

Te Poari o ngā Kaihaumanu  
Hinengaro o Aotearoa

The Psychotherapists Board  
of Aotearoa New Zealand

# Ngā taumata matatika mā Ngā Kaihaumanu Hinengaro

## Psychotherapist Standards of Ethical Conduct

29 May 2022

These Standards of Ethical Conduct have been developed by the Psychotherapists Board of Aotearoa New Zealand under section 118(i) Health Practitioners Competence Assurance Act 2003.

## Introduction

The purpose of the *Psychotherapist Standards of Ethical Conduct* is to set clear expectations, for psychotherapists, clients and the community, of professional behaviour and ethical conduct. Psychotherapists are expected to act with honesty and integrity in all their professional work and to be familiar with, and abide by, these Standards.

A breach of the Standards is a serious matter and may lead to an employment, professional or disciplinary investigation. The Standards may be used to evaluate conduct by employers, commissioners, tribunals, and courts.

The *Psychotherapist Standards of Ethical Conduct* should be read alongside the *Psychotherapist Core Clinical Competencies* and *Psychotherapist Cultural Competencies*, which together describe the minimum standards that must be demonstrated by all practising psychotherapists in Aotearoa New Zealand. Guidelines on specific topics, such as *Psychotherapy conducted via video conference* and *Electronic media position statement*, provide supplementary advice from the Psychotherapists Board on safe and ethical practice.

Te Tiriti o Waitangi is the founding document of Aotearoa New Zealand. In upholding the *Standards of Ethical Conduct*, psychotherapists should have regard to the principles derived from Te Tiriti, be knowledgeable about Te Ao Māori (the Māori world view) and be sensitive to the pillars / pou of Māori health and wellbeing.

## Principles

The following principles / mātāpono underpin the *Standards of Ethical Conduct*.

- Autonomy / Mana Motuhake
- Respect / Whakahōnoretanga
- Care of others / Tiaki
- Integrity / Mana Tangata
- Justice / Mahi Pono
- Whanaungatanga / Community
- Ūkaipō / Nurturing
- Manaakitanga / Hospitality and kindness
- Wairuatanga / Spirituality
- Pūkenga / Expertise

Definitions may be found in the Glossary at the end of this document.

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## **1) Psychotherapists must work in the client's best interests.**

1. Hold the needs and wellbeing of the client paramount, giving priority to the psychotherapeutic aspect of the client-therapist relationship.
2. Seek to ensure that clients, whether in individual, couple, whānau, family or group settings, suffer no physical, spiritual, or psychological harm during the conduct of psychotherapy, accepting that some distress is an inevitable part of the process.
3. Recognise the needs of clients who are unable to exercise self-determination or to ensure their own personal safety and act to protect their best interests, rights and well-being.
4. Form respectful relationships with clients based on clear, open and honest communication, and show respect in language, attitude and all communications.
5. Respect the client's self-determination and the client's capacity to increase their range of choices and opportunities, except where these may cause harm to self or others.
6. Respect the development of psychological maturity in clients including their capacity for interdependence as well as independence.
7. Respect the importance of relationships, especially family, couple and whānau relationships, and the role these play in all human development.
8. When providing psychotherapeutic services to a couple or group, strive to be impartial.

## **2) Psychotherapists must take special care in working with children and adolescents.**

1. In working with children and adolescents, recognise that their interests and welfare are paramount, and prioritise this over other considerations.
2. Respect the individuality of each child and adolescent.
3. Consider children and adolescents in the context of their family, whānau and culture.
4. Seek to increase the range of choices and opportunities that meet the needs of children and adolescents, appropriately involving their family and whānau.
5. Advocate for the best interests of any child or adolescent who is directly a client, or part of a client group, and take preventive action when their welfare is seriously threatened.
6. Enable children and adolescents to give informed consent appropriate to their stage of development.

