

AOA CODE OF CONDUCT

Revised 2020



AOA
AUSTRALIAN
ORTHOPAEDIC
ASSOCIATION



Contents

1	Introduction.....	4
2	Standards of clinical practice.....	5
2.1	General principles.....	5
2.2	Interactions with patients.....	6
2.3	Clinical photography.....	9
2.4	Record-keeping.....	10
2.5	Allocation of resources.....	10
2.6	Relationships with colleagues.....	10
3	Maintenance of professional standards.....	11
3.1	Clinical governance.....	11
3.2	Credentialing and clinical privileges.....	11
3.3	Continuing professional development.....	11
3.4	The surgeon's health.....	12
3.5	Retirement from surgical practice, incapacity or death.....	12
4	Responsibility in teaching, training.....	13
4.1	Teaching role.....	13
4.2	Surgeons as supervisors of training.....	13
5	Research and new technology.....	14
6	Commercial responsibilities.....	15
7	Advertising/information distribution.....	16
7.1	AHPRA Guidelines and the National Law.....	16
7.2	Announcements.....	16
7.3	Accuracy of information.....	16
7.4	Declaration of conflicts of interest.....	17
7.5	Endorsements.....	17
7.6	Print media – brochures or pamphlets.....	17
7.7	Internet-based information and social media.....	17
7.8	Other information distribution media.....	18
7.9	Lectures to a community forum.....	18
8	Acknowledgements.....	19
	Addendum 1 – AOA Position Statement on Interaction with Medical Industry 2020.....	20
1.	Introductory statement.....	20
2.	AOA Members' responsibilities to the patient.....	20
3.	AOA Members' commercial responsibilities.....	20
4.	Educational meetings.....	21
5.	Presentations and publications.....	22



6. Orthopaedic fellowships	22
7. Orthopaedic trainees (registrar affiliates)	22
8. Compliance	23
Addendum 2 – Definitions	24
Addendum 3 – References	29



1 Introduction

The Australian Orthopaedic Association (AOA) is the peak body in Australia for training orthopaedic surgeons to world-class standards, assuring and advancing the quality of surgical practice and representing the professional interests of its' members.

This Code of Conduct document for AOA has been created to reflect the values of the AOA *Ethical Framework*. The intent of this document is to assist in the translation of these ethical values into the professional conduct and behaviour of all orthopaedic surgeons of good standing with the AOA.

This Code should also be read with reference to the AOA *Whistleblower Policy*, *Fraud Policy* and *AOA Accredited Fellowships Policy*.

AOA Ethical Framework values

- **Integrity** – Act with honesty
- **Respect** – Recognise the inherent worth of all people and their beliefs
- **Quality** – Commit to lifelong learning
- **Empathy** – Treat the concerns and emotions of patients and families with understanding
- **Teamwork** – Engage with all team members
- **Service** – Serve the interest of patients and the community
- **Stewardship** – Promote responsible orthopaedic practice and use of resources

The Code clarifies expectations required of our members to achieve excellence of practice and also provides the basis for possible disciplinary action for those who fail to meet their obligations. Members who exhibit behaviour contrary to that outlined in this Code of Conduct may face actions by their colleagues, department heads, or state committees. This 'shared governance' should be able to deal with the majority of accidental or inadvertent transgressions, but more serious misconduct that "is prejudicial to the interests of the Association and/or the medical profession or which is likely to bring the Association and/or the medical profession into disrepute" will be referred to the Professional Conduct and Standards Committee for consideration (see Section 10, AOA Constitution for details of this process). Referral to this committee can lead to a variety of outcomes ranging from no action, through counselling, censuring, suspension or expulsion. The final decisions on these more serious outcomes are taken by the AOA Board.

All doctors registered within Australia are expected to abide by the Australian Health Practitioner Regulation Agency/Medical Board of Australia (MBA) *Good Medical Practice: A Code of Conduct for Doctors in Australia*. All Fellows of the Royal Australasian College of Surgeons (RACS) are expected to abide by the RACS *Code of Conduct*. In any area where these codes of conduct conflict with items of State or National Law, the legislation takes precedence.



2 Standards of clinical practice

2.1 General principles

1.1.a) General

The member will:

- Always act in the best interest of patients
- Carry out their professional duties in a manner that is always respectful of others
- Practice in a way that upholds the reputation and professional standing of members and fellows of the AOA
- Provide clinical care, consistent with current standards of orthopaedic surgery (within the constraints of systems and resources) and care for patients utilising the best available evidence
- Treat all patients without discrimination
- Take a sufficient history, perform a necessary examination and order appropriate investigations
- Familiarise themselves with, and use if necessary, qualified language interpreters or cultural interpreters to help meet the communication needs of the patient
- Arrange for transfer of the patient to an appropriate facility in circumstances where adequate resources are not available for the patient's care
- Support systems that identify and manage co-morbidities and risk factors for surgery, especially any necessary early referral to medical and/or allied health colleagues
- Be willing to facilitate a second opinion for the patient when requested or otherwise appropriate
- Support a team care approach to maximise patient benefit, when appropriate.
- When asked specifically to provide a second opinion by the referring doctor, objectively judge the case with all relevant information and offer opinion on management without taking over the patient care, unless requested to do so
- When communicating with a lay person, or writing medicolegal reports, comment only on the opinion or results of treatment of other health care and paramedical professionals where necessary and appropriate for the person's current and ongoing care and in a non-judgmental manner, expressing such comment in terms to avoid misinterpretation by a lay person
- Ensure medicolegal reports are completed in timely manner
- Advocate for all patients' benefit in community, government and other forums where reasonable and appropriate.

