

# **Association of Traditional Chinese Medicine and Acupuncture (UK)**

## **Code of Professional Conduct**

**The Association of Traditional Chinese Medicine and Acupuncture (UK)  
Suite 1, The Brentano Suite  
Solar House  
915 High Road  
London N12 8QJ**

**Tel: 020 84572560  
e-mail: [info@atcm.co.uk](mailto:info@atcm.co.uk)  
Website: [www.atcm.co.uk](http://www.atcm.co.uk)**

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## IMPORTANT NOTICE

This Code has been written and published in the English language. The Executive Council of ATCM is aware that many of its members use English as a second language, as will many patients. In order to ensure that the provision of this Code is understood and complied with by all of its members and that its requirements can be understood by all members of the general public, the Council has adopted the following two principles:

It is the responsibility of every member of the Association of Traditional Chinese Medicine and Acupuncture (UK) to read and familiarize themselves with the English language version of this Code, employing at their own expense translation services where necessary, and to be able to explain satisfactorily to their patients, if asked, the main requirements of the Code

The Council undertakes to identify a pool of practitioner members or independent translators, where necessary, as a resource to enable members of the public for whom English is not a first language to be given explanations of the main requirements of the Code in their native tongue.

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## ABOUT THIS CODE

The Code of Professional Conduct is approved and published by the Association of Traditional Chinese Medicine and Acupuncture (UK) (ATCM) for guidance and for the protection of patients in relation to the practice of Traditional Chinese Medicine (TCM). It also serves to explain to people outside the TCM profession the high standards under which our members operate.

By becoming a member of the ATCM, you have agreed to be bound by this Code of Professional Conduct and submit to the jurisdiction of the ATCM Professional Conduct Committee. This committee has the power to judge as unethical any behaviour which breaches this Code and which reflects badly upon the practice of Traditional Chinese Medicine or the ATCM. Any allegations against a member will be examined and investigated by the committee in accordance with the procedures outlined in this Code.

It is impossible to list all the situations and eventualities that you may face in the practice of TCM in The Code of Professional Conduct. The ATCM will regularly update its members in order to keep them as informed as possible of any changes and developments in the professional conduct expected of an ATCM member.

If you need advice on a professional or an ethical matter on which this Code is not completely clear, you are strongly advised to consult the ATCM Professional Conduct Committee. The final explanation and interpretation of this Code belongs to the ATCM Council.

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## **Code of Professional Conduct**

### **1. Code of Professional Conduct**

#### **1.1 Compliance with the Code of Professional Conduct**

Members of The Association of Traditional Chinese Medicine and Acupuncture (UK) (ATCM) shall at all times comply with the Code of Professional Conduct.

The principle of the Code is to encourage honesty and responsibility in the practice of Traditional Chinese Medicine.

The Code of Professional Conduct will be used when considering any complaint made against a member. Members failing to meet the requirements outlined below may be subject to disciplinary measures on the grounds of unacceptable professional conduct.

Members are expected to seek advice from the ATCM if uncertain as to how to behave in any clinical or other situation.

Members are reminded that this Code of Professional Conduct represents minimally accepted standards of legal and ethical conduct in the United Kingdom at the present time. The primary reason for adhering to them is for the well-being of the patient, the public, and colleagues.

Members must be covered by professional and public liability insurance for Traditional Chinese Medicine and this insurance is compulsory for all members who practise Traditional Chinese Medicine.

It is the responsibility of a member who wishes to practice therapies additional to Traditional Chinese Medicine, to ensure that he or she has undertaken adequate and appropriate training for those therapies. It is also the member's responsibility to ensure that he or she has adequate insurance cover to practise such additional therapies.

#### **1.2 Code of Professional Conduct and the Law**

Members must familiarise themselves with the contents of the Code of Practice of ATCM and with all laws and bye-laws or regulations relevant to the practice of Traditional Chinese Medicine in the locality in which they practise. They must obey the provisions of all relevant legislation relating to medicines, health and safety, and employment, and be aware of any changes in such legislation. Any members who fail to meet the requirements of the legislations relevant to the practice of TCM in the UK, the local authority bye-laws or the Code of Practice,

may be held in breach of the Code of Professional Conduct, and may be subject to disciplinary measures on the ground of professional misconduct.

It is illegal for anyone who is not a registered medical doctor to attempt to procure an abortion. A member must not knowingly administer an abortifacient or known uterine muscle stimulant remedies to a pregnant patient, nor use any instruments for the purpose of procuring an abortion, nor assist in any illegal operation.

A member must ensure that patients with gonorrhoea, syphilis, or urinary infections of a venereal nature are referred to the appropriate medical professional.

A member should not claim verbally or in print to be able to guarantee a cure for disease. The Pharmacy and Medicine Act 1941, now repealed, specifically proscribed claims for remedies or cures for locomotor ataxia, paralysis, tuberculosis, glaucoma, epilepsy, fits, Bright's disease, cancer, cataract, and diabetes, but professional discretion should suggest even wider caution.