## **3) Psychotherapists must practise with integrity.**

1. Practise in appropriate settings that enable safe, confidential practice, adhering to professional standards and public health requirements; behave in a way that justifies the trust vested in you by clients and the public.
2. Practise within the limits of your competence and scope of practice, acknowledging the limits of your practice, skills and method, and refer clients or supervisees to others when appropriate.

3. Be open and honest in your interactions with clients and willing to acknowledge errors, accept responsibility, and initiate repair as therapeutically indicated.
4. Be accurate and clear in reporting assessments, progress reports and other summary information about clients.
5. Facilitate client access to other services, including a second opinion.
6. Once a professional relationship has been established, provide services consistent with treatment planning until the relationship is ended by one or other party.
7. Wherever possible, make provision for alternative professional care should you suddenly become unable to work.
8. If it becomes clear that the client is unlikely to benefit from continuing psychotherapy with you, end the professional relationship, with due regard to the client's needs.
9. Facilitate the client's right to make a complaint and seek to resolve complaints in a timely manner.
10. Co-operate with any investigation into your care, conduct or competence.

#### **4) Psychotherapists must maintain their competence.**

1. Maintain your own health and well-being, to ensure that your standards of practice are not impaired.
2. Maintain adequate levels of knowledge and skills within your scope of practice.
3. Continue to develop your professional knowledge and skills by further training and personal therapy as appropriate and maintain participation in professional and collegial activities.
4. Continue to develop your professional knowledge and skills through clinical supervision.

#### **5) Psychotherapists must be sensitive to diversity and cultures.**

1. Provide a service that recognises each client's uniqueness and is sensitive to their needs, values and beliefs.
2. Be sensitive to cultural diversity and aware that the cultural context of a therapeutic modality may differ from that of the client.
3. Be sensitive to and thoughtful regarding gender diversity and gender identity.
4. Be aware of your own personal values and beliefs and how these may affect your work and impact on clients; refer the client to another practitioner when appropriate.
5. Do not discriminate on the grounds of age, disability, membership of distinctive groups and organisations, ethnicity, gender, migrant experience, occupation, political beliefs, ethnic identity, religion, sexual orientation, socio-economic status or spiritual beliefs.
6. Respect the client's right to an autonomous, independent life within the context of their own worldview and culture.

7. When offering therapy to Māori, be sensitive to and thoughtful regarding cultural factors bearing on the therapeutic relationship and the significance of connections to whenua, whānau, hapū and iwi.
8. Seek training and guidance to ensure competent and culturally safe practice.
9. Recognise that any decision to exclude someone from your services or activities, to fail to provide interventions that might reasonably be expected to assist, or otherwise to reduce your services, must be made fairly and not on capricious or discriminatory grounds.

## **6) Psychotherapists must maintain appropriate boundaries.**

1. Establish and maintain appropriate boundaries with clients and do not condone or engage in any form of discrimination, coercion, harassment or sexual, financial, or other exploitation.
2. Recognise the power imbalance in the psychotherapeutic relationship and do not abuse this power, or exploit the relationship with the client, for personal gain or gratification.
3. Avoid any intimate relationship (including sexual intimacy) with a client.
4. Do not sexually harass a client or engage in any behaviour that might reasonably be interpreted as a sexual advance.
5. Do not terminate a professional relationship to pursue an intimate relationship.
6. Avoid any intimate relationship (including sexual intimacy) with former clients. Depending on the duration and intensity of therapy, it may never be appropriate to develop an intimate relationship with a former client.
7. Do not encourage clients to give, lend or bequeath money or gifts to the psychotherapist or put pressure on clients to make donations to other people or organisations.
8. Establish and maintain appropriate boundaries with supervisees, supervisors, trainers, and trainees.
9. Avoid any intimate relationship (including sexual intimacy) with current supervisees and trainees, and with former supervisees, supervisors and trainers and trainees when the dynamics of the supervision and/or training relationship continue in ways that may create a power imbalance.

