further specific detail on certain points. However, others felt that further detail would not be helpful.

There some discussion around the use of patients, clients and users in the standards. At the discussion meeting for patient and public groups, it was suggested that 'patient' might be a more appropriate term. At the other discussion meetings, most, on balance, seemed to be in favour of 'service user' as a more inclusive term.

At the professional bodies and unions' discussion meeting, and the council away day discussion, it was noted that the distinctions made between conduct, performance and ethics in the standards were to some degree arbitrary and that ethics was an underpinning concept.

One group at the professional bodies and unions meeting felt that we needed to explain which part was the standard – the line in bold? or the paragraph beneath?

A number of individuals and organisations suggested that a glossary of terms would be helpful.

Commentary

Structure
On balance, across all the information received during the review, it was felt that the structure of the standards was appropriate in that segmenting the standards further (into numbered points for example) would not be helpful. Further, it is important to note that the majority of individual registrants who responded felt that the standards were appropriate and easy to read and understand.

At present, the standards are grouped under conduct, performance and ethics. It was felt by some that this was to some degree an arbitrary distinction and suggestions were made for possible re-ordering of the standards.

Considering all the comments made, there is no clear justification for any substantial changes to the structure of the standards. Therefore, no suggestions are made for changing how the standards are ordered or structured.

Terminology
During the review of the standards of proficiency the topic of terminology for referring to those who use or who are affected by the way registrants work was discussed at length. The consultation draft of the standards uses the term 'service users' with a specific consultation question inviting comments on whether this is appropriate.

This is consistent with the Council's CPD standards which also use the term 'service users'. However, it should be noted that concerns were also raised in one of the discussion meetings that any terminology should be easy to understand and accessible to members of the public and that, generally, patient was a more widely used and recognised term.

Therefore, it is proposed that the term 'service users' should be used throughout the standards but that this use should be explained in the introduction. The consultation on the standards of proficiency is due to conclude in early January and the Committees will be informed of the general consensus on this topic at their meetings in January.

Glossary
A glossary should be added to the standards (if agreed, this will be included in the next draft).

The Committee is invited to:

1.1 Agree that no changes are necessary to the structure of the standards.
1.2 Agree that references to 'patients, clients and users' should be replaced by 'service users' (the term 'service user' is used in the draft standards throughout this paper).
1.3 Agree that a glossary would be helpful.

Introduction

Comments and suggestions

In the paper "Possible changes" it was noted that the introduction as presently written focussed two heavily on fitness to practise and the consideration of allegations and that it failed to recognise ways of meeting the standards – including professional body publications, employer protocols and the importance of decision making by registrants.

At the discussion meetings, most participants agreed that links to professional body codes and guidance should be made more explicitly and that we might consider clear links to the standards of proficiency. It was also suggested that the summary of standards should be given more emphasis.

Commentary

The following changes have been made**:**

- The summary of standards has been moved to the front of the document
- The role of the standards for prospective registrants and registrants has been made clearer, earlier on
- Information about fitness to practise processes has been abridged and moved to the back
- Information has been added about meeting the standards and the importance of making informed, reasonable decisions

It is important to acknowledge that the standards have a relationship to the standards of proficiency. However, it is important that the role of the standards remains clear to registrants, the public and others. The standards of proficiency and standards of conduct, performance and ethics have related but different roles. Therefore, providing substantial cross-referencing here between the standards may well not increase understanding of the respective standards.

A reference to the standards of proficiency has been added, in keeping with a reference to the standards of conduct, performance and ethics included in the consultation draft of the standards of proficiency for the first 12 professions (see appendix 2).

If it is thought to be helpful, a mapping document might be produced and published on the website which describes in more detail the relationship between the two different sets of standards and maps the standards of proficiency against the standards of conduct, performance and ethics.

Decision making
The BPS's code explains how psychologists might approach decision making on ethical issues. This includes considering the views and rights of relevant people, thinking about alternative solutions and their consequences, and making every effort to resolve any problems.

In line with the comments made in the paper, "Possible changes", a section has been added to the introduction about the importance of making informed and reasonable decisions.

The Committee is invited:

1.1 To indicate whether it feels a mapping document as described above would be helpful.

1.2 To discuss and agree the draft introduction.

[Summary of all the standards on page one]:

Your duties as a registrant: the standards of conduct, performance and ethics you must keep to:

1. *You must act in the best interests of your service users*
2. *You must respect the confidentiality of your service users*
3. *You must keep high standards of personal conduct*
4. *You must provide any important about conduct, competence or health*
5. *You must keep your professional knowledge and skills up to date*
6. *You must act within the limits of your knowledge, skills and experience and, if necessary refer the matter to another practitioner*
7. *You must maintain proper and effective communications with service users and other professionals*
8. *You must effectively supervise tasks that you have asked others to carry out for you*
9. *You must get informed consent to give treatment (except in an emergency)*
10. *You must keep accurate records*
11. *You must deal fairly and safely with the risks of infection*
12. *You must limit your work or stop practising if your performance or judgement is affected by your health*
13. *You must carry out your duties in a professional and ethical way*
14. *You must behave with integrity and honesty*
15. *You must make sure that any advertising is accurate*
16. *You must make sure that your behaviour does not damage public confidence in you or your profession*

Introduction

This document sets out the standards of conduct, performance and ethics. The standards explain our expectations of the health professionals we register, in terms of their professional behaviour. The standards also apply to people who are applying to become registered.

If you are registered, you must make sure that you are familiar with the standards and that you keep to them. If you are applying to be registered, you will be asked to sign a declaration to confirm that you have read and will keep to the standards once you are registered.

*We also publish **standards of proficiency** which are standards for the safe and effective practice of the professions we regulate. They are set at a minimum level we think is necessary to protect members of the public.*

The standards are structured into 15 numbered paragraphs and grouped into the categories of conduct, performance and ethics.

A note about our expectations of you

The standards of conduct, performance and ethics play an important role in making decisions about the character of applicants to our register, and also in fitness to practise cases.

It is important that you read and understand this document. If your practice is called into question, we will consider these standards (and our standards of proficiency) in deciding whether we need to take any action. Please see the back of this document for more information about the how we use the standards when we consider complaints.