1.1.b) Operative care

The Member will:

- Ensure sufficient preoperative assessment, discussion and site marking are performed in the immediate preoperative period
- Participate in perioperative 'time out' procedures



- Respond as a priority to a request for help from another surgeon in the operating theatre, subject to other compelling clinical obligations and considerations
- Provide sufficient peri-operative care, keep appropriate records and ensure arrangements are made for follow-up of patients as required
- Ensure sufficient pre-, intra- and post-operative anaesthetic and medical assistance is available to their patients.

1.1.c) Continuity of care

The Member will:

- Continue to contribute to the care of patients in intensive care units (ICU) and high dependency units (HDU) working together with ICU/HDU medical and nursing staff
- Be available to attend promptly for an emergency when on call and ensure appropriate arrangements for ongoing patient care such as handover to a colleague
- In an emergency, be prepared to care for the patients of other surgeons should they be unavailable
- Ensure that appropriate hand-over is undertaken when care of a patient is transferred
- When taking leave, make arrangements with another surgeon to provide cover for your patients in hospital, or those recently transferred or discharged and who require ongoing monitoring or follow-up.

1.1.d) Change of treating doctor

The Member will:

- Ensure that if the patient chooses to change doctors that such a change will occur in a seamless manner, ensuring necessary clinical information is conveyed to the new treating doctor
- Withdraw from treating a patient if he or she feels it is in the best interest of the patient or if the necessary trust in the doctor-patient relationship no longer exists
- In general, not do anything to attempt to dissuade the patient from continuing in the care of their usual treating doctor.

2.2 Interactions with patients

1.2.a) Communication

The Member will:

- Respect patients' dignity and privacy at all times.
- Do their best to ensure that patients understand both the short- and longer-term benefits, risks, and implications of operative and non-operative treatment options
- Discuss with patients, or appointed substitute decision-makers such as relatives, carers and/or legal guardians where the patient lacks capacity, the available treatment options, including non-operative treatment or no treatment. These should include an outline of the comparative and relevant risks and potential benefits of these options and provide the opportunity for questions to be asked



- Refrain from disclosing without the consent of the patient or their substitute decision-maker (unless legally required or permitted) to any third party information which he or she has learnt in the professional relationship with the patient
- Consider recommending changing a patient's treating doctor if they feel they are forced to act under duress or are placed under other improper pressure, either by a patient or their representative or any other party. In such circumstances, a change of treating doctor may be necessary or otherwise appropriate
- Ensure that the patient is informed of the participation of supervised trainees and students in procedures when appropriate.

1.2.b) Consent

The Member will:

- Respect patients' rights to seek relevant information to make informed decisions about their care
- Document matters relevant to the consent process
- Ensure necessary financial consent is obtained for your role in treatment
- Ensure that patients are aware of any financial conflict of interest that the surgeon has in the patient's care. This includes, but is not exclusive of, radiology services, hospital services, prosthesis usage and devices, and medications or other products you may recommend to the patient
- Obtain consent for use of a patient's health information if utilised outside the treatment environment. Patients should be clearly aware of the nature of that usage and give consent to that form of usage eg research, teaching, or education.
- Ensure patients are aware as far as practicable of the risks involved in any proposed procedural intervention
- Respect recent surgical intervention when independently assessing another surgeon's patient for insurance purposes.

1.2.c) Medical certification

The Member will:

- Ensure that certificates carry the date on which the certificate was written and should be confined to the treating doctor's period of management
- Write documents about an illness or injury only if the patient has been examined by the surgeon for that illness or injury within the surgeon's sphere of expertise
- Not release any certificate or report regarding a patient to a third party without the consent of the patient or other legal authority.

1.2.d) Workers compensation/insurance practice

The Member will:

- Within the limits of the role, apply the same degree of professional care, ethics and judgement to an injured worker as to any other patient. Certificates or reports should not be given to an employer or insurer without the express agreement of the worker, unless the assessment has been arranged by the employer or insurer



- Always act and behave in a polite and courteous manner when examining another surgeon's patient
- Always respect the professionalism of a colleague and refrain from making any comments to the patient that criticise the treatment given
- Ensure that any opinion as to aetiology, diagnosis or prognosis of the case is furnished only to the employer or insurer, unless the patient is referred by a doctor or it is otherwise necessary to ensure appropriate ongoing care, such as in the context of the discovery of a new condition or deterioration in an existing condition
- If an interpreter is present, direct courtesy and politeness to and through the interpreter
- Observe the relevant expert witness code in giving expert opinion.

1.2.e) Working with children and vulnerable persons

The Member will:

- Understand the legal definition of a child in differing local jurisdictions and the local policy and guidelines for providing surgical services to such patients
- Obtain consent for any proposed treatment of a minor from them if they have legal capacity or otherwise from a person with legal responsibility in accordance with the applicable legislation and other laws
- Be aware of the possibility of non-accidental injury or other risks to a child, know the local jurisdictional thresholds for reporting child protection concerns, and report to the appropriate authority within the legal framework of the jurisdiction in which the surgeon is working
- Proceed to treat a child without parental consent in a life-threatening emergency where no other appropriate authority is immediately available and in such a situation notify the appropriate person(s) in authority within the treating hospital
- Involve the child and/or child's parent(s), carer and/or legal guardian in communication, respecting their individual views.

