

**THE KENYA OBSTETRICAL AND GYNAECOLOGICAL
SOCIETY**

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1.0 Executive Summary

These principles apply to all the members of The Kenya Obstetrical and Gynecological Society (KOGS), independent of their location.

This document refers to KOGS members with the understanding that in spirit and principle, the Code of Ethics and Professional Conduct applies to all individuals who collaborate with KOGS. The Code of Ethics and Professional Conduct is intended to provide guidance to help resolve ethical dilemmas that are likely to be confronted. The issues listed in the Code are not exhaustive and do not seek to envisage every potential ethical dilemma.

2.0 Scope and Purpose of the Policy

2.1 Scope

This code of Ethics and Professional conduct sets out ethical guidelines and best practices in line with the society's values. The policy applies to all the members of KOGS with whom strict adherence is expected.

2.2 Authority of the Code of Ethics

The KOGS Code of Ethics is issued under the authority of the Governing Council of KOGS. Therefore, any revisions or amendments of the manual should be approved by resolution of the Council. The President will endorse by signature for and on behalf of the Council all policies and provisions of the manual and any changes and amendments to the manual.

2.3 Legal status of the Code of Ethics Policy

The Code of Ethics Policy Document has an implicit legal status in addition to its function as an administrative tool. However, in the event of a conflict between the provisions of the manual and any Kenyan government laws and regulations the provisions of the law shall take precedence over the provisions of the Code of Ethics Policy.

The policy should be used along other legal frameworks which include and not limited to:

- i. Kenyan constitution 2010
- ii. Labour laws
- iii. Ethics and Anti-Corruption Commission Act (2011)
- iv. Kenya Public Officer Ethics Act

2.4 Limitations and exceptions

This Code of Ethics manual provides guidelines on the handling of specific and common ethical issues but does not cover every situation and eventuality that can and will arise in the Society. The CEO, in conjunction with or on behalf of the

Governing Council, shall review any new situations and shall exercise management discretion on resolving such situations on a case-by-case basis.

2.5 Distribution of Policy Document

This Policy Document will be circulated to all members of KOGS on email. Through an email, members will be expected to confirm they have received and read and understood the policy document.

2.6 Amendment and updating of the Code of Ethics Policy Document

The KOGS Code of Ethics is subject to review on a need basis and any member of KOGS may propose changes to the manual.

3.0 Basic Concepts Considered in the Development of this Policy

3.1 Ethics, Morality and Law

Ethics is professional behaviour that answers the basic question, “What should I do? While **Morality** is the distinction between right and wrong and the **Law** is the precise codification of governing standards that are established to ensure legal and moral justice.

3.2 Importance of Ethics

The degree of responsibility for a medical practitioner is exceptionally high. These responsibilities include:

- *To help resolve disputes between family, patients, Obstetrician and Gynecologists, or other parties.* Often, the parties involved are operating strictly on emotion, which makes it difficult to come to a logical and fair decision. Ethics adds another dimension to help make decisions.
- *To maintain a clear conscience.* All doctors want to be sure they have done the right thing.
- *To not make yourself look uninformed.* Obstetrician and Gynecologists sometimes stumble onto poor decisions because they did not understand their role, had not bothered to identify an ethical challenge, or hadn't thought the situation through to its logical conclusion. *iv) To maintain the respect of your patients.* Ethical missteps can destroy the bond between doctor and patient. Patients often implicitly trust their doctors, but once that trust has been breached, it is difficult to repair.
- *To maintain respectful relationships with other clinicians.* Your colleagues often have very definite opinions about what is ethical, often enshrined in various codes of ethics of the profession or learned from mentors.

- *To maintain some efficiency.* Although ethical decision-making often requires extra time, it also can save time by anticipating disagreements that can slow down the care process.
- *To reduce burnout.* One cause of burnout is incongruence between Obstetrician and Gynecologists' personal values and those of their organization. Obstetrician and Gynecologists who can describe their ethical concerns and use negotiating skills may be able to change the organizational policies that produce burnout.