Meeting the standards

Our role as a regulator is to make sure that registrants are practising safely and effectively in a way which poses no risk to service users or themselves. We also want to make sure that registrants maintain high standards of personal conduct and don't do anything which might affect the confidence of others in them or in their profession. However, we don't dictate how you should meet our standards.

There is normally more than one way in which each standard can be met and the way in which you meet our standards might change over time because of improvements in technology or changes in your practice.

As an autonomous professional you need to make informed, reasonable decisions about your practice to ensure that you meet the standards that are relevant to your practice. This might include seeking advice and support from education providers, employers, professional bodies, colleagues and others to ensure that the wellbeing of service users is safeguarded at all times.

In particular, we recognise the valuable role played by professional bodies in representing and promoting the interests of their members. This often includes guidance and advice about best practice, which can help you meet the standards in this document.

Informed and reasonable

We often receive queries from registrants who are concerned that something they have been asked to do, a policy, or the way in which they work might mean that they cannot meet our standards. They are often worried that this might have an impact upon their registration.

*We consider that if registrants make **informed, reasonable** professional judgements about their practice, with the best interests of their service users as their prime concern, and can **justify** those decisions if asked to, then they are very unlikely not to meet our standards.*

By informed we mean that you have enough information to make a decision. This would include reading these standards and taking into account any other relevant guidelines, guidance or legislation. By reasonable we mean that you need to make sensible, practical decisions about your practice, taking into account all relevant information and the best interests of those who use or who are affected by your services. You should also be able to justify your decision if asked to.

Service users

We recognise that registrants work in a range of different settings, which might include clinical practice, education, research or roles in industry. Throughout the standards we have used the term 'service users' to refer to anyone who uses or is affected by the services of registrants. Who your service users are will depend on how and where you work. For example, if you work in clinical practice, your service users might be your patients or your staff if you manage a team.

These standards may change in the future

We have produced this new version of our standards after speaking to our stakeholders about how they were working, how they were perceived and how relevant they were to registrants' practice.

We will continue to listen to our stakeholders and will keep our standards under continual review. So we may make changes to the standards in the future to take account of changes in practice or public and professional expectations.

Contact us

If you are not sure how to interpret the standards, you should write to our Director of Policy and Standards at the following address:

Policy and Standards
Health Professions Council
Park House
184 Kennington Park Road
London
SE11 4BU

E-mail: policy@hpc-uk.org.

[Back section:]

Fitness to practise

When we say someone is fit to practise we mean that they have the skills, knowledge, character and health to practise their profession safely and effectively. We also mean that we trust them to act legally.

We consider complaints about registrants from members of the public, employers, professionals, the police and others and take action to protect the public. This can include cautioning a registrant, placing conditions on their registration, suspending them from practice or, in the most serious cases, removing them from the register.

When we consider a complaint about a registrant, we take into account whether the standards have been met in deciding whether we need to take any action to protect the public. We will also take account of any guidance or codes of practice produced by professional bodies, if we feel that they are relevant.

You can find more information about fitness to practise process in our brochures 'Making a complaint about a health professional' and 'What happens if a complaint is made about me'. These brochures are available to download from our website or you can contact us to request a copy.

Standard 1: You must act in the best interests of your patients, clients and users

Comments and suggestions

A number of comments and suggestions were made about this standard. They included:

- Strengthening the statements on anti-discrimination
- Separating issues of advocacy and patient safety
- Adding information about reporting instances where policies or procedures might affect patient safety
- Adding information about child protection
- Adding information about gifts and personal relationships with patients

Commentary

The following changes were made:

- Information about child protection has been added
- Information about reporting instances where policies and procedures might affect patient safety has been added
- Information about justifying decisions has been added to emphasise accountability

Child Protection
The topic of child protection was raised during the discussion meetings and at meetings of the fitness to practise committees. It was felt that we might provide information about registrants' duties in this area.

Separate guidance produced by the Royal Pharmaceutical Society of Great Britain (RPSGB) says:

'Child protection legislation places a statutory duty on organisations and professionals to work together in the vulnerable children. All healthcare professionals, including those who do not have role a role specifically related to child protection, have a duty to safeguard and support the welfare of children. This means actively promoting the health and wellbeing of children and also protecting vulnerable children in collaboration with other organisations and authorities.' (*Guidance on Child Protection, RPSGB, June 2006, page 2*).

The Nursery and Midwifery Council (NMC) and General Medical Council (GMC) include references to child protection issues in their standards:

'You should offer assistance to children and young people, if you have reason to think that their rights have been abused or denied.' (*GMC, Good Medical Practice, consultation draft*).

‘Where there is an issue of child protection, you must act at all times in accordance with national and local policies’ (*NMC, Standards for conduct, performance and ethics, page 9*).

A reference to taking appropriate action in response to child protection issues has been incorporated into the draft of the standard. The Committee is specifically invited to comment on this suggestion.

Anti-discriminatory policy
Comments were made regarding this by two professional bodies that provided written responses. The British Dietetic Association (BDA) felt that we should strengthen statements on anti-discrimination, in particular, that we should include a new statement that a health professional’s religious beliefs should not influence the treatment or advice given to a client. The College of Occupational Therapists (COT) felt that we should say that a registrant’s practice should take into account the service user’s culture and beliefs.

The existing standard says:

‘You are personal responsible for making sure that you promote the best interest of the people you care for …You must not allow your views about patients’, clients’ and users’ sex, age, colour, race, disability, sexuality, social or economic status, lifestyle, culture or religious beliefs to affect the way you treat them or the professional advice you give’.

It is proposed that this wording should be retained, because it adequately covers the issues in this area to the level of detail required in the standards.

Gifts from patients and relationships with patients
These issues were raised in the “Call for ideas” (relationships with patients) and by the response of the COT (gifts). They were included as specific discussion points at the discussion meetings. Whilst some felt that extra information on each of these areas would be helpful, others disagreed.

Both of these areas are complex issues. For example, there was some discussion at the meeting with professional bodies and unions about when a relationship became inappropriate with a patient; whether it was permissible to begin a relationship with a patient if a referral to another professional had been made; whether it was permissible to treat a close family member.