Members must abide by the legal restrictions on the importation and use of animal and plant products from endangered species. (Lists of such restricted substances will from time to time be issued to members of the ATCM).

It is the duty of ATCM members to notify the District Medical Officer regarding any disease on the current list of notifiable diseases. Current notifiable diseases are smallpox, cholera, diphtheria, scarlet fever, typhus, typhoid, paratyphoid, plague, tuberculosis, acute polio-myelitis, acute encephalitis, acute meningitis, ophthalmia, neonatorum, malaria, dysentery, measles (excluding rubella), whooping cough, infective jaundice, tetanus, leptospirosis, food poisoning, yellow fever, anthrax, relapsing fever, rabies, Lassa fever, viral haemorrhagic fever, Marburg disease. Several local districts have additional list with which ATCM members must be familiar.

No member may prescribe a product containing prescription-only medicines unless he or she is a medical doctor registered with the UK General Medical Council. Contravention of this rule constitutes the serious criminal offence of prescribing medicines without a licence.

In cases of industrial poisoning or accident the local district branch of the Health and Safety Executive should be notified.

## **2. Members' Obligations to Their Patients**

### **2.1 Relationship of Trust**

The relationship between an ATCM member and a patient is a professional relationship and is based on trust. An ATCM member must at all times exercise his/her moral judgement with regard to this relationship. In particular, an ATCM member should listen to and respect the views of the patient, and ensure that the ATCM member's own beliefs do not adversely affect the therapeutic relationship. Where necessary, an ATCM member should refer patients promptly to another competent health professional.

Members must act with consideration when considering fees and justification for treatment. Members must discuss in advance with the patient both the cost of the consultation and the prices of acupuncture treatments, the herbs and other materials and other treatments. Your fee structure must be prominently displayed in your clinic or treatment room. This notice, and any advertisement quoting fees, must quote charges for both initial and subsequent sessions and must make clear what each fee covers. This will help to eliminate any misunderstandings or complaints.

Even if a patient does not pay a fee, or where there is no explicit contractual relationship (e.g. in an emergency) you still have a duty to apply the standard of care expected of a professional TCM practitioner.

Members who have reason to believe that patients may be at risk because of ill-health of the member, whether mental or physical, have an obligation to seek and to follow professional advice. Failure to act with regard to the interests of patients in this case may be regarded as unacceptable professional conduct.

ATCM members must not enter a sexual relationship with a patient and they must not use their professional position as a means of pursuing a sexual or otherwise improper personal relationship.

ATCM members, who realise that they are becoming involved in an improper relationship with a patient emotionally or sexually, should end the professional relationship and arrange alternative care. If a patient shows signs of becoming inappropriately involved with you, you should discourage them and, if necessary, end the professional relationship.

ATCM members must ensure that past, present and anticipated relationships of any kind do not interfere with their professional duties, and they must avoid any behaviour which can be construed in this way.

ATCM members must ensure that their behaviour in dealing with patients is professional at all times and not open to misunderstanding or misinterpretation. Non-physical behaviour, gesture, unnecessary physical contact, verbal suggestion or innuendo can easily be construed as abusive or harassing.

If it appears that a non-professional relationship might develop and the ATCM member is unclear about how to deal with the situation, it is the duty of the ATCM member to take advice from the ATCM or from another professional. There is no harm in treating a relative or a friend, provided that clear boundaries are kept between social and professional relationship.

ATCM members must respect patients' modesty and allow them privacy. You should only ask patients to undress to the minimum level required to perform effective examinations and treatments. When a patient is required to dress and undress, you must allow him/her privacy, and clean gowns or blankets are adequately provided for his/her use. You should not leave the patient exposed for more time than is necessary. If examinations and treatments involve sensitive or intimate areas of the body, you should offer the patient opportunity to provide a chaperon. This can be a spouse, a relative or friend. Alternatively, you may provide a chaperon from your practice.

Members must make a clear distinction between TCM practice and any commercial or financial activity in which they may be involved. There must be no suspicion of any business affairs having an influence over your attitude towards patients and their care. To promote or recommend a product or service to patients for no good reasons other than profit is very unethical. If you have an interest in the product or service which you sell or recommend to your patients, you must declare such interest to the patients.

Members must not put pressure on patients or their families or friends to give, lend, bequeath or donate money or gifts which directly or indirectly benefit you, or to make donations to other people or organisations.

## **2.2 Examination and Treatment of Patients: Informed Consent**

It is the ATCM member's duty to explain the procedure applied in treatment, and to obtain informed consent for any treatment administered. ATCM members should inform patients about any matters relating to their condition, treatment or prognosis in a way that can be understood. ATCM members must recognise the right of the patient to refuse treatment and to refuse to follow advice.