1.2.f) Personal relationships

The Member will:

- Not engage in unethical or otherwise inappropriate physical, sexual or business relationships with patients
- Not undertake surgical procedures on patients they are intimately involved with (eg close family) except in a life- or limb-threatening emergency when no other appropriate surgeon is immediately available.

1.2.g) Special needs – specific requirements

The Member will:

- Be aware that competent patients have the right to refuse blood or blood component transfusion, irrespective of the basis for that refusal
- Be aware that children who are competent to make such decisions ('mature minors' or 'Gillick competent') have the same rights to make such decisions. However, in



situations of doubt over competency, a court order may be required. Involvement of a range of colleagues and other professionals is usually necessary before considering such a step.



1.2.h) Special needs – end-of-life decision-making

The Member will:

- Discuss treatment options and possible outcomes with the patient, and where appropriate the patient's relative(s) and others close to them, when making decisions regarding treatment at the end of life
- Where the patient is unable to make his or her own decisions, discuss treatment options and possible outcomes with the patient's guardian or other substitute decision-maker, such as relative(s)
- Make recommendations about withdrawing or withholding treatment in accordance with relevant guidelines, preferably with the support of other medical colleagues and with ethical and/or legal advice, if required
- Withhold or withdraw life-prolonging treatment, where such treatment is lawfully refused or requested to be withdrawn by the patient's substitute decision-maker, such as a relative or legal guardian, where the patient is not competent to make such decisions
- Be aware they do not have an obligation to provide life-prolonging treatment where such treatment makes no contribution to potential cure or meaningful improvement or is overly burdensome on the patient (subject to patient wishes).

2.3 Clinical photography

The Member will:

- Prior to obtaining a clinical image, consider the purpose for which the image is required and obtain appropriate consent
- Ensure the patient is informed of the reasons for taking the image, how it will be used, and to whom it will be shown
- Be aware of the applicable health-records legislation within the state in which they practise, as they may be obligated to hold patient records (including clinical photographs) for several years
- Refrain from showing the clinical photographs to anyone else unless the patient's consent is obtained or the patient would reasonably expect you to show or distribute the image for the purpose of their clinical management, or if you are otherwise permitted or required to do so by law
- Make sure clinical images do not auto upload to any social media networks or back-up sites
- Consider how long the images will be retained for and ensure they are kept in a secure manner and disposed of in a way that will maintain the patient's privacy.



2.4 Record-keeping

The Member will:

- Ensure maintenance of legible and contemporaneous records, including operative notes and records of discussions with patients and relatives, carers and/or other substitute decision-makers. (Generally, such records should be sufficient for another treating doctor to take over care of the patient without further information from the member)
- Ensure electronic data entry maintains current standards of lock-out, back-up and privacy
- Be aware of individual jurisdiction legislation governing privacy, reporting of notifiable conditions and access to records
- Ensure patient records are kept (including after cessation of practice) until such time as there is little or no risk of litigation arising from the patient's treatment. This will depend upon the statutory limitation period within the relevant jurisdiction, and any applicable state or territory legislation governing medical records
- Keep honest and accurate records whilst preserving and maintaining ready access to all records within the time limits allowed by relevant legislation.

2.5 Allocation of resources

The Member will:

- Be aware of the importance of wise stewardship of resources
- Avoid unnecessary procedures and wasteful practices and work with colleagues, institutions and the community to promote cost-effective care and to develop policy regarding priorities of care
- Ensure that colleagues and institutions are aware of potential conflicts of interests that a surgeon may have in providing an episode of care
- Be aware that 'elective' and traumatic surgery should be prioritised individually on the basis of clinical need.

2.6 Relationships with colleagues

The Member will:

- Treat colleagues with respect at all times
- Always act in the best interests of their colleagues
- Refrain from denigrating the results of colleagues
- Work to build a culture of respect and collaboration in all aspects of their work, especially in those situations where an imbalance of power exists
- Work to eliminate discrimination, harassment, or bullying based on personal attributes, including, but not limited to, age, sexual preference, gender, race, religion, culture, ethnicity, disease, disability, or religion.



3 Maintenance of professional standards

3.1 Clinical governance

1.1.a) Quality assurance

The Member will:

- Regularly attend and participate in quality assurance meetings, including morbidity and mortality, in public and/or private hospitals
- Participate in peer review and audit
- Participate in state and national audit of surgical mortality reviews
- Report to relevant bodies significant events or incidents that lead to adverse patient outcomes, in accordance with legal and professional requirements.

1.1.b) Adverse events

The Member will:

- Inform patients using open disclosure principles of any adverse events that occur during their care, communicating sensitively while providing an explanation of what has occurred, together with a discussion of how the problem is to be managed and an opportunity to ask questions
- Demonstrate insight and compassion when dealing with adverse events
- Report events to morbidity and mortality meetings and be willing to participate in adverse events investigations
- Seek the opinion and/or assistance of a peer when performing further treatment or procedure/s on a patient in whom a major adverse event has occurred.

