



The Allied Health Professions Council of South Africa

Ensuring quality complementary and alternative healthcare of choice

2 AUGUST 2011

Dear Practitioner/Therapist

FACEBOOK/OTHER SOCIAL MEDIA INTERACTION

The AHPCSA has been informed that a group of practitioners has initiated a FACEBOOK page for discussion regarding alternative approaches within the current mainstream practice of that profession.

This communication, resulting from complaints from other registered practitioners in that profession, serves to inform all practitioners/therapists as to the AHPCSA position on the matter.

The utilisation of any communication media (not limited to social networks such as FACEBOOK)) should take place within the provisions of the relevant laws and regulations, including, but not limited to, the laws and regulations applicable to the professions registered under the AHPCSA.

The AHPCSA recognizes, and respects, that freedom of expression, an entrenched right within the Constitution of the Republic of South Africa, is a necessary and fundamental tenet of democracy. The AHPCSA does wish to point out, however, that this right is not absolute and is therefore limited by the Constitution and other aspects of law.

Section 36 of the Bill of Rights provides for the limitation of a right to the extent that the limitation is reasonable and justifiable in an open and democratic society, based on human dignity, equality and freedom; taking into account all relevant factors including among other things the nature of the right and the nature and extent of the limitation. This limitation encumbers the exercise of one's own right in terms of the constitution, while it promotes the prohibition of infringing on another person's rights.

It is therefore to be regretted that some interactions on FACEBOOK might be construed as defamatory or might fall into the lesser category of *contumelia*, or insult, either to other individual practitioners, to the profession as a whole or to the AHPCSA itself; these interactions infringe on the rights enjoyed by those parties so affected.

As practitioners/therapists are aware, all AHPCSA professions, legally recognized complementary and alternative healthcare modalities in South Africa, are regulated by the Allied Health Professions Act, Act 63 of 1982 (as amended), as are its registered practitioners.

It is therefore incumbent on registered practitioners to respect the legal framework within which they conduct themselves, even though they may hold differing views as to how the profession should be regulated, or how education and training in the profession are offered at public providers of education and training.

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In exercising the right to freedom of expression, therefore, you are required to conduct yourself in a manner which is not unprofessional, or which, when regard is had to the position that practitioners/therapists are professional healthcare providers, is neither improper nor disgraceful; defamation (or *contumelia*), apart from being a criminal offence, if proven, will clearly be viewed as unprofessional conduct.

All practitioners/therapists are aware of the limitations placed by the Act and Regulations on advertising and the AHPCSA is cognisant that in a rapidly changing cybercommunication world these limitations might be outdated. Notwithstanding, in general, any limitation on the conduct of practitioners has as its core the fiduciary relationship between a healthcare professional and the patient, with protection of the patient being the overriding principle; trust between healthcare professional and patient is critical for the ultimate well-being of any patient.

FACEBOOK interaction, in the view of the AHPCSA, might not only be construed as advertising, but, depending on the extent and manner of the interaction, also lead to the denigration of trust that any person may enjoy with his healthcare professional.

The AHPCSA will be formulating its position in this regard with a view to issuing guidelines to social media interaction.

The manner and extent of social media interaction also bears reflection within the paradigm of the Consumer Protection Act, Act 68 of 2008. Any claims made by practitioners/therapists on social media sites are subject to the provisions of this Act.

Most social media sites employ a moderating function and any objectionable comments are removed. FACEBOOK clearly states that they respect other people's rights and therefore expect that the administrators of any page to do the same. No page administrator is allowed to post content or take any action on FACEBOOK that infringes or violates someone else's rights or otherwise violates the law.

The AHPCSA is currently formulating its legal position with regard to the fact that the FACEBOOK page in question does not utilise this practice and the legal question that arises is whether the founders of the particular site are co-liable in law, in particular for those comments which might be construed as defamatory or contumelious.

As a final comment, kindly note that it lies solely within the prerogative of the Professional Boards to take a decision as to what constitutes 'unprofessional conduct'. Any further complaints will follow the procedure required by the Act and Regulations with regard to instituting disciplinary inquiries against the registered practitioner/therapist against whom the complaint is made.

It is to be regretted that the necessity for the issuance of such a communication has arisen, due to the action of some very few individuals. May I take this opportunity to express my appreciation to those registered practitioners/therapists, who, while they may disagree with the provisions of the Act and Regulations, and also the AHPCSA position on matters affecting the profession, notwithstanding recognise that certain procedures must of necessity be followed to bring about change to the profession in a constructive and responsible manner.

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