Any physical examination requires the patient's consent, or the consent of the person legally responsible for the interests of the patient.

Although consent may once have been taken as implied by a patient's actions in turning up and lying on the treatment couch, explicit consent, in writing if necessary, is now considered essential. This is particularly important when examination and treatment may involve sensitive and intimate areas. In the case of examination and treatment of any sensitive or intimate area, patients should be given the option of having a third party present. If the patient chooses that



option but it cannot immediately be met, the examination must be postponed until such time as it can be arranged.

A person from whom informed consent for examination or treatment is sought must possess the necessary intellectual and legal capacity to give consent. A person will have the intellectual capacity if able to understand in simple language what the examination or treatment is, its purpose and why it is being proposed, to understand the principal benefits, risks and alternatives, and to retain the information for long enough to make an effective decision and make a free choice.

### **2.3 Safety and Adverse Events**

ATCM members should clearly explain to their patients, both verbally and in writing, that if they experience adverse symptoms after taking treatment, they should stop taking the treatment and consult the ATCM member. This explanation should include reference to symptoms which may be associated with an adverse liver, kidney or heart reaction, though there is no need to discuss pathology with the patient beyond enumerating relevant symptoms.

All patients must be seen in person for an initial consultation, and thereafter should be monitored carefully, ensuring that any negative changes in the patient's condition are acted upon. It is recommended that in the early stages of treatment patients be seen at least once a month.

Understanding of herb-drug interactions is currently being developed, and members must keep abreast of the latest information, which will from time to time be communicated to members of the ATCM. In an adverse event, the reporting procedures to ATCM or the MHRA using the Yellow Card system must be followed.

ATCM members should always enquire from suppliers if they have appropriate pharmacognosy measures in place in order to prevent misidentification of herbs and other materials, since serious poisonings have been caused by inadequate authentication. The use of poorly documented herbs and other materials should be avoided.

The labelling of Chinese medicine products in Chinese alone is not acceptable; ATCM members must ensure that any manufactured product dispensed to a patient contains a full list of ingredients in Pinyin and Latin, together with batch number and expiry date (for further details see the Code of Practice: Dispensary).

### **2.4 Treatment of Minors and Patients with Learning or Understanding Difficulties**

In the case of minors or persons with learning or understanding difficulties, the informed consent of the parent or guardian or the person legally responsible for the patient is necessary.

In the case of patients under the age of 16, ATCM members are advised not to institute any examination or treatment unless they are satisfied that the patient's parent or other legal guardian has given informed consent.

Examination of a child under the age of 16 requires the presence of a third party. In the case of patients aged over 16 but under 18, consent may be given by the patient, if able to make an informed decision, or by the patient's parent or guardian.

In the case of patients aged under 18, where there may be a conflict between the patient and a parent or guardian, or between parents, the ATCM member is advised to seek the advice of the ATCM before undertaking any treatment or advice.

ATCM members are required to act responsibly when there is evidence that a child is at risk of sexual abuse or of other harm, and to contact the Child Protection Officer at the local Social Service Department so that action may be considered under the Children Act (1989).

## **2.5 Herbal Injections**

Although the administration of injections by ATCM members of herbal medicine is not per se contrary to law, the use of herbal injections is fraught with risks. Members may not use herbal injections in the treatment of their patients.

## **3. Competence**

Members are responsible for undertaking continuing professional development. Members are expected to improve their understanding of different social, cultural and environmental backgrounds by self-learning or attending courses in order to enhance their professional competence and safeguard patients.

Where offering another therapy apart from Traditional Chinese Medicine, members must ensure that their training is adequate, that they remain aware of current good practice in that therapy, and that, where possible, they remain registered with the relevant professional association.

ATCM members must remain aware of current information relevant to the medical care that he/she gives to the prescription of herbal medicines. It is the ATCM member's duty to read and retain relevant documents received from the ATCM or affiliated professional associations and to take note of any advice given.

## **4. Practice Management**

### **4.1 Due Diligence in the Management of the Practice**

ATCM members must take care to see that their practices are managed with due diligence. In particular, delegation of any professional duties, including preparation of medicines, should be made only in favour of those qualified to accept them. Where an ATCM member has people employed (paid or unpaid) to carry out a function in the practice, e.g. receptionist, dispenser, it is the ATCM member's duty to ensure that they are suitably trained in their function, and are aware of the relevant parts of the Code of Professional Conduct that relate to their activity with the practice. The ATCM member is responsible for mistake in dispensing and should ensure that dispensers are competent (see the Code of Practice: Dispensary).

ATCM members are responsible for the actions of their assistants, including students or colleagues who are not members of the ATCM. ATCM members must ensure that patients are not misled, directly, indirectly or by default, so as to believe that any person giving treatment as an assistant is registered with ATCM when they are not.