3.2 Credentialing and clinical privileges

The Member will:

- Ensure they are appropriately credentialed by the employing authority and/or the facility provider
- Not undertake a procedure that they are not trained and credentialed to undertake except in a life-threatening emergency when no other appropriately trained surgeon is immediately available.

3.3 Continuing professional development

The Member will:

- Ensure they remain competent and are able to provide care informed by contemporary evidence
- Comply with the CPD program requirements specified by AOA or equivalent.



3.4 The surgeon's health

The Member will:

- Recognise the importance to patient safety of maintaining personal, physical and mental health and wellbeing, including an appropriate balance between work and recreation
- Encourage medical colleagues and other health professionals to maintain a high standard of physical and mental health and fulfil any obligations for mandatory notification as prescribed under the National Law.

The Member will:

- Not practise or operate while impaired by alcohol or drugs or when their ability to practice safely is compromised by physical or mental disability and will seek appropriate care and treatment
- Endeavour to recognise when fatigue, stress, physical or mental illness or another condition reduces his or her clinical or operative skills and request the assistance of an appropriately qualified colleague
- Endeavour to recognise when the ageing process may affect performance, undergo regular medical assessments as necessary and comply with appropriate professional advice
- Recognise poor health in surgical colleagues and take appropriate action, complying with mandatory reporting criteria
- Comply with legal obligations and relevant professional standards (including those from the Communicable Diseases Network Australia) if infected with a serious infectious agent that could be transferred to a patient.

3.5 Retirement from surgical practice, incapacity or death

The Member will:

- Determine a process to ensure a smooth hand-over of patients currently under the surgeon's care
- Ensure that all medical records of patients currently under the surgeon's care or follow-up are transferred to another surgeon in the specialty or are otherwise available on request
- Ensure that all medical records in archive or in other storage facilities are either destroyed or transferred according to requirements of the local jurisdiction.



4 Responsibility in teaching, training

4.1 Teaching role

The Member will:

- Act with integrity
- Provide appropriate supervision, minimising risks to the patient and accepting responsibility for the patient's welfare
- Acknowledge a responsibility to encourage and train future surgeons and other health professionals
- Encourage trainees to work safely and to protect their own physical, mental and emotional health
- Ensure delegated tasks are within the trainee's ability
- Promote the practice of evidence-based medicine
- Promote the use of audit and peer review
- Promote a safe workplace environment
- Promote an environment of diversity and inclusion.

4.2 Surgeons as supervisors of training

The Member will:

- Always show empathy toward trainees
- Facilitate the acquisition by trainees of the RACS ten core competencies, especially encompassing the AOA core competencies of:
 - Communication
 - Teamwork and conflict management
 - Professionalism
 - Leadership and organisational skills
 - Advocacy
 - Education and research
- Co-ordinate and document assessment of trainees' competence in accordance with AOA training requirements
- Manage the underperforming trainee in accordance with AOA training guidelines.



5 Research and new technology

The Member will:

- Always act in the individual patient's best interest
- Perform all research under the conditions of full compliance with ethical, institutional and government guidelines
- Not plagiarise the work of others or falsify research data or results by acts of commission or omission
- Declare to research subjects and the appropriate oversight body the nature of any contractual involvement with industry involved in the research
- Ensure patients are aware of their rights to withdraw from research at any time without financial penalty or prejudice to their treatment
- Perform the assessment of innovative techniques, procedures or devices, in the context of a clinical trial
- Claim as his or her intellectual property only research and academic articles for which he or she made substantial contributions to the design, collection or interpretation of data and final version of the report
- Ensure that appropriate credit is given to individuals for their contributions to the research.



6 Commercial responsibilities

The Member will:

- Act ethically and with integrity in regard to the pricing of their medical services and in accordance with the guidelines laid down by the ACCC and the Competition and Consumer Act
- Satisfy themselves in each individual case as to a fair and reasonable fee, having regard to their own cost, experience and the particular circumstances of the case and the patient
- Act in the patient's best interests when making referrals and providing or arranging care
- Not receive any money in connection with services rendered to a patient other than acceptance of a proper professional fee
- Not participate in fee splitting or similar schemes with medical colleagues to obtain preferential patient referrals
- Provide information about their fees and charges when obtaining the patient's consent to treatment wherever possible
- Declare any financial ownership or interest in imaging centres, day surgery centres or other private health care facilities, prostheses or other medical devices/products to the patient and others affected by that interest
- Comply with the AOA *Position Statement on Interaction with Medical Industry* (see Addendum).



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7 Advertising/information distribution

7.1 AHPRA Guidelines and the National Law

1.1.a) AHPRA Guidelines

The Australian Health Practitioners Regulation Agency (AHPRA) *Guidelines for advertising regulated health services* state:

Anyone advertising regulated health services, including individual health practitioners, must make sure that their advertisements comply with the National Law and other relevant legislation.

1.1.b) The National Law

Section 133 of the National Law regulates advertising of regulated health services. (Regulated health service means a service provided by, or usually provided by, a health practitioner.)