The Committees agreed at the last meeting that the standards should articulate clear principles with some further detail, but that, where necessary, more detailed information should be provided elsewhere. The existing standards cover these two situations or topics (and others) when they say: ‘You […] must not exploit or abuse the relationship with a patient, client, user or carer’.

It is proposed that it would not be helpful or make the standards clearer to add additional detail about these topics. However, we might consider providing further information or signposts to further advice, elsewhere.

Policies and procedures
There was general agreement that we might add specific information about the duties of registrants to report concerns about policies and procedures as well as about the conduct of individual professionals. This has been added to the draft.

Accountability
In the existing standards, we explain: 'When working in a team, you are still responsible for your profession conduct, any care or professional advice you provide, any failure to act and any tasks you ask someone else to carry out.'

We can make two observations about this part of the standard. Firstly, that registrants are accountable in the ways described whether or not they work in a team. Therefore, we might consider removing the phrase 'when working in a team'.

Secondly, although we explain this in the introduction, it might be beneficial to strengthen this statement on accountability by adding something about registrants being able to justify their decisions when asked to.

Complaints handling
At the Conduct and Competence Committee, it was suggested that we might consider adding information about complaints handling to the standards.

Other regulators' standards:

- 'Make sure that there is an effective complaints procedure where you work and follow it at all times. Co-operate with any formal inquiry into the treatment of a patient.' (*General Dental Council, Standards for dental professionals*, page 6).
- Chiropractors: 'must have a complaints procedure in place within their practice and deal promptly and fairly with any complaint or claim made against them by a patient.' (*General Chiropractic Council, Code of practice and standard of proficiency, page 18*)
- 'Patients who complain about the care or treatment they have received have a right to expect a prompt, open, constructive and honest response including an explanation and, if appropriate, an apology. You must not allow a patient's complaint to affect adversely the care or treatment you provide or arrange'. (*GMC, Good medical practice, page 15*).

In the GDC's and GCC's standards, the emphasis on complaints handling might be attributed to the majority of registrants' working in private practice.

The Committee is invited to:

1.1 Specifically consider the information provided about child protection issues.
1.2 Consider whether it is necessary/ desirable to include information about complaints handling.
1.3 Discuss and agree and text of the standard.

You must act in the best interests of your patients, clients and users

You are personally responsible for making sure that you promote and protect the best interests of the people you care for. You must respect and take account of these factors when providing care, and must not exploit or abuse the relationship with a service user. You must not allow your views about service users' sex, age, colour, race, disability, sexuality, social or economic status, lifestyle, culture or religious beliefs to affect the way you treat them or the professional advice you give.

You must not do anything, or allow anything to be done, that you have good reason to believe will put the health or safety of a service user in danger. This includes both your own actions and those of others. If you work with children, you should take appropriate action if you believe a child is at risk, including following national and local policies.

You are responsible for your professional conduct, any care or advice you provide, any failure to act and any tasks you ask someone else to carry out. You must be able to justify your decisions if asked to.

You must protect service users if you believe that they are threatened by the conduct, performance or health of a colleague. You should also act if you believe that a policy or procedure might affect the safety of service users. The safety of service users must come before any personal and professional loyalties at all times. As soon as you become aware of any situation that puts a service user at risk, you should discuss the matter with a senior colleague. If you feel that you cannot raise the matter with a senior colleague, you can contact our Registrar.

Standard 2: You must respect the confidentiality of your patients, clients and users

Comments and suggestions

This standard did not receive much attention during the discussion meetings, nor was it identified at the last committee meetings as needing particular attention.

Commentary

It is proposed that no changes are necessary to the standard. The Conduct and Competence Committee agreed at its meeting on 19th September 2006 that separate guidance on confidentiality should be produced.

The Committee is invited to:

1.1 Agree that no changes are necessary to this standard.

This standard will now read:

You must respect the confidentiality of your service users

Standard 3: You must keep high standards of personal conduct

Comments and suggestions

We received a number of comments about this standard at the discussion meetings and from panel chairs. In summary, the comments received were:

- We might consider adding 'using drugs' and child pornography to the list of offences.
- Whether it was appropriate to refer to drink driving offences where someone was hurt or killed rather than just drink driving?
- Whether we should simply say 'offences involving dishonesty' and 'any criminal offences for which you received a prison sentence' rather than 'serious'.

Commentary

The following changes have been made:

- A minor change has been made to the second paragraph so that it is clear that we make individual decisions about convictions and cautions and take action to protect the public
- 'Serious' has been removed from the last bullet point
- It has been made clearer at the beginning of the standard that personal conduct outside of the course of registrant's professional life may nonetheless affect public confidence in them

It is important the standards are clear in articulating that we are referring to the requirement of registrants to keep high standards of personal conduct and that poor standards of personal conduct are potentially serious.

The list of offences given is not intended to be, and indeed cannot be, exhaustive. Each case is considered on its individual merits. However, it is intended to give registrants (in particular) a very clear indication of the types of offences which might lead a panel to consider rejecting an application for registration or to impose a striking-off order. In giving this indication, it is important that we give some broad areas but that we do not unduly increase the anxiety of registrants and prospective registrants. It is also important that these broad areas do broadly match the types of decisions we make as part of our health and character and fitness to practise processes.

The last four cases involving convictions which lead to a striking-off order at a final hearing involved the following offences:

- Child pornography
- Driving without due care and attention (involving a sexual misconduct element)

(Continued overleaf)

- Theft from employer (caution).
- Wilful fire raising and malicious mischief

The convictions which have led to a panel rejecting an application on character grounds have included child pornography, rape and harassment.

Although using drugs has led to a striking-off order, the Committee may wish to consider whether it is inappropriate to add 'using drugs' as a broad area. Such cases have tended to involve removal of drugs from work without permission. Adding 'using drugs' might be interpreted to be a blanket statement which would apply to all drug use. Whilst panels can and do consider offences relating to recreational drugs outside of a working context, and they certainly take a dim view of such use, they would not normally lead to removal from the register, or the denial of registration.