## **7) Psychotherapists must obtain informed consent to therapy.**

1. Advertise and represent your qualifications and experience accurately, in a way that assists the public to make informed choices about the type of service you offer.
2. Explain the nature of the proposed therapy, the risks and benefits of available treatment options and provide as much information as a reasonable individual, family, whānau, or group would expect to receive before making a decision or consenting to therapy.
3. Provide detailed information regarding the nature and duration of therapy sessions, and about your fees and payment requirements.
4. If psychotherapy is to be provided by video conference, provide information about the privacy limitations of non-secure options, recognising that some

clients may prefer to use familiar platforms even knowing the privacy limitations.

5. Provide clear information about the client's right to withdraw from therapy and terminate their professional relationship with you.
6. Provide information in language that is easily understood, giving sufficient time for the recipients to respond to the information and taking reasonable steps to ensure that the information has been understood, including providing translation into another language where necessary and reasonably practicable.
7. Provide therapy only with the client's informed consent (written or verbal).
8. When providing psychotherapeutic services to a couple or group, ensure that each individual gives informed consent.
9. Take all reasonable steps to ensure that consent is not given under conditions of coercion or undue pressure. It is recognised that in certain work settings, psychotherapists are required to conduct assessments where consent may not be readily forthcoming (eg, child protection work, forensic work).
10. When working with someone who is unable to consent due to diminished capacity, age and/or intellectual and/or emotional immaturity, provide therapy only with the consent of the individual's guardian(s) or other lawful authorization.

## **8) Psychotherapists must respect privacy.**

1. Maintain client confidentiality noting that considerations of safety or legal obligations may on occasion override confidentiality; psychotherapists must discuss these limits with clients.
2. Do not disclose personal information obtained from an individual, family, whānau or community group without the informed consent of those who provided the information (except in circumstances of diminished capacity, children/young persons, urgent need, legal requirements and/or client or public safety), and without careful consideration of the consequences of disclosure.
3. When working with children and young people, treat symbolic material such as drawings and paintings as confidential communication, seeking the consent of the child or young person to showing or discussing this material with others, including parents.
4. Protect information gained second hand (eg, from a colleague about their client or student) in activities as a therapist, where it could be anticipated that the information would be regarded by the person/s it concerns to be confidential.
5. Select video conferencing technologies that support the privacy and security of the client's personal information; ensure the security of communications to the best of your ability and be aware of the inherent limitations in the security of electronic communications such as email.
6. Keep appropriate records that are accessible and legible.
7. Take all reasonable steps to ensure that the client's personal information is collected, stored, used and disposed of in a manner that protects the information.

8. Take all reasonable steps to ensure that information remains retrievable for at least 10 years from the date of the last provision of services to the client.
9. Make adequate plans for access to and disposal of records in the event of retirement, serious illness, or death of the psychotherapist.
10. Take all reasonable steps to maintain the anonymity of clients, colleagues, supervisees or trainees when clinical material is used for education and training, or in research and publications, unless consent to disclosure has been obtained.

## **9) Psychotherapists must interact professionally with others.**

1. Form respectful relationships with colleagues, other health practitioners, supervisees, supervisors, trainers and trainees, acting fairly and with courtesy.
2. Be open and honest in your communication with colleagues, other health practitioners, supervisees, supervisors, trainers and trainees, and third parties.
3. Respect collegial confidences and the trust placed in you by colleagues, other health practitioners, supervisees, supervisors, trainers and trainees, using information only for the purposes for which it is disclosed.
4. Clarify and make explicit your role and responsibilities with the person(s) with whom you are working.
5. Do not assume responsibility for another psychotherapist's client without encouraging appropriate communication with the colleague concerned.
6. Delegate activities only with the client's authorisation and to someone with the knowledge, skills and experience needed to work safely and effectively; continue to provide appropriate supervision and support to your delegate.
7. If you have reason to believe a colleague is unable to practise safely due to health problems or competence concerns, or is acting unethically, take steps to resolve the situation directly with the colleague or their employer or manager; if you remain concerned, notify the Psychotherapists Board.
8. In acting on concerns about a colleague's health, competence or ethical behaviour, seek to minimise damage to clients, colleagues and the profession, without compromising integrity.
9. Consult colleagues about potential conflicts-of-interest and other personal-professional challenges.
10. When participating in public debate or dialogue on issues of community welfare, use all forms of communication appropriately and responsibly, including social media and networking sites.