It is the ATCM member's duty to ensure that adequate arrangements are made for patients to receive treatment if or when the ATCM member is away from their practice for any length of time and to make patients aware of these arrangements. Failure to do so could be construed as professional negligence.

It is the ATCM member's duty to provide adequate means of contacting him/her out of clinic hours.

Surgical appliances and examination equipment must be safely disposed of. The Environment Protection Act specifies that it is the duty of all persons involved in producing clinical waste to dispose of it safely and effectively.

It is the ATCM member's duty to inform the patient of ATCM's complaints and disciplinary procedures, if requested to do so by the patient or the person legally responsible for the patient's interests.

### **4.2 Patient Records**

Patient records are the case notes. You must keep accurate, comprehensive, easily understood, contemporaneous and dated case notes. No matter what language is used, the handwriting must be clear and legible, and alteration should be avoided.

Case notes must record the following:

- Patient's personal details: full name, date of birth, marital status, address and telephone number
- The presenting complaint and symptoms reported by the patient
- Relevant medical and family history, including GP's name and address
- Clinical findings
- Treatment given and details of progress including reviews of treatment planning
- Information and advice given to the patient, especially when referral is made
- Decision made in conjunction with the patient
- Patient's consent to treatment or consent of their next of kin

In most circumstances, patient's case notes belong to, and thus are the responsibility of, the ATCM member, and you must retain them. You are legally required to keep patient's notes for minimum of seven years. In the case of minors, notes and records must be kept until the patient reaches the age of 25 years old (seven years after reaching 18). This applies even when you have referred the patient on, or you have left the practice where you administered the treatment. If you are employed or are treating in a multidisciplinary practice or acting as a consultant, you must agree the ownership of and the responsibility for the notes. You must ensure that you have access to the notes in the event of disciplinary action taken against you, any insurance claims or any civil or criminal proceedings.

Where ATCM members work together, in any capacity, in the same practice or premises, they are advised to enter into a specific agreement as to the ownership of, and thus responsibility for, the records of patients.

Patient's notes must on no account be transferred to another ATCM member without the authorisation of the patient.

Patient's notes should be retained in safe custody by the ATCM member to whom they belong. Where the ATCM member retires or otherwise ceases practice at any practice address, appropriate arrangements must be made for the safe custody of and access of patients to, the records.

Although a patient can seek access to notes, they have no legal rights of ownership. However, if a patient requests a copy of their notes in writing, you must follow the procedure laid out in the Data Protection Act (1998) and Freedom of Information Act (2000) and keep a record of this on the file. ATCM members are advised to keep the original patient records in case of any future complaint or legal action.

Where the patient wishes to transfer to another ATCM member, a request for the transfer of patient records should be dealt with promptly.

ATCM members who retire or who sell practices must ensure the continuity of patient care by making clear arrangements for copies of the patient notes to be made available to the patient if they wish to transfer to another ATCM member or, with the consent of the patient, to the new ATCM member. It is important that the original notes are retained by the retiring or selling member for the legal length of time, and only copies and not the originals are passed on. Patients should be informed of the intentions of the ATCM member, and where the original patients' notes are kept and located.

ATCM members must make appropriate arrangements for the safe-keeping and transfer of patients' notes in the event of death or serious injury.

If you write your case notes in any language other than English, it will be your responsibility to provide a full translation, if called upon to do so by the Council, in the event of a complaint or disciplinary action, insurance claim, civil or criminal proceedings or other records being required for official purposes, or a request being made by the patient under the terms of the Data Protection Act (1998) and the Freedom of Information Act (2000).

ATCM members may destroy old records according to the legal length of time of retaining them. Currently, the method of disposal is not regulated. Shredding and burning are the most appropriate methods.

### **4.3 Confidentiality**

The protection of confidentiality is a legitimate expectation of patients and failure to observe confidentiality may be regarded as unacceptable professional conduct.

ATCM members must abide by the law of the country including that relating to electronic recording of patient information such as the Data Protection Act (1998) and Freedom of Information Act (2000).

ATCM members have an implicit duty, within the law, to keep all information concerning, and views formed about, patients entirely confidential between themselves and the patients concerned. Practice personnel, such as receptionists and assistants, must maintain the same level of confidence. This duty applies also to disclosure of information about a patient to a member of the patient's family, other than parent, guardian, or the person legally responsible for the patient's interests. Even that fact of a patient's attendance at a member's practice should be considered confidential, and should not be disclosed to a third party without the patient's consent.

Members are warned not to assume that details of a wife's or husband's case should be freely discussed with the other. The above ruling applies to all parties including next of kin and members should never allow a third person to be present unless it is with the express consent of the patient.