The Committee may wish to consider whether the same would apply to the suggestions regarding drive driving. Whilst drink driving is a serious offence, and panels consider each case on its individual merits, drink driving convictions are not usually referred unless there are aggravating factors. This might be because someone was hurt or killed, it is part of a continuing pattern of offences, the offence took place whilst on duty or whilst going to or from work, and so on. Removing the caveat '… where someone was hurt or killed' might give registrants the impression that, as a broad statement or general rule, drink driving offences lead to removal from the register.

The last bullet point has been changed to read 'offences for which you received a prison sentence for' because such offences tend to be serious in themselves.

The Committee is invited to:

1.1 Discuss and agree the changes to the standard.

You must keep high standards of personal conduct

You must keep high standards of personal conduct, as well as professional conduct. You should be aware that poor conduct outside of your professional life may still affect someone's confidence in you and the services you provide.

We can take action against you if you are convicted of a criminal offence or have accepted a police caution. We will always consider each case individually to decide whether we need to take any action to protect the public.

However, as guidance we will seriously consider rejecting an application for registration, or striking you off if you are already registered, if you are convicted of a criminal offence that involves one of the following types of behaviour:

- *Violence*
- *Abuse*
- *Sexual misconduct*
- *Supplying drugs*
- *Drink-driving offences where someone was hurt or killed*
- *Serious offences involving dishonesty*
- *Criminal offences which you received a prison sentence for.*

This is not a complete list. We will always look at any conviction or cautions we learn of, and we have arrangements in place to be told about convictions and cautions involving registrants.

Standard 4. You must provide any important information about your conduct, competence and health

Comments and suggestions

- We should separate health matters from disciplinary and/or competence matters.
- We should clarify what information we need about the health of registrants and what we would do with this information.
- We should refer to conditional discharges and remove the phrase 'except minor motoring offences'.

Commentary

The following changes have been made:

- Information has been added about conditional discharges and the reference to motoring offences has been removed
- Reference to taking action against registrants for failing to inform us about significant changes to their health has been removed
- Reference to arrangements for being informed about convictions and cautions has been removed; this duplicates information in standard 3

It is important that the list given here reflects the information considered by fitness to practise and registration panels. The information given here regarding conduct and competence seems appropriate and reflects the advice given to both registrants and employers by the fitness to practise department. Conditional discharges have been explicitly added to reflect their status in fitness to practise proceedings (please see "Possible changes").

Matters relating to health conditions are more difficult to resolve. It is important that registrants feel able to inform us or seek advice where appropriate. However, it is not possible to establish in absolute terms a 'threshold' over which we need to be informed of changes to registrants' health.

As explained in the paper "Possible changes" we are often informed by registrants of changes to their health and any changes to their practice. However, in informing us, this generally means that a registrant has demonstrated insight and understanding and therefore it is not usually necessary for us to take any further action. In these circumstances we would normally log the correspondence and write back to the registrant concerned.

However, in one case a self-referral regarding physical and mental health resulted in the health committee imposing a suspension order. There is also some value in being informed by the registrant so that we have this information should a complaint be subsequently received. Therefore, it may be inappropriate to remove reference to this entirely.

Many of those who provided their feedback as part of the review felt that we needed to quantify what we meant by a 'significant change' to health. It may be more appropriate to refer to changes to health which have led directly to changes in registrants' practice.

The standard as presently written suggests that we would take action against a registrant for not informing us. This is not accurate. We can and do consider matters relating to the health of our registrants. However, these cases relate to where a registrant's health is impairing their fitness to practise. In line with the comments we received, it is also important that we encourage open disclosure in a positive manner.

The publication "Managing fitness to practise" explains more information about the positive duty of registrants to effectively manage their own practice, including managing health conditions.

The Committee is invited to:

1.1 Discuss and agree the changes to the standard.
1.2 Consider whether this is a standard on which it might be useful to ask a specific consultation question (with specific reference to the health issue).

You must provide any important information about your conduct, competence and health

You must tell us (and any other relevant regulators) if you have important information about your conduct or competence, or about other registrants and health professionals you work with. In particular, you must let us know straight away if you are:

- *convicted of a criminal offence or if you accept a police caution (including if you receive a conditional discharge);*
- *disciplined by any organisation responsible for regulating or licensing a health or social-care profession; or*
- *suspended or placed under a practice restriction by an employer or similar organisation because of concerns about your conduct or competence.*

You should co-operate with any investigation or formal inquiry into your professional conduct, the conduct of any other healthcare provide or the treatment of a service user, where appropriate. If anyone asks, and they are entitled to it, you should give any relevant information in connection with your conduct or competence.

You should also provide information about the conduct or competence of other healthcare providers if someone who is entitled to know asks you for it. This is related to your duty to act in the best interests of service users, which we explained earlier in this document.

You should also tell us if you have changed your practice as a result of medical advice. It is important that you are able to effectively manage your fitness to practise and we will treat any information we receive sensitively and confidentially.

Standard 5: You must keep your professional knowledge and skills up to date.

Comments and suggestions

The feedback we received about this standard agreed that it was inappropriate to require professionals who have specialised or who have moved outside of clinical practice to maintain basic clinical competencies. Other comments suggested that we should make explicit reference here to CPD.

Commentary

The following changes have been made:

- The standard has been rewritten to be consistent with the consultation draft of the introduction to the standards of proficiency
- Reference to 'testing' registrants has been removed
- A reference to CPD has been added

This standard has been revised to acknowledge that registrants who specialise in a particular clinical area, or who move into different areas of practice, may no longer continue to meet the basic standards of proficiency of their profession. Reference to 'testing' registrants has been removed as this does not reflect the normal course of fitness to practise procedures.

A reference to meeting the standards for CPD has been added. Making such a reference is consistent with the reference to meeting the standards of proficiency earlier in this standard. However, it is important to recognise that a failure to undertake our CPD standards would not directly give rise to a fitness to practise allegation. However, an allegation might be made that a registrant had failed to keep their knowledge and skills up to date.

The Committee is invited to:

1.1 Discuss and agree the changes to the standards.

You must keep your professional knowledge and skills up to date

You must make sure that your knowledge skills and performance are of a high quality, up to date, and relevant to your field of practice.

