

Appendix B

Framework for a Code of Professional Conduct and Ethics

Important Notice: This Framework for a Code of Professional Conduct and Ethics is the template for a Code of Professional Conduct and Ethics to be considered by each Registration Board when it is set up. It is subject to formal adoption by each Registration Board by way of bye-law.

The Health and Social Care Professionals Council (“the Council”) has approved this Framework for use by each Registration Board to formulate its own individual Code of Professional Conduct and Ethics. It was adopted as guidelines by the Council under section 31(7) of the Health and Social Care Professionals Act 2005 on [DATE]

This Framework for a Code of Professional Conduct and Ethics does not, and is not intended to, confer rights or benefits on any party nor impose obligations or liabilities on the Registration Boards or on the Council.

If you wish to read the Code of Professional Conduct and Ethics for a specific profession, please refer to the specific Registration Board for its own individual Code of Professional Conduct and Ethics.

Foreword

[Insert text]

[Insert name] Chairperson [Date]

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About the Code

As a registrant you must comply with this Code of Professional Conduct and Ethics.

Registrants must be aware that a breach or breaches of this Code could be held to be professional misconduct or poor professional performance and could result in a disciplinary sanction being imposed following a fitness to practise inquiry.

“Professional misconduct” as defined by the Health and Social Care Professionals Act 2005 as amended means any act, omission or pattern of conduct of the registrant that is a breach of the code of professional conduct and ethics adopted by the registration board of that profession.¹

“Poor professional performance” as defined by the Health and Social Care Professionals Act 2005 as amended means any failure² of the registrant to meet the standards of competence that may reasonably be expected of registrants practising that profession.³

Complaints may be made against you under the Health and Social Care Professionals Act 2005 on the following grounds:

- Professional misconduct
- Poor professional performance
- A relevant medical disability⁴

- A failure to comply with a term or condition of registration or failure to comply with an undertaking given
- A contravention of the Health and Social Care Professionals Act 2005 or rules

¹ Section 50 of the Health and Social Care Professionals Act 2005.

² Failure in the context of poor professional performance has been interpreted by the Supreme Court as a serious failure. See *Corbally v Medical Council & Ors.* [2015] IESC 9

³ Section 50 of the Health and Social Care Professionals Act 2005.

⁴ Defined in the 2005 Act, as amended, as a physical or mental disability of the registrant (including addiction to alcohol or drugs) which may impair his or her ability to practise that profession or a particular aspect thereof.

made under it or bye-laws

- A conviction in the State for an offence triable on indictment or a conviction outside the State for an offence consisting of acts or omissions that if done or made in the State would constitute an offence triable on indictment.

In this document:

- ‘you must’ is used as an overriding principle or duty
 - ‘you must not’ is used as an absolute prohibition
- ‘you should’ is used to describe the course of action that is generally best practice, but acknowledges that another approach may be appropriate in particular circumstances, or that there may be factors outside your control that affect your ability to comply
- the term “service users” includes service users, patients, clients and anyone else who uses your service.

You also have a duty to keep up-to-date with legislation or legal developments that affect your professional practice.

Summary of responsibilities:

Below is a summary of your responsibilities as a registrant, grouped into three categories: conduct, performance and ethics.

Conduct

1. Act in the best interests of service users
2. Respect the confidentiality and privacy of service users
3. Maintain high standards of personal conduct and behaviour
4. Use social media responsibly
5. Comply with obligations regarding registration

Performance

6. Address health issues related to your fitness to practise
7. Obey laws and regulations
8. Comply with requirements for the protection of children and vulnerable adults
9. Act within the limits of your knowledge, skills, competence and experience
10. Keep your professional knowledge and skills up to date
11. Obtain consent from service users
12. Assess services' user capacity to consent where necessary
13. Communicate effectively with service users
14. Act in accordance with the principles of open disclosure
15. Assist and advise colleagues, recently qualified registrants and students
16. Teach, supervise and assess students and other professionals
17. Supervise tasks that you give to others
18. Keep accurate records

19. Assess and mitigate any health, safety and welfare risks
20. Raise concerns about safety and quality of care

Ethics

21. Demonstrate ethical awareness
22. Respect the rights and dignity of service users
23. Avoid conflicts of interest
24. Undertake research in an ethical manner
25. Make sure that any advertising is truthful, accurate and lawful

Conduct

You must always maintain a high standard of conduct.

1. Act in the best interests of service users

You have a duty to act in the best interests of service users.