## Glossary

### **Mana Motuhake/Autonomy**

To freely make judgements and act on decisions which are grounded in values of the profession and respect the right of each person, family or community to make decisions based on self-sufficiency and the ability to control their own destiny.

In a professional code, autonomy refers to self-discipline of the practitioner, to safeguard against external control or interference. Knowledge, understanding and insight is exercised so the practitioner practises within the values framework of the profession.

A set of practical skills through which the practitioner makes judgements and acts in accord with the values of the profession.

### **Tiaki/To take care of**

To actively regard and nurture the welfare of others, responding with compassion to their misfortune or suffering.

All individuals are interdependent for achieving their interests. Those particularly vulnerable to our choices and their outcomes deserve extra consideration to be measured according to the level of their vulnerability to one's choices and the level of their affectedness by one's choices and no one else's.

### **Colleagues**

In this document 'colleagues' includes peers, supervisees and supervisors, trainers and trainees, students and other health professionals.

### **Tangata whai ora/Clients**

In this document 'client' refers to any individual, child, adolescent or adult, couple or group the psychotherapist has a professional relationship with and has committed to work with. Noting that when working with Māori, wellbeing for Māori is often derived from whānau, hapu and iwi, and will seek to foster these links and be informed about the structure and significance of whānau, hapu and iwi in Māori society.

The literal meaning of 'tangata whai ora' is person or people *seeking* wellness, whereas tangata whaiora is someone who *has* wellbeing. It has been a term (in Māori) that referred to someone who was the subject of care, assessment and treatment processes in mental health. Today it is used in many different ways. For the purposes of this document, it refers to clients engaged in psychotherapy with a psychotherapist as above.

### **Mana Tangata/Integrity**

Strive to integrate expertise, care and respect in one's professional self so as to demonstrate adherence to the values of the profession.

*He tangata kī tahi*

*A person whose word needs speaking but once*

There are two aspects to integrity. One is to ensure that the various elements of the professional self-complement and support, rather than undermine or frustrate, one another. The other is to show compliance with professional standards and to defend them when needed.

### **Mahi Pono/Justice**

Treat people fairly and appropriately in light of what is their due.

The basic idea is what is 'due' or 'deserved' is the basis for the provision of appropriate treatment. Injustice may involve denying people what they are entitled to. Injustice may also involve depriving someone or a section of society of its fair share of some benefit or imposing a disproportionately heavy share of some burden.

### **Mātāpono**

Defined as principles or standards of conduct.

### **Manaakitanga/Hospitality and kindness**

Manaakitanga is always reciprocated. It reflects an expected standard of behaviour, an ideal that one should aspire to.

Mana-aki – mana is addressed and restored.

Manaakitanga – the quality of relationships

### **Pūkenga/Expertise**

Maintain and develop all aspects of psychotherapeutic expertise for the betterment of client, self and profession.

*He rei ngā niho, he parāoa ngā kauae  
A whale's tooth in a whale's jaw*

The emphasis here is on a particular role and a particular body of expertise. In any profession there will be some professional obligations which arise directly out of that role and which are incurred only by those who enter the profession.

### **Whakahōnoretanga/Respect**

To act so as to acknowledge the right of others to make choices and take actions based on their own beliefs and values.

*Huihuitia ō tātou ritenga; whakanuia ō tātou rerekētanga  
Share together our communities; celebrate our differences*

As self-governing agents, we live and work in a world of other self-governing agents, whether clients, colleagues, employers or others, and respect in them the decision-making processes we value in our case. This requires more than non-interference and extends to supporting and strengthening agency and working to mitigate factors which may undermine or even destroy it.