You must be capable of meeting the standards of proficiency that apply to your scope of practice.

We recognise that our registrants work in a range of different settings, including education, research and clinical practice. You need to make sure that whatever your area of practice you are capable of practising safely and effectively.

Our standards for continuing professional development link your learning and development to continued registration. You also need to meet these standards.

Standard 6: You must act within the limits of your knowledge, skills and experience and, if necessary, refer the matter to another professional

Comments and suggestions

There were few comments on this standard. However, there was some discussion about the appropriateness of referring to unregulated professionals and comments about duty of care.

Commentary

The following changes have been made:

- Some further detail has been added about referrals and duty of care.
- Use of the word 'professional' has been substituted by 'practitioner'.

There was some discussion about the standard, in particular, around the differences between referral and delegation and the overlap between this standard and standard 8 (supervision). The consultation draft of the GMC's Good Medical Practice defines referral and delegation in the following terms:

Referral: 'Referral involves transferring some or all of the responsibility for the patient's care, usually temporarily and for a particular purpose, such as additional investigation, care or treatment, which falls outside your competence.

Delegation: Delegation involves asking a colleague to provide treatment or care on your behalf.' (*Good Medical Practice, consultation draft, page 23*)

The GMC's guidance interestingly differentiates between referral to unregulated and regulated professionals:

'You must be satisfied that any health care professional to whom you refer a patient is accountable to a statutory regulatory body. If this is not the case, the transfer of care should be regarded as delegation, and you will remain responsible for the overall management of the patient, and accountable for your decision to delegate' (*Good Medical Practice, consultation draft, page 23*).

The implication, therefore, is that delegation involves a continuing relationship of responsibility for the patient.

Some of the discussion about this standard at the professional bodies discussion meeting centred on referral to unregulated professionals. In particular, there was some discussion about complementary and alternative healthcare. It was felt important that service users understood the basis upon which a referral was being made and that the registrant ensured (as far as possible) that the referral was appropriate. However, the registrant's responsibility should not extend beyond the appropriateness of the decision to refer.

‘Professional’ was felt to be a difficult term in the discussion, given changes in regulation and the creation of new roles.

The Committee is invited to:

1.1 Discuss and agree the text of the standard.

You must act within the limits of your knowledge, skills and experience and, if necessary, refer the matter to another practitioner

You must keep within your scope of practice. This means that you should only practise in those fields in which you have appropriate education, training and experience.

When accepting a service user you have a duty of care. This includes the obligation to refer them for further advice or treatment if it becomes clear that the task is beyond your own scope of practice. If you refer a service user to another practitioner you have a duty of care in ensuring that the referral is appropriate. You also need to make sure that the service user understands why the referral is being made.

A person is entitled to a referral for a second opinion at any time and you are under an obligation to accept the request and do so promptly.

If you accept a referral from another practitioner, you make sure that you fully understand the request. You should only provide the treatment or advice if you believe that this is appropriate. If this is not the case, you must discuss the matter with the practitioner who made the referral, and also the service user, before you begin any treatment or provide any advice.

Standard 7. You must maintain proper and effective communications with service users and other professionals

Comments and suggestions

This standard was not the focus of much discussion at the discussion meetings or away day. However, there was some discussion around the conflicting demands of maintaining effective communications whilst maintaining confidentiality.

Action against medical accidents (AVMA) suggested that we might add information here about being honest and open with patients about errors.

Commentary

Open disclosure of medical errors is a topic that has received close attention over the past few years. The National Patient Safety Agency (NPSA) is an NHS organisation which encourages reporting of errors and works to develop polices and procedures to minimise these errors.

The Committee may wish to consider whether it is appropriate to add this level of detail here. Further, the importance of acting in the best interest of service users, including reporting concerns, is articulated in standard 1.

The Committee is invited to:

1.1 Agree that no changes are necessary to the standard.

Standard 8: You must effectively supervise tasks you have asked others to carry out for you.

Comments and suggestions

The main comments and suggestions were:

- We should consider giving attention to whether it is appropriate to say professionals remain responsible for the outcome of a task following delegation.
- We should clarify what we mean by 'health professionals'

Commentary

The following changes have been made**:**

- A change in emphasis to explain that registrants are responsible for the appropriateness of the decision to delegate but not directly the outcome
- Removal of the word 'professional'

This standard did not receive lengthy attention during the discussion meetings. However, supervision and delegation were identified as difficult concepts. The existing standards say that:

'Whoever you ask to carry out a task, you must always continue to give adequate and appropriate supervision and you will stay responsible for the outcome'.

The corresponding standards published by the NMC and GMC say:

'You remain accountable for the appropriateness of the delegation, for ensuring that the person who does the work is able to do it and that adequate supervision or support is provided' (*NMC, standards for conduct, performance and ethics, page 8*).

'You will still be responsible for the overall management of the patient and accountable for your decision to delegate. When you delegate… you must make sure that the person… has the qualifications experience, knowledge and skills to perform the duties which they will be required to carry out' (*GMC, Good Medical Practice, consultation draft, page 23*).

Three different ways of approaching this issue are articulated:

- you stay responsible for the outcome following delegation; or
- you remain accountable for appropriateness of the delegation; or
- you are responsible for the overall management of the patient and the appropriateness of the delegation.

Comparison of these three standards also highlights that the important facets of this area are that registrants delegating to others should be sure that they have appropriate knowledge, skills and experience and continue to offer appropriate supervision.

In order for delegation to be distinct from referral (please see the commentary on standard 6) it does infer more of a continuing relationship. However, the standard as written suggests a more direct line of responsibility. It is suggested that it might be more appropriate to say that the registrant is responsible for the appropriateness of the decision to delegate. This, in any event, would be partly evaluated by looking at the outcome following that delegation.

Comments were also made on the references to health professionals in the standard. The standard as written attempts to provide clear advice about and differentiate between:

- delegation to people who are not health professionals (such as assistants);
- delegation to health professionals (scope of practice issues); and
- students training to become health professionals.

However, in standard 6 we highlighted that use of the term 'professional' was difficult given changes in regulation, the emergence of new roles and changes in scope of practice. Given this, it may be inappropriate to use the term 'professional' in this context.