3.3 Key values for deciding ethical issues

Many professional ethicists recommend using four basic values, or principles, to decide ethical issues:

- The principle of Beneficence:* This is defined as an act of charity, mercy, and kindness with a strong connotation of doing good to others including moral obligation.
- The principle of Autonomy:* This means that individuals have a right to self-determination, that is, to make decisions about their lives without interference from others.
- The principle of Justice:* This is the moral obligation to act on the basis of fair adjudication between competing claims.
- The principle of Non-Maleficence:* This is the obligation not to harm the patient

However, ethical values are not limited to just these four principles. There are other important values to consider, such as truth-telling, transparency, showing respect for patients and families, and showing respect for patients' own values.

In addition, medical ethics is not just a thought process. It also involves people skills, such as gathering the facts needed to decide and presenting your decision in a way that wins over the confidence of all parties.

4.0 Code of Conduct

4.1 Overview

Obstetrician-Gynecologists have ethical responsibilities not only to patients, but also to society, to other health professionals, and to themselves. The following ethical foundations for professional activities in the field of obstetrics and Gynaecology are the supporting structures for the Code of Conduct. The Code implements many of these foundations in the form of rules of ethical conduct. Certain documents of KOGS, including the Constitution, Human Resource Policy Manual, among others also provide additional ethical rules.

Selections relevant to specific points are set forth in the Code of Conduct, and those particular documents are incorporated into the Code by reference. Noncompliance with the Code, including referenced documents, may affect an individual's initial or continuing Membership in the Kenya Obstetrical and Gynaecological Society - KOGS. These documents may be revised or replaced periodically.

4.2 Ethical Foundations considered

- i. *The patient - obstetrician and gynecologist relationship*: The welfare of the patient (beneficence) is central to all considerations in this association. Included in this relationship is the obligation of obstetrician and gynecologists to respect the rights of patients, colleagues, and other health professionals. The respect for the right of individual patients to make their own choices about their health care (autonomy) is fundamental. The principle of justice requires strict avoidance of discrimination on the basis of race, colour, religion, national origin, or any other basis that would constitute illegal discrimination (justice).
- ii. *Obstetrician and Gynecologist conduct and practice*: The obstetrician - gynecologist should deal honestly with patients and colleagues. This includes not misrepresenting himself or herself through any form of communication in an untruthful, misleading, or deceptive manner. Furthermore, maintenance of medical competence through study, application, and enhancement of medical knowledge and skills is an obligation of practicing obstetrician and gynecologists. Any behaviour that diminishes an OB-GYs' capability to practice, such as substance abuse, must be immediately addressed and rehabilitative services instituted. The obstetrician and gynecologist should modify his or her practice until the diminished capacity has been restored to an acceptable standard to avoid harm to patients (non-maleficence). All obstetrician and gynecologists are obligated to respond to evidence of questionable conduct or unethical behaviour by other obstetrician and gynecologists through appropriate procedures established by the relevant organization.
- iii. *Avoiding conflicts of interest*: Potential conflicts of interest are inherent in the practice of medicine. Obstetrician and Gynecologists are expected to recognize such situations and deal with them through public disclosure. Conflicts of interest should be resolved in accordance with the best interest of the patient, respecting a woman's autonomy to make health care decisions. He/she should be an advocate for the patient through public disclosure of conflicts of interest raised by health payer policies (managed care or others) or hospital policies.
- iv. *Professional relations*: The obstetrician - gynecologist should respect and cooperate with other OB-GYs, nurses, and other health care professionals.
- v. *Societal responsibilities*: The obstetrician - gynecologist has a continuing responsibility to society as a whole and should support and participate in

activities that enhance the community. As a member of society, the obstetrician - gynecologist must respect the laws of that society. As professionals and members of medical societies, OB-GYs are required to uphold the dignity and honour of the profession.