It states:

1. A person must not advertise a regulated health service, or a business that provides a regulated health service, in a way that—

- a) is false, misleading or deceptive or is likely to be misleading or deceptive; or*
- b) offers a gift, discount or other inducement to attract a person to use the service or the business, unless the advertisement also states the terms and conditions of the offer; or*
- c) uses testimonials or purported testimonials about the service or business; or*
- d) creates an unreasonable expectation of beneficial treatment; or*
- e) directly or indirectly encourages the indiscriminate or unnecessary use of regulated health services.*

. (More guidance is provided in AHPRA Guidelines for advertising regulated health services and other AHPRA resources)

7.2 Announcements

The Member will:

- Ensure any announcement re commencement or change of practice is in line with the National Law. This announcement may refer to specialty practised and/or special interests.

7.3 Accuracy of information

The Member will:

- Ensure information provided is not inappropriate or fraudulent
- Ensure the information is not misleading or deceptive and that it does not make false representation, either directly, by implication, through emphasis, by comparison, by contrast or by omission



- Always consider how members of the public will receive the information and must be aware that the public may be vulnerable even to accurate information when it is presented inappropriately
- Not communicate testimonials or purported testimonials, videos or before-and-after photographs
- Ensure information does not overstate or exaggerate the truth
- Ensure clinical statements are balanced, evidence based, peer reviewed and verifiable
- Not make defamatory or negative comments in reference to colleagues
- Ensure information concerning surgical services alerts the public that there may be health risks associated with the service.

7.4 Declaration of conflicts of interest

The Member will:

- Ensure information communicated declares any conflicts of interest, in particular, financial relationships with prosthesis companies or hospitals and other corporate entities or persons or to the patient and others affected by that conflict of interest.

7.5 Endorsements

The Member will:

- Recognise that AOA strongly cautions against the provision of endorsements of surgical techniques or therapeutic goods by individuals. There is potential for these endorsements to be misleading
- Comply with legal restrictions around advertising, including by the Therapeutic Goods Administration.

7.6 Print media – brochures or pamphlets

The Member will:

- Ensure documents used to improve communication between surgeons and patients and community members are useful in providing for pre- and post-operative information
- Ensure that such documents comply with the principles of this Code of Conduct.

7.7 Internet-based information and social media

Various Internet formats (for example web pages, blogs, YouTube, Twitter and Facebook) are a means of communicating with the general community. The web format may contain text, images and video.

The Member will:

- Ensure Internet-based content complies with this Code of Conduct
- Ensure their website and any they have control over comply with this Code of Conduct
- Be aware of and safeguard the privacy of patient information, including images.



7.8 Other information distribution media

Advertising is clearly regulated under the National Law.

AOA cautions against the use of the radio and television for information distribution because of the significant risk of misrepresentation of information presented.

The Member will:

- Ensure that information distributed in any medium complies with this Code of Conduct.

7.9 Lectures to a community forum

The dissemination of factual and balanced surgical information to the community is encouraged.

The Member will:

- Ensure any presentations comply with this Code of Conduct.



8 Acknowledgements

AOA Ethical Framework

<https://www.aoa.org.au/docs/default-source/default-document-library/aoa-ethical-framework-web.pdf?sfvrsn=2>

RACS Code of Conduct

https://umbraco.surgeons.org/media/1599/2016-04-29_mnl_racs_code_of_conduct.pdf

Australian Consensus Framework for Ethical Collaboration in the Health Sector

https://www.aoa.org.au/docs/default-source/australian-consensus-framework/australian-consensus-framework---18-september-2019.pdf?sfvrsn=c689c304_2

Good Medical Practice – Professionalism, Ethics and Law., Australian Medical Council

<https://www.amc.org.au/amc-launches-new-edition-of-the-publication-good-medical-practice-professionalism-ethics-and-law/>

Good Medical Practice: A Code of Conduct for Doctors in Australia AHPRA

<https://www.medicalboard.gov.au/Codes-Guidelines-Policies/Code-of-conduct.aspx>

Clinical Images and the use of Personal Mobile Devices: A Guide for Medical Students and Doctors, AMA

<https://ama.com.au/article/clinical-images-and-use-personal-mobile-devices>



Addendum 1 – AOA Position Statement on Interaction with Medical Industry 2020

1. Introductory statement

This Position Statement applies to all members of the Australian Orthopaedic Association (AOA) and should be considered in conjunction with the AOA *Ethical Framework* purpose, values and principles.

The primary focus of the orthopaedic profession is to provide excellence in patient care, with compassion and respect.

AOA expects the highest qualities of professionalism, integrity, ethical behaviour and standards of its members.

AOA recognises that collaborative relationships between members and industry (refer Definition 1) are important in advancing and improving patient care.

AOA is a signatory to the *Australian Consensus Framework for Ethical Collaboration in the Healthcare Sector* and as such members are expected to abide by that Framework's shared ethical values and principles.

While AOA recognises that its members may pursue academic and commercial ventures, members must be mindful of their professional responsibilities and the potential for such ventures to cause conflicts of interest with patient care. A conflict of interest is considered to exist when professional judgment concerning the wellbeing of the patient has a reasonable chance of being influenced by other interests of the member. (Refer Definition 2.)

2. AOA Members' responsibilities to the patient

All members must act in a patient's best interest when recommending or using medical treatments, devices or other products. Members' recommendations must be unencumbered by commercial persuasion that may influence their judgment towards a patient's treatment options.

Members must declare to the patient or their representative any potential conflict of interest associated with their care. Such a declaration must be sufficient to enable the patient to make an informed decision about their care.