The Committee is invited to:

1.1 Discuss and agree the text of the standard

You must effectively supervise tasks you have asked others to carry out for you.

People who consult you or receive treatments or services from you are entitled to assume that a person who has the knowledge and skills will carry out their treatment. Whenever you give asks to another person to carry out on your behalf you must be sure that they have the knowledge, skills and experience to carry out the task safely and effectively. You must not ask them to do work which is outside their scope of practice. If they are training to be health professionals, you should be sure that they are capable of carrying out the task safely and effectively.

Whoever you ask to carry out a task, you must always continue to give adequate and appropriate supervision. You will remain responsible for the appropriateness of the decision to delegate. If someone tells you that they are unwilling to carry out a task because they do not think they are capable of doing so safely and effectively, you must not force them to carry out the task anyway. If their refusal raises a disciplinary or training issue, you must deal with that separately but you should not endanger the safety of the service user.

Standard 9: You must get informed consent to give treatment (except in an emergency).

Comments and suggestions

Very few comments were made regarding this standard. It was suggested that we needed to add more information about capability and explicitly add that consent should be verbal or written.

Commentary

The Committee is invited to discuss whether it feels any changes are necessary to this standard. At present, the standard covers the following points:

- the need to explain the treatment, risks involved and alternatives;
- obtaining informed consent;
- recording consent and passing this on appropriately to other members of the healthcare team;
- trying, as far as possible, to obtain consent in emergency situations; and
- making reasonable efforts to persuade someone to consent if their refusal might be life threatening.

Although capability is not explicitly mentioned, it may be that it is not necessary in a general 'code' to provide this additional detail.

The Committee is invited to:

1.1 Agree that no changes are necessary to this standard.

Standard 10: You must keep accurate patient, client and user records

Comments and suggestions

The following comments were received:

- Should we require registrants to countersign the records of students?
- Should we amend the standard to reflect the introduction of the electronic patient record?
- Should we add information about the importance of contemporaneous records?
- Is it appropriate to make individual registrants responsible for ensuring the security of computer based systems?

Commentary

The main parts of the existing standard are:

- keep records for everyone you treat or who receives advice or services;
- records should be complete and legible; records should be written, signed and dated;
- countersign students entries in the notes;
- protect information against loss; and
- when updating a record you shouldn't erase the previous record.

Contemporaneous records
The General Dental Council requires dentists and dental care professionals to: 'Make and keep accurate and complete patient records, including a medical history, at the time you treat them' (*GDC, Standards for dental professionals, page 6*).

The General Chiropractic Council says that chiropractors must 'make records promptly and include all relevant information in a clear and legible form' (*GCC, Code of practice and standards of proficiency, page 17*).

The GMC requires doctors to 'keep clear, accurate, legible and contemporaneous records of every contact' (*GMC, Good Medical Practice, Consultation draft, page 7*).

Information has been added to the standard to indicate that records should be completed contemporaneously. This topic has come up during fitness to practise hearings and was raised by a panel chair in the "Call for ideas".

Computer based records
None of the other regulators' standards refer to computerised records in the sense of giving specific advice about conventions of keeping records on computers. The standard acknowledges that records are kept on computers and it does not seem necessary to add any further detail.

The BDA questioned whether it was appropriate to make registrants responsible for ensuring the security of computer based records when if they were employed within an organisation which had its own responsibilities, protocols and guidelines. The existing standards say that:

'You must protect information in records against loss, damage or use by anyone who is not authorised. You can use computer based systems for keeping records, but only if they are protected against anyone tampering with them'.

It is proposed that the standard as written adequately covers the issues in this area. Registrants have responsibilities to take reasonable steps to protect information against loss, damage, or inappropriate access. Employers also have similar responsibilities.

Countersigning records
The countersigning of records completed by students is not specifically referred to in the other regulators' standards reviewed.

Whether it would be appropriate for a record to be countersigned may well depend on whether the record has been completed by a student or an assistant. It may also depend on the degree to which the student or assistant was working under direct supervision. The Committee is invited to discuss whether it is appropriate to require countersigning of records.

The Committee is invited to:

1.1 Agree the text of the standard.
1.2 Specifically discuss whether it is appropriate to require registrants to countersign the records of students.

You must keep accurate records

Making and keeping records is an essential part of care and you must keep records for everyone you treat or who asks for your advice or services. You must complete all records promptly. They should be complete and legible, and you should write, sign and date all entries.

[add information about students]

Whenever you review the records, you should update them and include a record of any arrangements you have made for the continuing care of the service user.

You must protect information in records against loss, damage or use by anyone not authorised. You can use computer based systems for keeping records, but only if they are protected against anyone tampering with them (including other health professionals). If you update a record, you must not erase information that was previously there, or make that information difficult to read. Instead, you must mark it in some way (for example, by drawing a line through the old information).

Standard 11: You must deal fairly and safely with the risks of infection

Comments and suggestions

This standard received attention at the professional bodies and unions' discussion meeting and as part of the Council away day discussion. It was suggested that this standard might be broadened to include managing all risks, such as health and safety, not just risks of infection. A group at the Council away day also questioned whether we needed to refer explicitly to sexually transmitted infections.

Commentary

The suggestion put forward is that the standard should be re-written to more broadly encompass the different types of risks which registrants must effectively manage. The standards for conduct, performance and ethics published by the NMC adopt a similar approach – the standards say that nurses 'must act to identify and minimise the risk to patients and clients'. This includes:

- working with others to promote safe environments for healthcare;
- reporting colleagues for unfitness to practise; and
- professional duties to provide care in an emergency when off duty.

The second of these points is directly addressed elsewhere in the standards; the third of these is not. It would certainly be important that the information given about managing risks of infection is not lost – whilst no fitness to practise cases have involved this standard, it has been useful in answering queries from registrants and other organisations.

The Committee is invited to discuss whether this standard should be amended and if so, what information a newly rewritten standard about 'risks' should contain.

The Committee is invited to:

1.1 Discuss and make suggestions regarding this standard.

Standard 12: You must limit your work or stop practising if you performance or judgement is affected by your health

Comments and suggestions

This standard was discussed in depth (as well as standard 4) during the discussion meeting with patient and public groups. In particular, it was suggested that we should be more positive about disclosure and that we should describe the support available for reasonable adjustments.