Disclosure of any confidential information to a third person is only in order when the following requirements are met:

- It is done with the patient's knowledge and consent, except when the patient is not in a condition to give this and a third person is in a position to be responsible for the patient's interest
- There is a real need for such information to be imparted, such as when a member believes it to be in the best interest of the patient to refer a case to a colleague or another health professional
- The ATCM member believes it to be essential for the sake of the person's health to disclose information to someone other than a health professional
- The advice of the ATCM Council is that disclosure should be made in the public interest.

In each of the cases referred to the ATCM member shall:

- Inform the patient, before disclosure takes place, of the extent of the information to be disclosed, the reason for the disclosure and, where possible, the likely consequences
- Disclose only such information as is relevant, and ensure that the information is held in an appropriate manner by the person to whom it is disclosed
- Record in writing both the information disclosed and the reasons for disclosure
- Be prepared to justify the decision.

The only exceptions to the above principle of confidentiality are:

- Disclosure is required by statute or law
- When for reasons relating to the condition or treatment of a patient it is undesirable to seek the patient's consent, but it is in the patient's own interest that confidentiality should be broken
- When the member reasonably considers that it is his/her duty to society at large takes precedence
- When it is in the interest of the professional training or research approved by the ATCM Council.

#### **4.4 Court Proceedings**

Patient records do not enjoy legal protection; police can apply to a Court for an order for access, and the Court may insist on disclosure.

If requested to provide a copy of patient records or to give evidence in court, the ATCM member should immediately refer the matter to the ATCM for advice. In a

court of law, the ATCM member may request an exemption, so as to avoid divulging information between patient and ATCM member on the grounds of professional secrecy. If the court overrules this contention and requires disclosure, the ATCM member should be aware that further refusal may place the ATCM member in contempt of Court. In the case of a member refusing to divulge information and found in contempt of court, the ATCM will not hold the member to be acting in breach of this Code of Professional Conduct.

Note: In cases where the ATCM member withholds information despite a Court decision, the Court may construe the action to be an attempt to obstruct the course of justice. In cases where sensitive information is given to an ATCM member, especially regarding activities of a possibly criminal nature, members are strongly advised to take legal advice and to consult the ATCM.

#### **4.5 Research**

When taking part in clinical trials, clinical audit, case-history reporting, qualitative research or any other method of research, ATCM members must ensure that:

- were appropriate, they adhere to a research protocol which has been approved by the appropriate ethics committee, adequate records are maintained and the true findings published
- informed consent is obtained from any patient
- the confidentiality of the patient is maintained
- current professional guidance is sought

### **5. Members' Obligations to Colleagues**

#### **5.1 Honourable Conduct**

ATCM members must at all times conduct themselves in an honourable manner in their relations with other ATCM members and other healthcare professionals. It is not in the interest of ATCM to have distrust and dispute between our members or with other healthcare professionals.

ATCM members should be respectful of the treatment philosophy of other professional associations. Members are encouraged to establish an appropriate working relationship with other healthcare professionals and local doctors. It is considered good practice that members maintain contact with general practitioners and other healthcare professionals in a professional manner. When it is in the best interest of the patients, members may refer them to these professionals.

Action taken by a member to persuade the patient of another ATCM member to patronise him/her is in all circumstances considered unethical and contravenes this Code. It is advisable that members should apply a clear and proper

procedure when exchanging of referring patients or dealing with the patients of other ATCM members. In all cases the decision rests solely with the patient to remain with the ATCM member.

ATCM members must not speak publicly (including any electronic social media) in a derogatory manner with reference to colleagues. Criticism of fellow ATCM member and other healthcare professional should be communicated in a discreet and professional manner through the appropriate channels. Critical views concerning a fellow ATCM member's competence and/or behaviour should be brought to the attention of the ATCM, where possible with necessary evidence and the consent of any patients concerned for information disclosure. Unsubstantiated rumours, unfounded allegations and unjustified criticisms, which create ill-will between colleagues and undermine the profession, have no place in the ATCM. Members are expected to act with integrity, discretion and respect for the views of other at all times when dealing with such matters.

Where an ATCM member wishes to pursue a complaint against another ATCM member, the principles and procedures of the ATCM Complaints and Disciplinary procedure apply.

## **5.2 Communication with Other Healthcare Professionals**

ATCM members must always be aware of the necessity to communicate with other healthcare professionals, directly or indirectly, when the expertise of such professionals fits more properly the needs of a particular patient.

A member must consider very carefully the implications of recommending a course of treatment contrary to the advice of the patient's registered medical practitioner or of not recommending referral to a registered medical practitioner in the case of serious disease or uncertain diagnosis. Members must be aware of their vulnerability in law on this issue and must ensure in such a case that all available information is given to the patient and that the patient makes the final decision without coercion.