3. AOA Members' commercial responsibilities

A member will, upon request, disclose to AOA and, where appropriate, colleagues, institutions, and other affected entities, any financial interest in a medical treatment, device, product or procedure if the member or an institution with which they are associated has received or will receive any direct or indirect payment of a financial or other benefit from the inventor, manufacturer or distributor of the medical treatment, device, product or procedure. AOA members should become familiar with the Medical Technology Association of Australia *Code of Practice* to ensure that they do not compromise themselves or members of the industry.

A member will not accept any form of personal promotion or advertising from industry.

A member will not seek gifts from industry.

Any gifts, money or other benefits (excluding textbooks or analytical models) from industry exceeding a total value of AUD\$100 represent a declarable financial interest.



A member will not accept any direct or indirect financial inducement from industry for utilising a particular implant, medication or product or for switching from one manufacturer's medication or product to another.

AOA recognises that a genuine commercial relationship may exist between a member and industry and that a payment to, or a subsidy of, the member may be appropriate in certain circumstances. Any such payment or subsidy should conform to an AOA-approved process. (Refer Definition 3.)

- A member may enter into a bona fide consultancy (including the evaluation of a product or development of a new product), provided it is covered by a contract in writing as per Definition 3.
- The learning of new surgical techniques (demonstrated by an expert in the field) or the review of new implants, products or devices with on-site education may provide the added benefit of educating a number of attendees per session and offer important insights into the function of ancillary staff and institutional protocols. In these circumstances, reimbursement for expenses may be appropriate.

Reimbursement will be limited to expenses that are strictly necessary and able to withstand public scrutiny.

In no case should honoraria or reimbursement for leave from paid employment to attend a course be accepted.

In addition, attending a course and learning techniques as a participant will not require or imply that the member should subsequently use the products or services provided by the particular commercial organisation.

A member who has influence in selecting medical devices, products or services for an institution or group will, prior to the commencement of any such selection process, disclose any relationship with industry to their colleagues, any institution with which they are associated and any other related entities. Where practicable, those who do use the device may be excused from the decision-making process.

4. Educational meetings

AOA recognises the collaborative role of industry in the education of members.

Education is defined as "an exchange of information, opinion and contemporary trends in the interests of improved patient outcomes".

4.1.a) Meetings conducted by AOA or AOA members

Support for AOA meetings will only be accepted from a company that has subscribed to an industry code of conduct. (Refer Addendum 5.)

Industry grants received by AOA or a meeting-convening body to help lower the costs of the meeting are acceptable, provided grants are publicly acknowledged.

The convening body must ultimately determine the location, curriculum, faculty and educational methods of the conference or meeting, not industry.

4.1.b) Industry meetings

If a member is part of the faculty (refer Addendum 4) or the organising committee, when recompense (in the form of a payment, subsidy or otherwise) is received, such recompense should be limited to expenses that are appropriate and able to withstand public scrutiny.



The value of preorganised educational functions at reasonable cost is recognised as they can be an acceptably concise and practical method of delivery of information.

A member will not (apart from the in the abovementioned circumstance) accept financial or in-kind support from industry:

1. to attend educational meetings;
2. to attend industry-related functions with no educational value such as sporting events and the like; or
3. for or on behalf of any person who does not have a bona fide professional interest in the information being shared at the meeting.

5. Presentations and publications

A member will acknowledge industry support in any publication or presentation of research results, accompanied by a declaration of interest so that conflicts may be determined by the reader or the audience.

In all presentations acknowledgement of any industry support and a declaration of interest or otherwise will be made at the commencement of that presentation and time allowed for the audience to respond.

Abstracts submitted for all educational meetings will include acknowledgement of industry support and potential conflict of interest for inclusion in the abstracts.

6. Orthopaedic fellowships

All fellowships of six months' duration or longer and supervised by members should be accredited by AOA.

Industry support for fellowships will be funded and financially administered through an independent third party to ensure 'arm's length' administration. Such third parties may include: the AOA Fellowship Fund, universities, research institutions and foundations, philanthropic associations, public and private hospitals or other organisations associated with the provision of health care.

To assist with compliance, the AOA Fellowship Fund can accept industry support for fellowships that are accredited by AOA as an alternative to other suitable third parties (as convenient) or where no alternative appropriate administrative third party is readily available.

All grants or sponsorship by industry will be publicly acknowledged.

All funds received on behalf of the fellowship will only be used for the fellowship.

No fellowship should bear an industry sponsor's name.

Contributions to the AOA Fellowship Fund will only be accepted from a company that has subscribed to an industry code of practice (Refer Addendum 5).

Programs that run for periods of less than six months will not be recognised as Fellowships by AOA, but need to abide by the same guidelines.

7. Orthopaedic trainees (registrar affiliates)

All AOA members are covered by this Position Statement.



8. Compliance

Matters of non-compliance with this Position Statement will be handled in accordance with clause 10 of AOA's Constitution.

The Member may be counselled, censured, suspended or expelled from the Association (see Definition 6).



Addendum 2 – Definitions

Definition 1 – Industry

For the purposes of this Position Statement, 'industry' is defined as suppliers of medical devices, products and treatments including implants or other therapeutic goods.