You must:

- a. treat service users as individuals, respecting their dignity, privacy and autonomy
- b. respect diversity, different cultures and values
- c. respect and, where appropriate, speak out on behalf of service users
- d. support the service user's right to take part in all aspects of the service provided and to make informed choices about the service they receive
- e. do nothing and, insofar as it is within your control, allow nothing to be done that might put the health, safety or welfare of a service user at risk
- f. when working in a team, be responsible for:
 - i. your own professional conduct,
 - ii. any service or professional advice you give,
 - iii. your own failure to act,
 - iv. any appropriate tasks you delegate, and
 - v. any tasks delegated to you
- g. protect service users if you believe they are at risk from another professional's conduct, performance or health
- h. put the safety of service users ahead of personal and professional loyalties
- i. if you become aware of any situation that puts a service user at risk, bring this to the attention of a responsible person or authority.

2. Respect the confidentiality and privacy of service users

You must:

- a. keep information about service users securely and treat it confidentially, including guarding it against accidental disclosure
- b. share service user information with a relevant colleague only where and to the extent necessary to give safe and effective care
- c. inform and explain to the service user when their information is being shared with others involved in their care. If the service user objects to the sharing of information in these circumstances, you must explain that you may not be able to arrange appropriate care without disclosing that information
- d. obtain the consent of a service user before discussing confidential information with their friends, family or other professionals involved in his/her care
- e. always follow employer guidelines and relevant legislation when handling confidential service user information
- f. always follow best practice in relation to the use of confidential information in clinical audit, quality assurance, education, training and research.

You should:

- a. continue to treat service user information as confidential even after the death of the service user
- b. be aware of the following circumstances in which disclosure of confidential information in the absence of consent may be appropriate and justifiable:
 - i. to prevent harm to a third party
 - ii. to prevent harm to the public at large
 - iii. to comply with a legal requirement.
- c. inform the service user of the disclosure unless this would cause them serious harm or puts the health, safety or welfare of another person at risk.

3. Maintain high standards of personal conduct and behaviour

You must:

- a. respect the rights and dignity of all individuals
- b. conduct yourself in a manner that enhances public confidence in you and your profession
- c. respect the roles and expertise of other health and social care professionals and work in partnership with them.

You must not:

- a. harm, abuse or neglect service users
- b. put yourself or others at risk
- c. use your professional position to form a relationship of a sexual, inappropriate emotional or exploitative nature with a service user, or their partner or with a close relative of a service user
- d. exploit or discriminate against service users or staff in the workplace, or condone discrimination by others
- e. behave in a way that would call into question your suitability to work as a health or social care professional
- f. work while under the influence of any substance which may impair your fitness to practise

4. Use social media⁵ responsibly

You must:

- a. use social media in a responsible way adopting the same professional standards expected in other forms of communication with service users and others
- b. always consider the possible impact on service users and others before publishing any material, information or comments on social media, taking care to avoid abusive, unsustainable or defamatory comments.

⁵ Defined as web-based applications that enable users to create and exchange content, including blogs, discussion boards and forums, and networking sites.

You must not:

- a. use social media so as to breach any of your obligations under this code
- b. discuss or comment on service users on social media platforms.

You should:

- a. as far as possible, avoid communicating with service users through social networking sites
- b. use conservative privacy settings in your personal use of social media and consider how information and images you post might be interpreted by service users and others were they to become widely available.

5. Comply with obligations regarding registration

You must:

- a. inform the [insert name] Registration Board within 7 days if you have been convicted of a criminal offence. You must also inform the Board if you have been given an 'adult caution' by the Garda Síochána or a caution from the police in another country
- b. inform the [insert name] Registration Board within 7 days if your employer or another body has suspended you or placed restrictions on your practice because of concerns about your conduct or competence
- c. co-operate with any investigations or formal inquiry into your professional conduct, the professional conduct of others, or the care or services provided to a service user
- d. practise in the name(s) under which you are registered and always use your CORU registration number when representing yourself as a registered [insert profession]
- e. include your CORU registration number in all certificates, reports or other formal documents for which you are responsible, and in any information that you publish about your practise or services
- f. if you change your name, address or employment, notify the Registration Board concerned, as soon as is practicable

Performance

You must always maintain a high standard of performance in your professional practise.

6. Address health issues related to your fitness to practise

You must:

- a. look after your physical, emotional and psychological health
- b. consult with an appropriate professional if your judgment or performance is or may be adversely affected by illness, addiction, emotional distress or medication.
You must follow their advice to avoid harm to service users, yourself and others
- c. limit your practise or stop practising if your performance or health could have a negative effect on service users
- d. follow your employer's guidelines regarding personal health issues which could place service users or others at risk
- e. inform CORU as soon as possible if your judgment or performance is or may be adversely affected by illness, addiction, emotional distress or medication.