Subjects of communication may include a request that a particular medical investigation be conducted; a request to refer to other medical practitioners/services (e.g. consultant, speech therapist, counsellor, physiotherapist); to alert the prescribing practitioner to a possible adverse drug reaction; to discuss the possibility of a patient withdrawing from a conventional drug onto a TCM medication; to query the appropriateness of a specific investigative procedure, medication, treatment plan, or diagnosis; to alert the patient's doctor to a possible undiagnosed condition or other problem (e.g. suspected abuse); to inform of a traditional Chinese medicine being prescribed and to list its contents, actions and potential adverse drug interactions; to alert the patient's doctor to a possible case of a notifiable disease; to request further details of the patient's case e.g. test results, prescribing details, treatment plan,



diagnosis, prognosis; to ask for a professional opinion or to seek guidance and advice; to give feedback on a particular intervention; to give evaluation, criticism and praise.

When dialogue with another healthcare professional is deemed desirable, the reasons for this should be explained to the patient. The patient should then have an opportunity to discuss these reasons. The patient's consent should be sought before contacting the other healthcare professional. A copy of all written communications should be kept on file and made available to the patient on request. There are circumstances when it may be appropriate to contact another healthcare professional without the patient's consents (e.g. in cases of threatened suicide) or indeed their knowledge (e.g. when abuse is suspected).

A number of avenues of communication are open. These include letter, telephone, fax, email, and discussion in person. The professional letter however still remains the major medium for formal correspondence. ATCM members are advised that all potentially important medico-legal issues should be documented in letter form and that copies of all originals should be kept on file. There may be times when a matter is of such urgency that a letter sent by post is an unsuitable first choice of communication.

If a fax or email is sent instead, a copy of this should be kept on file. It may also be necessary to speak directly with a fellow healthcare professional, making email or fax an unfeasible alternative to a posted letter. In such cases, a written account of the conversation should be made and saved. Such records will normally be stored appended to the patient's notes and/or in a file dedicated to professional case correspondence.

### **5.3 Membership of Other Professional Organisation**

ATCM Members may simultaneously belong to other relevant professional organisations whose professional standards may differ from those of the ATCM. Such members must accept that their dual or multiple membership does not give them any immunity from the consequences of contravening the regulations of the ATCM, this Code of Conduct or any rules, memoranda, recommendations or advice issued by the ATCM Council.

### **5.4 Members of ATCM Practising with Non-Members**

Any ATCM members who have a non-member of the ATCM practising with him/her, or allow a non-member to practice at the same premises, are warned of the risk of misleading patients directly, indirectly or by default, so as to believe that such an individual giving treatment is a member of the ATCM. Furthermore, the fact that such non-members are practicing with him/her, be they TCM practitioners or other healthcare professionals, does not in any way alter the application of this Code to the activities of the member concerned.

## **6. Members' Obligations to the Public**

### **6.1 Honourable Conduct**

ATCM members shall at all times conduct themselves in an honourable manner in their relations with the public.

Communication with the public may include advertising, contact through the media (newspapers and other publications, television, radio, world wide web), talks to public groups, and discussions with enquirers.

In all these instances ATCM members are required to conduct themselves in a manner congruent with this Code, to avoid misleading claims to cure disease or in any way imply abilities beyond their competence.

ATCM members must at all times uphold the high standard of the TCM profession, and must not bring the profession into disrepute by personal misbehaviour such as act of dishonesty, drunkenness and drug abuse.

### **6.2 Advertising**

All advertising and promotion of an ATCM member's practice must be legal, decent, honest and truthful and in compliance with both with the British Code of Advertising Practice, and the ATCM guidelines. Advertising and promotion must not be false, fraudulent, misleading, deceptive, self-laudatory, extravagant or sensational. Your advertisement may include information about your medical and non-medical qualifications and titles, and your specialised interests, for example, degrees from bona-fide academic institutions, statutory designations or medical or para-medical qualifications award by established and generally recognised professional bodies. The title 'Doctor', or its abbreviation, may not be used in a manner that would falsely suggest to patients or the general public that the member who holds this title is a member of the General Medical Council.

ATCM members must not use the ATCM logo in any advertising without the explicit authority of the ATCM.

It is not permitted for an ATCM member, in any form, to claim a cure for illness.

In cases where there are no legal guidelines regarding this issue, advertising and promotions should be in accordance with this Code and also in line with that of other healthcare professionals.

Advertising and promotion, both in form and content, on paper, on websites or in any other presentation, shall be appropriate to the interests of patients and to the standing of the profession.

Advertisement shall not contain claims of superiority or denigrate colleagues or other professions.

The prime task of an ATCM member, as of any member of a health profession, is to relieve suffering. The interests of the patients, and of the prospective patient, are therefore paramount at all times in matters concerning advertising.

Advertisements shall recognise that many patients, particularly those who are anxious for themselves or for their dependants, or who are in pain, may be vulnerable to advertising encouraging them to seek treatment which, in their particular condition, may be inappropriate or unnecessary.

Advertising shall not be of a kind which could reasonably be regarded as likely to bring the profession into disrepute.