There was general agreement at that meeting that we might achieve something more positive by moving the focus away from the potential of fitness to practise action by emphasising the positive duty of registrants to change their practice if necessary.

Commentary

The following changes have been made:

- Reference to the action we might take if a registrants' health was harming their fitness to practise has been removed.
- Reference to disclosure of changes to health has been removed as this duplicates standard 4.

The Committee is invited to:

1.1 Agree the text of the standard.

You must limit your work or stop practising if you performance or judgement is affected by your health

You have a duty to take action if your physical or mental health could be harming your fitness to practise. You should get advice from a consultant in occupational health or another suitably qualified medical practitioner and act on it. This advice should consider whether, and in what ways, you should change your practice, including stopping practising if this is necessary.

The 'Ethical standards'

Standards 13: You must carry out your duties in a professional and ethical way
Standard 14: You must behave with integrity and honesty
Standard 15: You must follow our guidelines for how you advertise your services
Standard 16: You must make sure that your behaviour does not damage your profession's behaviour

These standards were the subject of much discussion. In this section, we look at other regulators' and professional bodies standards on ethics. We then look at the comments and suggestions made with respect to each individual standard.

Commentary: the existing standards
One possible criticism that might be made of the 'ethical standards' is that they cover similar ground and that the 'distinctiveness' of each standard might appear blurred.

Other standards

- The GMC's standards refer to 'probity' which includes behaving in a way which justifies the trust of others, being open about convictions, being honest and accurate with advertising and research and managing conflicts of interest.

- The GDC's standards say that dentists should:

  'Be trustworthy:

  6.1 Justify the trust that your patients, the public and your colleagues have in you by always acting honestly and fairly.
  6.2 Apply these principles to clinical and professional relationships, and any business or educational activities you are involved in.
  6.3 Maintain appropriate standards of personal behaviour in walks of life so that patients have confidence in you and the public have confidence in the dental profession.' (*Standards for dental professionals, page 9*).

- The British Psychological Society's Code of ethics and conduct refers to an 'ethical principle of integrity' which includes behaving in a honest and accurate manner and avoiding exploitation of professional standard, conflicts of interest and managing boundaries (*Code of ethics and conduct, pages 20-22)*.

(Continued overleaf)

- The NMC's standards say that registrant must 'be trustworthy' and 'behave in a way that upholds the reputation of the professions' (*Standards for conduct, performance and ethics, page 10*).

Comparison and analysis of these standards does not immediately suggest any changes are necessary. Although the terminology and structure of each set of standards is different, however, they do articulate common principles.

It is noteworthy that all the standards include reference to public confidence and behaving in an honest and trustworthy manner. Topics covered under these headings include advertising, research and conflicts of interests, although different bodies vary in the degree to which they explicitly cover such topics. The GDC's standards nicely make a direct link between public trust and behaving honestly and fairly.

Standard 13. You must carry out your duties in a professional and ethical way

Comments and suggestions

A number of comments were made about this standard. There was some discussion about whether it was appropriate to speak of special responsibilities – some agreed that health professionals did have such responsibilities; others felt that they did not in any meaningful respect.

At the discussion meeting involving professional bodies and unions it was felt that the standard could be made more concise by removing the references to what the Council intends to achieve ("We want to protect the public….").

Others suggested that we might create a separate standard on ethics, perhaps by removing 'professional' from the standard to focus instead on ethical behaviour. It was also suggested that we might add key examples to encompass standards 14 and 15.

Commentary

The existing standard says that registrants, as health professionals, have 'special responsibilities that go beyond those expected of other people'. Some concluded that it was not appropriate to say this. Others asked what we meant by professional or ethical behaviour.

The standard as written does not explicitly explain what these 'special responsibilities' are. However, as a member of a regulated profession, health professionals are required to conform to and follow standards (such as the standards of conduct, performance and ethics) and to ensure that they maintain high standards of conduct, both professionally and personally.

It seems fair to conclude that the phrase 'special responsibilities' is somewhat opaque and that the responsibilities implicitly referred to are covered to a great extent elsewhere in the standards.

The standard as written presently includes information about our approach and role: 'We want to protect the public from unprofessional and unethical behaviour, and we aim to make sure that health professionals know all about the standards we expect them to meet'. It certainly seems unnecessary to include this information in a standards document addressed to registrants about their duties and responsibilities.

Having decided that these two references are unnecessary, it is proposed that standard 13 should be removed, because it does not substantially add to the standards.

The Committee is invited to:

1.1 Agree that standard 13 should be removed.

Standard 14. You must behave with integrity and honesty

Comments and suggestions

Few comments were made specifically regarding this standard. The British Dietetic Association noted that this standard overlaps with standard 3 and suggested that both needed more explanation.

Commentary

The standard says that "You must make sure that you behave with integrity and honesty and keep to high standards of personal and professional conduct at all times".

The standards as written does indeed repeat information about 'high standards of personal conduct' from standard 3. With reference to the standards published by the General Dental Council, it seems helpful to make a direct link between acting with integrity and justifying the trust that others place in health professionals. This change has been made to the draft below.

The Committee is invited to:

1.1 Agree the text of the standard.

You must behave with integrity and honesty

You must justify the trust that others place in you by acting with integrity and honesty at all times.

15. You must follow our guidelines for how you advertise your services

Comments and suggestions

At the professional bodies and unions' discussion meeting, it was suggested that we might broaden this standard to refer more widely to issues around conflict of interest. However, there was no clear consensus amongst the wider group about whether this was desirable.

However, another group suggested that the standards might be reduced in length or removed and that further guidance might be available elsewhere. Another group commented that 'knowledge' was not always 'scientific'.

It was noted at the meeting, and in the paper "Possible changes", that the standard as written infers that additional guidance is available elsewhere when it is not.

Commentary

Conflicts of interest are not explicitly addressed by the existing standards (and, indeed are not specifically addressed by some other regulators' standards or codes). We receive a small number of queries on this subject each year, and these are answered with reference to standard 1 and standard 15. Such queries often involve matters of referral and therefore also involve standard 6.