7. Obey laws, regulations and guidelines

You must:

- a. know and work within the laws, regulations and guidelines governing your practice and keep up to date with any changes in legislation or regulation or guidelines
- b. obey the laws of the country in which you live and work in your professional and personal practice.

8. Comply with requirements for the protection of children and vulnerable adults

You must:

- a. be aware of and comply with the national guidelines and legislation for the protection of children
- b. be aware of and comply with the national guidelines and legislation for the protection of vulnerable adults

- c. report concerns you have in relation to the welfare of children or vulnerable adults to the appropriate authorities.

9. Act within the limits of your knowledge, skills, competence and experience

You must:

- a. act within the limits of your knowledge, skills, competence and experience
- b. practise only in areas in which you have relevant competence, education, training and experience. If a task is beyond your knowledge, skills or experience, you must refer the service user to a colleague or other appropriate professional who has the skills to help the service user
- c. accept that a service user has the right to a second opinion from another professional. If asked, you must refer the service user promptly to another professional and transfer any records relating to the service user to the other professional
- d. make sure you understand any request from another health or social care professional and only assess, intervene or treat a service user if it is in the service user's best interest. If this is not the case, you must discuss the issue with the service user and the practitioner who made the referral before providing any service
- e. be able to justify any decisions you make within your scope of practice. You are always accountable for what you do, what you fail to do, and your behaviour
- f. meet professional standards of practice and work in a lawful, safe and effective manner.

10. Keep your professional knowledge and skills up to date

You must:

- a. keep your knowledge and skills up to date by engaging in relevant practice based activities to enable you to continue to provide a high standard of care

You should:

- a. keep a record of the activities you have completed

11. Obtain consent from service users

In advance of providing any assessment, intervention, treatment or service you must:

- a. take personal responsibility for obtaining consent from the service user, or from someone with legal authority to give consent on the service user's behalf
- b. ensure that, if you have to delegate to a colleague the responsibility for obtaining consent, such colleague is suitably trained and qualified to undertake this responsibility
- c. ensure as far as possible that the consent provided is voluntary and not the result of inappropriate pressure from a third party
- d. provide the service user with sufficient relevant information, in a way that s/he can understand, to enable the service user to decide whether or not to consent
- e. allow time and space, as far as possible, for the service user to take in and understand the information before reaching a decision
- f. answer any questions from the service user honestly and as fully as s/he wishes
- g. respect the right of the service user to refuse consent to an intervention, examination, or treatment, even if you do not agree with their decision
- h. provide treatment or other intervention in an emergency in the absence of consent where this is necessary to save life or avoid significant deterioration in the health of the service user
- i. follow applicable law, regulation and guidance issued by appropriate authorities in relation to the giving of information and recording of the service user's decision⁶

⁶ For example, the HSE National Consent Policy (2013) as revised

- j. respect a service user's advance healthcare directive in accordance with law, regulations and national policies or guidance.⁷

12. Assess service users' capacity to consent where necessary

You must:

- a. always presume that all service users have capacity to make their own decisions, even those which you believe to be unwise, unless you have good reason to doubt that this is the case
- b. take all practicable steps to maximise a service user's capacity and provide all practicable supports to enable the service user to make his or her own decision, including consulting with any persons appointed by the service user to provide support in decision-making
- c. in carrying out an assessment of whether the service user has capacity, consider whether the service user
 - i. is able to understand and retain the information relevant to the decision long enough to make a decision
 - ii. is able to use or weigh that information as part of the process of making the decision, and
 - iii. is able to communicate his or decision by any means.
- d. assess service user capacity only by reference to the particular decision to be made at the particular time
- e. understand that the fact that a service user lacks capacity to make a particular decision does not mean that they lack capacity to make other decisions, or that they will lack capacity to make this or other decisions in the future

⁷ Assisted Decision-Making (Capacity) Act 2015 and the HSE Guide on the Implementation of the Assisted Decision-Making (Capacity) Act

- f. take reasonable steps to find out whether there is another person who has the legal authority to make a decision on behalf of the service user and if so, consult with such person
- g. document the assessment process undertaken in establishing whether the service user has capacity to make the decision
- h. follow applicable law, regulation and national policies or guidance.⁸

When carrying out an intervention in respect of a service user who may lack capacity to make a particular decision you must:

- a. carry out an intervention only where it is necessary to do so
- b. make sure that the intervention minimises the restriction of the service user's rights and freedom of action
- c. make sure the intervention is proportionate, and as limited in duration as possible
- d. permit, encourage and facilitate, as far as practicable, the service user to participate or to improve his or her ability to participate as fully as possible in the intervention
- e. give effect as far as practicable to the service user's past and present will and preferences
- f. take into account the service user's beliefs and values, and any other factors the service user would be likely to consider
- g. consider the views of any person named by the service user as a person to be consulted on the matter and any person appointed to assist or make a decision with or for the service user
- h. act in good faith and for the benefit of the service user
- i. consider all other relevant circumstances
- j. consider whether to seek the views of the service user's carers, any person with an interest in the welfare of the service user, or other professionals
- k. consider the likelihood that the service user will regain capacity and the urgency of making the intervention prior to such recovery

⁸ Assisted Decision-Making (Capacity) Act 2015 and the HSE Guide on the Implementation of the Assisted Decision-Making (Capacity) Act

- I. follow applicable law, regulation and guidance issued by appropriate authorities.⁹

13. Communicate effectively with service users

You must:

- a. identify yourself to service users before you provide any professional service to them
- b. communicate sensitively, effectively, honestly, and appropriately with service users, taking into account the particular needs of children and vulnerable adults
- c. ensure that services are put in place so that you can communicate effectively with service users, avoiding the use of family members as interpreters as far as possible
- d. use language that is clear and easy to understand
- e. respond to service users' questions professionally, honestly and openly.

14. Act in accordance with the principles of open disclosure

You must:

- a. ensure that if a service user suffers an adverse event that may have caused them harm, they are informed by a responsible person promptly, openly and honestly about what happened, how it happened, their condition and their ongoing care plan
- b. respond courteously and honestly to anyone who complains about the care, treatment or other services they have received.

You should:

- a. promote and support a culture of open disclosure in your workplace and practise.

⁹ Assisted Decision-Making (Capacity) Act 2015 and the HSE Guide on the Implementation of the Assisted Decision-Making (Capacity) Act

15. Assist and advise colleagues, recently qualified registrants and students

You should:

- a. help and advise colleagues, recently qualified registrants and students in your profession to develop the professional skills, values, courtesies, attitudes and behaviour they will need when dealing with service users and staff.

16. Teach, supervise and assess students and other professionals

If you are involved in teaching, supervision and assessment you must:

- a. do so fairly and respectfully using agreed criteria

You should:

- a. meet your professional obligation to teach, train and mentor other [insert name of profession as appropriate] in specified practice areas.

17. Supervise tasks that you give to others

You must:

- a. acknowledge that service users have the right to assume that the person providing assessment, intervention or treatment to them has the knowledge, skills and competence to do so
- b. only delegate to a person who you believe to have the knowledge, skills and experience to carry out the task safely and effectively
- c. always continue to give adequate and appropriate supervision, if you delegate a task
- d. understand that you are accountable for any task you delegate to another practitioner and that you are responsible for any task you delegate to a student or

to another person

- e. understand that if a student or another practitioner is 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 do so. If their refusal raises a disciplinary or training issue, you must deal with this separately. The service user must never be put at unnecessary risk.

You must not:

- a. ask anyone to do anything which is outside their knowledge, skills and experience unless they are supervised by an experienced practitioner.

18. Keep accurate records

You must:

- a. keep clear and accurate and up-to-date records in line with the policies and procedures set out in your workplace
- b. make sure that all records are:
 - i. complete,
 - ii. Legible (if handwritten)
 - iii. identifiable as being made by you, using your registered name and registration number
 - iv. dated and timed
 - v. prepared as soon as practicable following assessment, intervention or treatment, and
 - vi. clear and factual
- c. if you supervise students, review each student's entries in the records and record that you have done so
- d. store and use records according to data protection legislation, and other relevant legislation and policies governing your practice
- e. protect information in records against loss, damage or access by anyone who is

not allowed to access them

- f. make sure that if records are updated, previously recorded information is retained
- g. understand that service users generally have a right to obtain copies of their records, subject to certain limited exceptions
- h. ensure that records are retrievable for service users throughout the designated retention period.

Records are all information collected, processed and held in manual, electronic or any other format pertaining to the service user and service user care. Records include data, demographics, clinical data, images, unique identification, investigation, samples, correspondence and communications relating to service users and their care.

19. Address health, safety and welfare risks

You must:

- a. follow risk assessment policies and procedures to assess potential risks in the workplace and your areas of practice
- b. take any steps needed to minimise, reduce or eliminate the risks you identify
- c. inform colleagues and the authorities about the outcomes and implications of risk assessments
- d. read, understand and comply with your organisation's safety statement
- e. where, following a risk assessment, you perceive that a service user poses a risk to your safety, take appropriate measures to protect yourself and others and make reasonable efforts, if appropriate, to go ahead with the examination or treatment of the service user.