Practices should be identified by professional name plates or signs of a size, colour and form appropriate to the nature of the area and to the location of the practice and bearing the names and qualifications of those practising at the premises. The names should be of those members regularly in attendance; details of former ATCM members should be removed with a reasonable period of time.

Where fees are quoted in an advertisement the fees charged for the initial consultation, subsequent treatment sessions and likely prescription costs shall be stated. A clear indication of exactly what is included within the fees quoted shall also be given (e.g. whether prescriptions, if appropriate, are included within the initial consultation fee). If VAT is payable this should be stated and the fee quoted should be inclusive of VAT. Any arrangements for the discounting of fees shall be limited to specific groups or classes of patients and not be related to the treatment of particular conditions or be offered in the form of vouchers, incentives or similar schemes.

Advertising through unsolicited canvassing, by door to door or postal distribution, telephone or personal visits is prohibited.

Essential practice information, consisting of names and qualifications, address and telephone numbers, hours of business and arrangements for emergency cover and special facilities such as car parking and crèches, and information about traditional Chinese medicine itself may be distributed to medical and bona-fide para-medical practitioners, dispensing chemists and non-commercial points of contact such as libraries, information centres and citizens advice bureaux.

Members may also circulate information about Traditional Chinese Medicine and their practice to those holding formal appointments as medical or personnel

officers of commercial concerns in reasonable geographical proximity to the member's practice.

Members are responsible for ensuring that their advertisements appear in surroundings which are appropriate to professional advertisements. Where advertising takes place in joint advertisements with practitioners of other therapies, members shall take reasonable steps to ensure that those other practitioners are members of recognised professional bodies whose standards of practice and behaviour are equivalent to those of the ATCM and that the professional advertisements are clearly separated from advertisements for commercial or leisure activities.

Members shall not use their membership qualifications in the commercialisation of any product or remedy in connection with any retail or commercial establishment.

### **6.3 Broadcasts, Lectures, Articles, etc**

It is not possible to outline all the situations and eventualities that may arise in relations with the media. Members are advised to consult the ATCM before participating in any form of publicity in newspapers, magazines, journals, radio or television, since adverse publicity as a result of thoughtless, unedifying or sensational remarks damages the reputation of TCM.

Members may publish books, pamphlets and articles of an informative nature about Traditional Chinese Medicine and other subjects relevant to it. However, such publications must be of scientific or educational value, and must avoid matters that might be considered to be in the nature of excessive personal advertising.

Members should also ensure that any publications that they author do not contravene ATCM's general position which is to strongly encourage members of the public considering using Traditional Chinese Medicine to seek professional advice from a qualified practitioner of Traditional Chinese Medicine.

Members are encouraged to give lectures but shall not offer formal courses of instruction in TCM in any way that might be construed as being under the auspices of the ATCM without the consent of the ATCM Council. Such teaching activities shall not be driven by any motives other than for promoting the understanding of TCM, the professional standards and ultimately, for the benefit of patients and the general public at large. Major teaching activities must be reported to the ATCM Council and have the consent of the Council before they take place. Members who have less than one year's clinical experience are discouraged to give lectures or seminars.

## **7. Infringement of the Code**

Infringement of this Code of Professional Conduct may render ATCM members liable to disciplinary action with subsequent loss of privileges and benefits of registration.

A complaint can only be upheld when it is shown to be in breach of the Code of Professional Conduct. However, it is the principle of ethical professional conduct which informs discussion of allegations made against ATCM members. It is possible for patients to cause embarrassments and worries by forcing their attention on to a member. ATCM members must therefore always be prepared to explain and justify their actions and decisions. It is the duty of the Professional Conduct Committee to examine all allegations in the most careful manner.

The interpretation of “unacceptable professional conduct” provided in the Code of Professional Conduct cannot be exhaustive and is intended as guidance only. The following are examples of unacceptable professional conduct.

Any member who:

- Brings the profession into disrepute by his/her personal behaviour, e.g., by being convicted of drunkenness, drug abuse or an offence of dishonesty
- Conduct him/herself unethically in relation to another practitioner, e.g., in relation to transfer of patients, or by degenerating the reputation of other practitioner
- Infringe the guidelines in this Code as to advertising or otherwise conducts him/herself in an unprofessional manner
- Fails to care properly for a patient or neglects his/her practice, e.g., by failing to conform with the standards laid down by the Code of Practice, or local authority by-laws, or by infringing the guideline in this Code or statutory regulations relevant to the practice of Traditional Chinese Medicine as to, for example, delegation of duties
- Abuse his/her position of trust as a TCM practitioner by breaching a patient's confidence, or by using undue influence or obtain gifts or other benefits from a patient, shall render him/herself liable to disciplinary procedures as laid down in this Code.