Definition 2 – Conflicts of interest

For the purposes of this Position Statement, a conflict of interest occurs when a member or an immediate family member has, directly or indirectly, a financial interest or positional interest or other relationship with industry that could be perceived as influencing the member's obligation to act in the best interest of the patient.

A 'financial interest', 'financial arrangement', 'financial inducement' or 'financial support' includes, but is not limited to:

- compensation from employment
- compensation from patient-referral pattern
- paid consultancy, advisory board service, etc
- share ownership or options
- intellectual property rights (patents, copyrights, trademarks, licensing agreements, and royalty arrangements)
- paid expert opinion
- honoraria, speakers' fees
- gifts
- travel
- meals and hospitality.

A 'positional interest' occurs when an orthopaedic surgeon or family member is an owner, officer, director, trustee, editorial board member, consultant, or employee of a company with which the orthopaedic surgeon has or is considering a transaction or arrangement.

Definition 3 – Bona fide consultancy arrangements

A member will enter into consulting agreements with industry only when such arrangements are established in advance and in writing to include evidence of the following:

- documentation of an actual need for the service
- recognition of the need to provide proof, at the time of completion of the contract, that the service has been provided
- that reimbursement for consulting services is consistent with fair market value
- that reimbursement is not based on the volume or value of business he or she generates, by means of the member's own surgical practice
- that, where the consultancy agreement includes a research project that involves human or animal experimentation, the research project is approved by a research ethics committee (refer Addendum 6)
- that, where the consultancy involves a research project, a member who is the principal investigator shall use their best efforts to ensure at the completion of the study that relevant research results are reported and reported truthfully and honestly with no bias or influence from funding sources, regardless of positive or negative findings.



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To ensure transparency in relationships with industry, AOA will maintain a register of Members' consulting agreements that includes the method of reimbursement, be it either or both the volume or value of implants or devices. Members will declare these interests in accordance with the AOA presentations' conflicts-slide arrangements as part of all presentations. This requirement is in place for any presentations given and is not restricted to AOA-organised fora.

See MTAA *Code of Practice* Clause 9:

the location and circumstances for any meetings between the Company and the Consultant must be appropriate to the subject matter of the engagement and the meeting must be conducted in a clinical, educational, conference, or other setting that is conducive to the effective transmission of information;

Definition 4 – Faculty

For the purposes of this Position Statement, 'faculty' is defined as a speaker at a conference or meeting.

Chairs of educational sessions are not per se considered faculty.

Definition 5 – Industry codes of conduct

The Medical Technology Association of Australia *Code of Practice* (or code of equivalent standard) is an acceptable benchmark of an industry code.

Definition 6 – AOA Constitution: Section 10: Membership – disciplinary proceedings

Constitution clause numbers marked with (C).

(C)10.1 A Member may be counselled, censured, suspended or expelled from the Association if the Member:

- a) willfully neglects or refuses to comply with this Constitution (including the non-payment of annual subscription or other monies due to the Association); or
- b) is guilty of conduct which, in the opinion of the Board, is prejudicial to the interests of the Association and/or the medical profession or which is likely to bring the Association and/or the medical profession into disrepute. Such conduct may include but is not limited to:
 - (i) convictions for indictable offences;
 - (ii) convictions for offences under the Health Insurance Act 1973 (Cth); or
 - (iii) findings of professional misconduct.

(C)10.2 A complaint, which may be made by any person or persons to the Association against a Member, shall be referred to the Chairman of Professional Conduct and Standards of the Association. No complaint shall be entertained unless it is in writing and the name and address of the person or persons making the complaint has been received by the Association. Confidentiality shall be observed until the conclusion of the matter or a determination by the Board under clause 10.12 (whichever first occurs) subject to the entitlement of the Member to full details of the complaint including the name and address of each complainant.

(C)10.3 The Professional Conduct and Standards Committee of the Board shall act as the Committee investigating the complaint, upon referral by the Chairman of Professional Conduct and Standards.

(C)10.4 Upon receipt of a complaint, the Professional Conduct and Standards Committee shall decide whether there is a case to answer in respect of such complaint.



(C)10.5 Where a complaint contains an allegation which, if established may result in a finding of professional misconduct, the Professional Conduct and Standards Committee, having first obtained the Board's approval, may without proceeding further, forward the complaint to the Medical Registration Authority or other appropriate regulatory body of the Member who is the subject of the complaint. The Professional Conduct and Standards Committee shall notify the Member and the complainant of action taken pursuant to this clause, but only after receipt of the complaint has been acknowledged by the Medical Registration Authority or other appropriate regulatory body to whom the complaint was sent.

(C)10.6 If, subject to clause 10.5, it is decided that there is a case to answer, the Professional Conduct and Standards Committee shall forward details of the complaint and the issues raised by the complaint to the Member concerned seeking the Member's written submission in respect of such complaint within 14 days of notice of the complaint being given to the Member.

(C)10.7 Upon receipt of such written submission or if none is received within 14 days of notice of the complaint being given to the Member, the Professional Conduct and Standards Committee may:

- a) take no action and inform the Member;
- b) counsel the Member; and/or
- c) refer the matter for further investigation by the Professional Conduct and Standards Committee.

(C)10.8 The Professional Conduct and Standards Committee shall give to the Member who is the subject of the complaint at least 30 days written notice of:

- a) the intention of the Professional Conduct and Standards Committee to hold a meeting to consider the matter;
- b) the time, date and place of the inquiry;
- c) particulars of the matter under consideration; and
- d) the Member's right to attend and give oral and written submissions at (or in respect of written submissions prior to) that inquiry.