20. Raise concerns about safety and quality of care

You must:

- a. make sure that the safety and well-being of service users comes before professional or other loyalties
- b. inform an appropriate person or authority if you are aware of systems or service structures that lead to unsafe practices which put service users, yourself or others at risk
- c. raise the issue outside of the organisation if your concerns are not resolved despite reporting them to an appropriate person or authority
- d. if you have concerns about service user safety, you must act to prevent any immediate risk to a service user by notifying the relevant authorities (including CORU) about your concerns as soon as possible.
- e. report any serious breaches of behavior or malpractice by yourself or others. Malpractice includes negligence, incompetence, breach of contract, unprofessional behavior, causing danger to health, safety or the environment, and covering up any of those issues.

Ethics

You must always maintain a high standard of ethics.

21. Demonstrate ethical awareness

You must:

- a. carry out your duties and responsibilities in a professional and ethical way to protect the public
- b. always behave with integrity and honesty
- c. make sure you read, understand and comply with this Code of Professional Conduct and Ethics
- d. understand that if there is a conflict between this Code of Professional Conduct and Ethics and your work environment, your obligation is to this Code.

22. Respect the rights and dignity of service users

You must:

- a. always show, through your practice and conduct, respect for the rights and dignity of all individuals.

You must not:

- a. discriminate, either directly or indirectly, against a person on the basis of:
 - i. gender,
 - ii. family status,
 - iii. civil status,
 - iv. age,
 - v. disability,
 - vi. sexual orientation,
 - vii. religion,
 - viii. ethnicity, or
 - ix. membership of the Traveller Community

- b. condone discrimination by others.

23. Avoid conflicts of interest:

You must:

- a. avoid accepting inducements, financial or other incentives that could reasonably be perceived as affecting your professional judgment

You must not:

- a. for reasons of personal or commercial benefit, direct public service users to private practice
- b. enter into any agreement or contract that might cause you to breach this Code.

24. Undertake research in an ethical manner

If you engage in research

You must:

- a. submit your research proposal to the relevant research ethics committee and get ethical approval before starting the research
- b. follow guidance laid down in legislation and issued by relevant authorities
- c. obtain voluntary, informed consent from service users in line with the procedures laid down by the ethics committee
- d. collect, protect and destroy data in line with relevant legislation
- e. ensure that a service user's refusal to take part in research does not influence the delivery of service to that service user in any way

- f. make sure that, if you receive any payment or other financial benefit directly or indirectly from a pharmaceutical, medical device or other commercial organisation to conduct research, this does not influence the design or interpretation of your research
- g. address any potential conflict of interest and disclose any payment or benefit you have received from a pharmaceutical, medical device or other commercial organisation in any publication of research results.

You should:

- a. take part in research or support the research of others where possible
- b. make sure the trial conforms to the principles set out in the current version of the Declaration of Helsinki
- c. make sure that the welfare of each research participant is not adversely affected
- d. disseminate or circulate the research findings widely to further the evidence base of the profession and to improve service user examination and treatment
- e. follow accepted guidelines in scientific journals concerning intellectual property, copyright and acknowledging the work of others
- f. make sure you do not distort or misuse clinical or research findings.

25. Make sure that any advertising is truthful, accurate and lawful

You must:

- a. make sure that any advertising is truthful, accurate and lawful
- b. only advertise, promote or recommend a product or service that is based on your professional opinion as to service user needs
- c. provide full and accurate fee information to the service user in advance of agreeing to provide your service(s).

Appendix A

Suggested procedure for decision-making

- a. Identify the problem and gather as much information as you can. Ask yourself if it is an ethical, professional, clinical or legal problem.
- b. Review the Code of Professional Conduct and Ethics and identify the relevant parts. Check other professional guidelines too, such as those of the Health Service Executive or government departments, as well as any relevant legislation.
- c. Discuss the issue with professional colleagues being mindful of your obligation to respect the confidentiality of the service user.
- d. Consider asking your professional body for advice.
- e. Evaluate the rights, responsibilities and welfare of everyone affected. Remember that your first obligation is to the service user.
- f. Keep notes at each stage of the process.
- g. Consider different solutions and decisions.
- h. Evaluate and document the potential consequences of each option.
- i. Choose the best solution or decision based on your professional judgement
- j. If you have any concerns about the legality of your chosen course of action, seek professional advice at the earliest opportunity
- k. Put the solution or decision into practice, informing all the people affected
- l. Remember that you are accountable, as an autonomous practitioner, for the consequences of the solution or decision that you choose.