### **Ūkaipō/Nurturing**

In promoting a person's wellbeing take full account of the people, places and traditions which nurture that person's wellbeing.

*Kia maumahara ki te toka i haua mai ai koe  
Make sure you are mindful of the rock from which you have been hewn*

The archetype of nurturing is the infant at its mother's breast. The mother is the woman through whom the child comes into the world; in other words, there is an intimate connection between nurturing and origins. Just as the placenta (whenua) provides the baby with its first environment and nourishment, so too the growing child is further nurtured by the land (whenua), literally and culturally, and the adult needs periodic refreshment through return to his or her origins, or places that provide the same.

*E hoki koe ki ō maunga, kia purea koe e ngā hau o Tāwhirimātea  
Go back to your mountain, so that you may be cleansed by the winds of  
Tāwhirimātea*

### **Wairuatanga/Spirituality**

Act so as to respect the spiritual as well as the physical presence of people.

*Mehemea nā te wairua i tohu, arohia  
If guidance comes from the spirit, heed it respectfully*

### **Whanaungatanga/Community**

Act as to strengthen the bonds of those with a shared heritage or some shared common purpose.

*He ora te whakapiri, he mate te whakatākiri  
Thriving through drawing close together, disaster through scattering apart*

Often defined as deriving from bonds of whakapapa, of bloodline and descent, as well as close relative-like connections may grow through shared endeavours for a common purpose.

Much is achieved by common effort rather than by any one person standing alone.

Another relevant 'whakataukī' is:

*Ehara taku toa i te toa takitahi, engari he toa takitini  
My strength is not that of a person standing alone, but of many standing together*

## **Acknowledgements**

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## Appendix

The following paper was written by Professor Ron Paterson of the University of Auckland. Professor Paterson was commissioned to independently review the Standards of Ethical Conduct with a view to ensuring they incorporate the amendments to the HPCA Act, are current, fit for purpose, concise, public focused, and easy to understand from a public perspective. This paper was presented to the Board in August 2021.

### **Revised Ethical Standards for Psychotherapists**

#### *Background*

As regulator, the Psychotherapists Board of Aotearoa New Zealand has the function, under the Health Practitioners Competence Assurance Act 2003 (HPCAA), of setting 'standards of clinical competence, cultural competence (including competencies that will enable effective and respectful interaction with Māori), and ethical conduct to be observed by health practitioners of the profession' (s 118(i)).

In 2019, the Board issued three sets of standards: *Psychotherapist Clinical Competencies*, *Psychotherapist Clinical Competencies* and *Psychotherapists Standards of Ethical Conduct*. The Board has also developed guidelines on specific topics, including *Electronic media position statement* (2014) and *Psychotherapy conducted via video conference* (March 2021).

#### *Relevance of standards set by the Board*

Traditionally, codes of ethics have been issued by professional associations, such as the NZ Psychological Society *Code of Ethics*. However, there is an important difference between a profession's own statement of its ethical values and principles. Such documents are often aspirational in tone, eg, the NZMA *Code of Ethics*, principle 8: 'Honour the profession, its values and its principles in the ways that best serve the interests of patients'; or broad and sweeping, eg the NZ Psychological Society *Code of Ethics*, 1.1.2, 'Psychologists recognise the basic rights of individuals to food, clothing, shelter and freedom from intentional inflicted pain.'

In contrast, ethical standards set by regulators under the HPCAA are intended to prescribe the minimum standards that practitioners are required to comply with. The position is well summarised in a leading text:

'In short, the law provides a minimum standard, while ethics acknowledges a minimum standard (which is not always the same as law) but strives for the maximal standard.'

'The community, through the judiciary, can challenge the professions to change their ethics standards so that the professions stay in touch with community expectations.'

'Code of ethics need to be more than window dressing, and there is a strong potential for criticism if the values enshrined in them are thought to be either rarely enforced or applied by practitioners. .. [Professionals also need some mechanism for giving effect to those ethics, beyond that of the virtue of the individual health care worker].'