(C)10.9 At the inquiry, the Professional Conduct and Standards Committee shall give the Member an opportunity to be heard and shall give due consideration to any written submission tendered by the Member to the Professional Conduct and Standards Committee at or prior to that inquiry. The Professional Conduct and Standards Committee is not bound by the rules of evidence and may inform itself of any matter that it considers fit.

(C)10.10 The Professional Conduct and Standards Committee and/or the Member the subject of the complaint shall be entitled to legal or other representation.

(C)10.11 At the conclusion of the consideration of the matter by the Professional Conduct and Standards Committee, the Professional Conduct and Standards Committee may do one or more of the following:

- a) take no further action and inform the Member; or
- b) counsel the Member; or
- c) refer the matter to the Board for further action.

Expulsion by Board

(C)10.12 Upon referral of a matter by the Professional Conduct and Standards Committee to the Board under clause 10.11(c), the Board may in its absolute discretion determine to:



- a) take no further action;
- b) counsel the Member;
- c) censure the Member;
- d) suspend the Member from all or any privileges of membership for such period as it considers appropriate; or
- e) make an order that the Member be expelled from the Association.

(C)10.13 No order shall be made against a Member under clause 10.12 except by the vote of a majority of at least three quarters of the Members of the Board present and eligible to vote at such meeting.

(C)10.14 The President shall notify the Member of the Board's findings and any determination under clause 10.12 within 7 days of the determination.

(C)10.15 The Board may, in its absolute discretion, give notice of or publish or communicate its findings and any determination made under clause 10.12 against any Member in such manner as it considers appropriate.

(C)10.16 Subject to clause 10.18, any Member suspended or expelled shall, within 14 days of suspension or expulsion, return to the Chief Executive Officer his or her Certificate of Fellowship or other membership and shall not thereafter hold himself or herself out to be a Member of the Association until such time as his or her membership of the Association is reinstated.

Appeal against expulsion

(C)10.17 An order for expulsion takes effect 14 days after the date upon which notice of it is deemed to have been effected (under this Constitution) unless within that time the Board receives a request in writing from the Member to submit the question of his or her expulsion to a General Meeting.

(C)10.18 Upon making a request in accordance with clause 10.17, the Member shall retain all rights and privileges of membership until such time as the issue has been determined in General Meeting.

(C)10.19 The Board shall, upon receipt of a written request under clause 10.17, hold a General Meeting to consider the matter within 12 weeks from receipt of the request. At such meeting, the Member whose expulsion is under consideration shall be given the opportunity to explain his or her conduct to those present.

(C)10.20 A quorum for a General Meeting called for this purpose shall be:

- a) 25% in number of the Fellows, Life Fellows and Senior Fellows of the State in which the Member practises; and
- b) one-half of the Board, voting in person.

All Fellows, Life Fellows and Senior Fellows may vote at this meeting notwithstanding any previous involvement by them in the investigation, consideration or determination of the matter under review.

(C)10.21 If, at such meeting, a resolution for expulsion is passed by a majority of at least two-thirds of those present and voting (such vote to be taken by ballot), then the Member shall be expelled forthwith.



Thereafter the Member shall:

- a) within 7 days of the General Meeting return to the Chief Executive Officer his or her Certificate of Fellowship or other membership; and
- b) not thereafter represent himself or herself to be a Member of the Association, and
- c) within 14 days of the General Meeting pay all costs associated with the calling and holding of the General Meeting.

(C)10.22 Any person who shall by any procedure or for any reason cease to be a Member shall nevertheless remain liable for and shall pay to the Association all moneys which at the time of that person ceasing to be a Member are due from and payable by the Member to the Association.

Reinstatement

(C)10.23 Subject to clause 7.3, a Member who has been suspended or expelled under this Constitution may be reinstated as a Member of the Association at the discretion of the Board and upon such terms as the Board in its absolute discretion considers appropriate.



Addendum 3 – References

The National Statement on Ethical Conduct in Human Research

<https://www.nhmrc.gov.au/research-policy/ethics/national-statement-ethical-conduct-human-research>

Australian Code of Practice for the Care and Use of Animals for Scientific Purposes, NHMRC

<https://www.nhmrc.gov.au/about-us/publications/australian-code-care-and-use-animals-scientific-purposes/australian-code-care-and-use-animals-scientific-purposes-code>

Standards of Professionalism (SOPs) of the American Academy of Orthopaedic Surgeons

<https://www.aaos.org/about/bylaws-policies/ethics-and-professionalism/professional-compliance-program-main/standards-of-professionalism/>

AOA Code of Conduct

<https://www.aoa.org.au/about-aoa/governance-and-committees/resources/standards-and-policies>

RACS Code of Conduct

https://umbraco.surgeons.org/media/1599/2016-04-29_mnl_racs_code_of_conduct.pdf

The Medical Technology Association of Australia and MTANZ Code of Practice

<https://www.mtaa.org.au/code-of-practice>

Good Medical Practice: A Code of Conduct for Doctors in Australia

<https://www.medicalboard.gov.au/Codes-Guidelines-Policies/Code-of-conduct.aspx>