The standard as written does indeed infer that additional guidance is available elsewhere, when no such guidance exists and this will need to be changed. It seems useful to include information about advertising in the standards, especially given the number of registrants who are engaged in private or independent practice.

The Committee is invited to:

1.1 Agree that the standard should now read: "You must make sure that any advertising is accurate".
1.2 Discuss whether it is desirable to refer explicitly to conflicts of interest in the standards.

You must make sure that any advertising is accurate

Any advertising you do in relation to your professional activities must be accurate. Any advertisements must not be misleading, false, unfair or exaggerated. In particular, you should not claim your personal skills, equipment or facilities are better that anyone else's unless you can prove this is true.

If you are involved in advertising or promoting any produce or service, you must make sure that you use your knowledge, skills and experience in an accurate and responsible way. You must not make or support unjustifiable statements relating to

particular products. Any potential financial rewords to you should play no part at all in your advice or recommendations of products and services that you give to service users.

Standard 16: You must make sure that you behaviour does not damage your profession's reputation

Comments and suggestions

There was some discussion at the discussion meetings and in the 'Possible changes' paper about whether it was appropriate to refer to the reputation of the profession. The BDA in their response said that this standard required further explanation.

Commentary

In the paper "Possible changes" it was discussed whether we should refer to the reputation of the profession now that our focus is on public protection and protection of the public interest (public confidence).

There was no clear consensus arising out of the discussion on this topic. At the discussion meetings it was suggested that we might refer instead to confidence in the profession and/or professional.

At the council away day the group who discussed the topic generally felt that it shouldn't change.

On balance, it seems that a minor change to this standard might be helpful and a suggestion is made in the draft below.

The Committee is invited to:

1.1 Discuss and agree the proposed text of the standard as shown below.

You must make sure that your behaviour does not damage public confidence in you or your profession

You must not get involved in any behaviour or activity which is likely to damage public confidence in the services you provide or in your profession.

References

British Psychological Society, Code of Ethics and Conduct, March 2006, www.bps.org.uk.

General Chiropractic Council, Code of practice and standard of proficiency, December 2005, www.gcc-uk.org.

General Dental Council, Standards for Dental Professionals, June 2005, www.gdc-uk.org.

General Medical Council, Good Medical Practice (consultation draft), November 2005, www.gmc-uk.org.

General Medical Council, Good Medical Practice, revised edition; October 2006, www.gmc-uk.org.

Nursing and Midwifery Council, The NMC code of professional conduct: standards for conduct performance and ethics, July 2004, www.nmc-uk.org.

Royal Pharmaceutical Society of Great Britain, Guidance on child protection, June 2006, www.rpsgb.org.uk.

Appendix 1

Introduction to the standards of proficiency (consultation draft)

Introduction

This document sets out the **standards of proficiency**. These are the standards we have produced for the safe and effective practice of the professions we regulate. They are the minimum standards we consider necessary to protect members of the public.

You must meet these standards when you first become registered. After that, every time you renew your registration you will be asked to sign a declaration that you continue to meet the standards of proficiency that apply to your scope of practice.

We also expect you to keep to our **standards of conduct, performance and ethics** which are published in a separate document.

The standards of proficiency in this document include both generic elements, which apply to all our registrants, and profession-specific elements which are relevant to registrants belonging to one of the professions we currently regulate. The generic standards are written in black, and the profession-specific standards are written in blue italics to help you distinguish between them.

The generic standards explain the key obligations that we expect of you. Occasionally, we have pointed out specific elements of those key obligations. We have not attempted to create exhaustive lists of all the areas that each generic standard covers; we have simply highlighted specific elements where we consider this to be helpful.

As a student, you may only have practised under supervision and not independently. Nonetheless, you must be confident that you will be able to meet these standards when you begin to practise autonomously.

A note about our expectations of you

The standards of proficiency play a central role in how you can gain admission to, and remain on, the Register and thereby gain the right to the protected title(s) of your profession.

It is important that you read and understand this document. If your practice is called into question we will consider these standards (and our **standards of conduct, performance and ethics**) in deciding what action, if any, we need to take.

The standards set out in this document complement information and guidance issued by other organisations, such as your professional body or your employer.

Your scope of practice

Your scope of practice is the area or areas of your profession in which you have the knowledge, skills and experience to practise lawfully, safely and effectively, in a way that meets our standards and does not pose any danger to the public or to yourself.

We recognise that a registrant's scope of practice will change over time and that the practice of experienced registrants often becomes more focused and specialised than that of newly registered colleagues. This might be because of specialisation in a certain clinical area or with a particular client group, or a movement into roles in management, education or research.

Your particular scope of practice may mean that you are unable to continue to demonstrate that you meet all of the standards that apply for the whole of your profession. As long as you make sure that you are practising safely and effectively within your given scope of practice and do not practise in the areas where you are not proficient to do so, this will not be a problem. If you want to move outside of your scope of practice you should be certain that you are capable of working lawfully, safely and effectively. This means that you need to exercise personal judgement by undertaking any necessary training and experience.

Meeting the standards

It is important that our registrants meet our standards and are able to practise lawfully, safely and effectively. However, we don't dictate how you should meet our standards. There is normally more than one way in which each standard can be met and the way in which you meet our standards might change over time because of improvements in technology or changes in your practice. As an autonomous professional you need to make informed, reasoned decisions about your practice to ensure that you meet the standards that apply to you. This includes seeking advice and support from education providers, employers, colleagues and others to ensure that the wellbeing of patients, clients and users is safeguarded at all times.

In particular, we recognise the valuable role played by professional bodies in representing and promoting the interests of their members. This often includes guidance and advice about best practice which can help you meet the standards laid out in this document.

These standards may change in the future

We have produced this new version of our standards after speaking to our stakeholders about how the standards were working and how relevant they were to registrants' practice.

We will continue to listen to our stakeholders and will keep our standards under continual review. So we may make further changes in the future to take into account changes in practice.

Appendix 1

We will always publicise any changes to the standards that we make by, for instance, publishing notices on our website and informing professional bodies.

Appendix 1