(C Berglund, *Ethics for health care*. OUP, 4<sup>th</sup> ed., 2012, pp 206, 207, 36).

Ethical standards promulgated by a responsible authority are given statutory recognition under the HPCAA. They become legally enforceable under right 4(2) of the Code of Health and Disability Services Consumers' Rights (the HDC Code), which states that 'Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards'. Thus, breach of an ethical standard could form the basis of a complaint to HDC and, after investigation, a finding of breach of the Code. A serious lapse in ethical behaviour could also lead to a disciplinary finding of 'professional misconduct', which is defined to include conduct by a practitioner that is 'likely to bring discredit to the profession' (HPCAA, s 100(1)(b)).

Ethical standards issued by a Board may also be relied on in other contexts, such as an employment dispute. In *Evans-Walsh v Southern District Health Board* (2018) 15 NZELR 840, the Employment Court upheld a DHB's actions in reporting bullying concerns about a nurse, who had resigned following an employment dispute, to the Nursing Council. The Court found that the 'Nursing Council's Domains and competencies go beyond patient care and apply to ethical matters such as the way in which nurses deal with each other. The Code of Conduct has a similar reach.' [44]

#### *Comparable regulators internationally*

The profession of psychotherapy is not a separately regulated profession in most overseas jurisdictions, so there are few comparable ethical standards to draw on. The College of Registered Psychotherapists of Ontario is one exception, however its Code of

Ethics (2011) is simply a statement of principles to be upheld by practitioners, who are to 'strive to practise safely, effectively and ethically':

<https://www.crpo.ca/code-of-ethics/>

The British Psychoanalytical Council, although a professional association rather than a regulator, has a public register accredited by the Professional Standards Authority for psychoanalytical psychotherapy and is responsible for setting standards for the profession. The Council's *Code of ethics* and *Ethical guidelines* (2011) set out 'the essential ethical imperative and a breach of any of [the] code may constitute grave misconduct which will be treated with the utmost seriousness and dealt with accordingly'. The code and guidelines use mandatory language, eg 'Registrants must restrict their practice within the limits of their own competence ...' (*Code of ethics*, 7). These documents provide a useful comparison as part of the current review:

<https://www.bpc.org.uk/professionals/registrants/ethical-framework>

The Health & Care Professions Council (UK) is a leading international regulator. It regulates 15 professions, including practitioner psychologists. The Council has issued *Standards of conduct, performance and ethics* (2016), written in clear, simple language covering 10 broad areas. The language is mandatory, eg under Standard 1, 'Promote and protect the interests of service users and carers', 1.1 states: 'You must treat service users and carers as individuals, respecting their privacy and dignity'. It is another useful comparator for this review:

<https://www.hcpc-uk.org/standards/standards-of-conduct-performance-and-ethics>

#### *Approach to current review*

Registrar Jacquelyn Manley, on behalf of the Board, approached me in April 2021 to 'complete a review of its standards of ethical conduct with a view to ensuring they incorporate the amendments to the HPCA Act, are current, fit for purpose, concise, public focused and easy to understand from a public perspective'.

After discussion with the Registrar and Board Chair Hamish Brown, it was agreed that I should meet with the Auckland-based Board members and talk to some 'wise heads' and Māori practitioners. Over the period June to August 2021, I met or had phone or video calls with:

- the Chair, current Board member Kyle McDonald and former Chair Carol Shinkfield
- current Board member Suzanne Johnson
- Chris Milton
- John O'Connor

- Michelle Amopiu
- Cinnamon Boreham

I note that no client or community representatives were identified for me to interview as part of this review.

I have read a broad selection of articles about psychotherapy provided by Kyle McDonald, Chris Milton and John O'Connor, and relevant Board materials provided by the Registrar. I have also reviewed the edits suggested by Claro lawyer Tim Morrison and notes of Board discussion of the current standards, at its March 2021 meeting.