If any member requires advice on professional or ethical matters, he/she is strongly advised to consult the Professional Conduct Committee.

## **Complaints and Disciplinary Procedures**

### **8. Professional Conduct Committee**

A permanent Professional Conduct Committee (PCC) is set up by the Council of ATCM, which has an effective role in promoting high standards of professional

conduct. It will continue to review practice within traditional Chinese medicine in the light of current good practice in health professions and the wider society.

The PCC has the following functions:

- be responsible for the effective implementation of the Code of Professional Conduct and Complaints and & Disciplinary Procedures
- ensure that a system for monitoring and audit of procedures is in place and maintained
- ensure procedures such that the strictest confidentiality is maintained at all parts of the procedure
- ensure that the time taken to make decisions is reasonable.

## **9. Complaints and Disciplinary Procedure**

In the event that a written complaint of professional misconduct is made against a member of the ATCM, the complaint is examined by the Professional Conduct Committee (PCC), which is appointed by the Council. The following procedure is adopted:

### **9.1 Notice to ATCM member**

- The PCC shall serve on the member written notice of the complaint, which may include a copy of the letter of complaint, and shall inform the member that the case will be considered at the next appropriate meeting of PCC.
- The member shall be notified of his/her right to submit a full written statement on his/her behalf, to be submitted within 15 days of the date on the letter of notification. The member's statement should be supported by documentary evidence where appropriate.
- If the member fails to serve a written statement in the due time, the PCC may proceed to a hearing without considering evidence submitted by the member.

### **9.2 Further Evidence and Postponement**

- The member may request postponement of the PCC meeting for further time to prepare the case, and the PCC shall postpone it for not less than 15 days from the day of the request.
- The PCC may call for further evidence to be submitted before the hearing, provided that it notifies the member of his/her right to submit a reply to such evidence.
- The PCC may postpone any hearing for such period as it thinks fit, provided that it gives at least 15 days notice of the new day to the member concerned.

### **9.3 The Decision**

The PCC shall decide whether or not a case of unacceptable professional conduct is made.

If it finds that a case has not been made, it shall dismiss the case. A complaint against a member can only be upheld if the member is clearly shown to be in breach of this Code, and in all other matters it is up to the complainant, if still aggrieved, to seek redress through a civil action.

If it finds that a case has been made, it may:

- Admonish the member
- Admonish and fine the member a sum not exceeding £500, such payment to be made within 28 days of the submission of written notice of such decision
- Make the member subject to a conditions of practice order for up to three years
- Suspend the member pending further enquiries
- Remove the name of the member from the ATCM membership list, subject to a final decision by the ATCM Council.

If a member on whom a fine has been imposed fails to pay such fine in full within the period required, the Council may resolve forthwith to remove the name of the member from the ATCM membership list.

#### **9.4 Appeal**

- The PCC shall submit a report to the Council of its decision and serve written notice on the member of its decision and of the member's right to appeal to the Professional Conduct Appeal Committee (PCAC). Such appeal must be made not more than 28 days after service of written notice of the decision of the PCC. If the member fails to serve written notice of intent to appeal within this time, the right to appeal is lost.
- The PCAC shall be assisted by a legal assessor (barrister or solicitor) and by at least one other lay member.
- The PCAC shall serve on the member written notice of the appeal hearing, which shall be not less than 15 days after the date of service of such notice. Such notice shall inform the member of his/her right to be heard in person by his/her legal or lay representative.
- The conditions of postponement or submission of further evidence under 9.2 above shall apply also to any appeal hearing.

The PCAC may either dismiss the case or, if it finds that a case has been made:

- Admonish the ATCM member
- Admonish and fine the ATCM member a sum not exceeding £1000
- Make the ATCM member subject to a conditions of practice order for up to three years
- Suspend the ATCM member pending further enquiries

- Remove the name of the ATCM member from the ATCM membership list, subject to a final decision by the ATCM Council.

The decision made by the appeal committee is the final decision. The member or the complainant has the right to take legal advice or legal action if they are not satisfied with the final decision of the appeal committee.

If a member on whom a fine has been imposed fails to pay such fine in full within the period required, the Council may resolve that the name of the member be forthwith removed from the ATCM membership list.

## **9.5 Costs**

The ATCM member will cover any costs incurred by him/her in the course of the above procedures.

## **9.6 Convictions**

The Professional Conduct Committee, the Professional Conduct Appeals Committee and the ATCM Council are obliged to accept the finding of a court of law and are not able to re-open the investigation of facts which led to a conviction. The ATCM will consider only the seriousness of the conviction and any surrounding circumstances in mitigation. ATCM members should therefore treat with caution any encouragement to plea guilty to an offence and should take appropriate legal advice.

## **10. Conclusion**

It must be reiterated that no document can cover all eventualities. It must be emphasised that it is in a member's interest to consult the Professional Conduct Committee that if he/she is in doubt.