### *Contemporary ethical issues in psychotherapy*

In my interviews with key practitioner informants, a range of contemporary ethical issues was identified, including:

- the need for sensitivity (and awareness of one's own values and beliefs) in working with gender diverse clients, in particular young people exploring their gender identity
- what it means to be in a bicultural partnership with Māori and the need for awareness of one's own cultural lens
- the increasing practice of psychotherapy via video conference, especially since the onset of the Covid-19 pandemic
- the lack of access for the public to talking therapies (including psychotherapy) in the face of growing mental health and wellbeing concerns in Aotearoa New Zealand.

### *Complaints and discipline*

Review of 11 complaints about psychotherapists to the Health and Disability Commissioner (2013 – 2019) show that no cases proceeded to a formal investigation and breach finding by HDC. All were dealt with by HDC taking no further action or referring the matter to the Board. There is no consistent theme in the complaints, which cover a range of issues, including lack of clarity about the therapist's engagement, not having regular supervision, failure to maintain boundaries, deficiencies in core clinical competences, informed consent and duty of care. More serious cases led to investigation by a Professional Conduct Committee and an educational letter from the Registrar to the psychotherapist, identifying areas to be addressed in professional development and clinical supervision.

There is no reported disciplinary case involving a psychotherapist on the website of the Health Practitioners Disciplinary Tribunal

### *Considerations for revised Ethical Standards*

The current Standards were issued by the Board in 2019. This review is an opportunity for Board to update and simplify the minimum standards of ethical conduct expected of psychotherapists.

The review should be seen in the context of the overall public protective purpose of the HPCAA, 'to protect the health and safety of members of the public' (s 3(1)), with its focus on competence assurance, and the subsidiary purpose of 'a consistent accountability regime for all professions' (s 3(2)(a)).

The recent amendments enacted by the Health Practitioners Competence Assurance Amendment Bill 2019 are important context for this review:

- enabling effective and respectful interaction with Māori, s 118(i)
- promoting interdisciplinary collaboration and co-operation in the delivery of health services, s 118(j)
- transparency about regulatory performance, by regular, independent reviews of how effectively and efficiently a responsible authority is performing its functions, and publication of recommendations and actions taken, s 122A.

The current emphasis of the Parliamentary Counsel Office on the use of mandatory language in drafting secondary legislation such as standards promulgated by regulators is also relevant context for the review.

Otago bioethics lecturer Lynley Anderson writes that the key requirements of a coherent code of ethics (and by implication also of ethical standards) are that the resulting document is comprehensible and accessible by both patients and clinicians (i.e., the public and the profession); unambiguous ('plainly expressed, clear in its requirements') and compatible with existing codes and laws. 'Excessive detail renders the code too long and unwieldy and threatens its usefulness.' (L Anderson, Writing a new code of ethics for sports physicians: principles and challenges, *British Journal of Sports Medicine* (2009) 43: 1079-1082.)

The Psychologists Board is currently engaged in a similar review of its ethical standards. It may be asked, particularly from a community perspective, why the two professions should have different ethical standards. Ahpra (the Australian Health Practitioner Regulation Agency) and 12 of the National Boards (but not the Medical Board, the Nursing and Midwifery Board, and the Psychology Board) have recently consulted on a

shared *Code of Conduct* (including ethical conduct) across 12 health professions regulated by separate boards. It seems likely that the Ministry of Health will seek to move New Zealand responsible authorities in a similar direction in the future.

#### *Revised Ethical Standards*

Key points to note include:

- the use of mandatory language – ‘Psychotherapists must ...’
- referring to ‘you’ rather than ‘they’, in relation to psychotherapists
- grouping detailed standards more logically
- removing references to and summaries of the law
- focusing on key areas (10 rather than 15 standards)
- new standards to address some contemporary and overlooked issues.

I hope this draft will be a useful basis for Board discussion.

**Ron Paterson, August 2021**