4.3 Code Provisions

4.3.1 Patient–Obstetrician and Gynecologist relationship

- i. The patient – Obstetrician-Gynecologist relationship is the central focus of all ethical concerns, and the welfare of the patient should form the basis of all medical judgments.
- ii. The Obstetrician - Gynecologist should serve as the patient’s advocate and exercise all reasonable means to ensure that the most appropriate care is provided to the patient.
- iii. The patient – Obstetrician-Gynecologist relationship has an ethical basis and is built on confidentiality, trust, and honesty. If no relationship exists, the doctor may refuse to provide care, except in emergencies. Both parties are free to establish or discontinue the relationship. They must adhere to all applicable legal or contractual constraints in dissolving the relationship.
- iv. Sexual misconduct on the part of the Obstetrician - Gynecologist is an abuse of professional power and a violation of patient trust. Sexual contact or a romantic relationship between a doctor and a current patient is always unethical
- v. The Obstetrician - Gynecologist has an obligation to obtain the informed consent of each patient for any course of medical or surgical treatment, the doctor should present to the patient, or to the person legally responsible for the patient, in understandable terms, pertinent medical facts and recommendations consistent with good medical practice. Such information should include alternate modes of treatment and the objectives, risks, benefits, possible complications, and anticipated results of such treatment.
- vi. It is unethical to prescribe, provide, or seek compensation for therapies that are of no benefit to the patient.
- vii. The Obstetrician - Gynecologist should respect the rights of patients, colleagues, and others and safeguard patient information and confidentiality within the limits of the law. If during the process of providing information for consent it is known that results of a particular test or other information must be given to governmental authorities or other third parties that should be explained to the patient.
- viii. The Obstetrician - Gynecologist should not discriminate against patients based on race, colour, national origin, religion, or on any other basis that would constitute illegal discrimination.

4.3.2 Obstetrician and Gynecologist conduct and practice

- i. The obstetrician - gynecologist should recognize the boundaries of his or her particular competencies and expertise and provide only those services and use only those techniques for which he or she is qualified by education, training, or experience.
- ii. The obstetrician - gynecologist should participate in continuing medical education activities to maintain current scientific and professional knowledge relevant to the medical services he or she renders. The obstetrician - gynecologist should provide medical care involving new therapies or techniques only after undertaking appropriate training and study.
- iii. In emerging areas of medical treatment where recognized medical guidelines do not exist, the obstetrician -gynecologist should exercise careful judgment and take appropriate precautions to protect patient welfare.
- iv. The obstetrician - gynecologist should not publicize or represent himself or herself in any untruthful, misleading, or deceptive manner to patients, colleagues, other health care professionals, or the public.
- v. The obstetrician- gynecologist who has reason to believe that he or she is infected with the human immunodeficiency virus or other serious infectious agents that might be communicated to patients should voluntarily be tested for the protection of his or her patients. In making decisions about patient-care activities, an obstetrician and gynecologist infected with such an agent should adhere to the fundamental professional obligation to avoid harm to patients
- vi. The obstetrician - gynecologist should not practice medicine while impaired by alcohol, drugs, or physical or mental disability. The obstetrician - gynecologist who experiences substance abuse problems or who is physically or emotionally impaired should seek appropriate assistance to address these problems and limit his or her practice until the impairment no longer affects the quality of patient care.

5.0 Conflict of Interest

5.1 Policy Overview

This Policy is designed, as a general guideline, to enable the Governing Council, and the members of KOGS and other relevant stakeholders manage actual or perceived conflict of interest cases before they escalate into a malpractice.

A conflict of interest can arise when an obstetrician – gynaecologist has reasons other than the care of the patient for their decision. Where a potential Conflict of Interest exists, the practitioner must take every opportunity to ensure that the patient is aware of the competing interest.

5.2 Policy Objective

This Policy is intended to demand of the Governing Council and all members of KOGS to act with utmost integrity in discharging their duties devoid of any external or personal influences which may blur the impartiality in decision making.

5.3 Disclosure of conflict of Interest

All members of KOGS and Council are individually responsible for disclosing their conflicts of interests to the Society on an ad hoc basis, as soon as a conflict of interest is realized.

5.4 Managing potential conflict of interest

- i. Conflicts of interest should be resolved in accordance with the best interest of the patient, respecting the patients' autonomy to make health care decisions. If there is concern about a possibly significant conflict of interest, the obstetrician and gynaecologist should disclose his or her concerns to the patient. If a conflict of interest cannot be resolved, the obstetrician - gynaecologist should take steps to withdraw from the care of the patient. If conflicts of interest are unresolved, the obstetrician and gynaecologist should seek consultation with colleagues or an institutional ethics committee.
- ii. Commercial promotions of medical products and services may generate bias unrelated to product merit, creating, or appearing to create inappropriate undue influence. The obstetrician - gynaecologist should be aware of this potential conflict of interest and offer medical advice that is as accurate, balanced, complete, and devoid of bias as possible
- iii. The obstetrician - gynaecologist should prescribe drugs, devices, and other treatments based solely upon medical considerations and patient needs, regardless of any direct or indirect interests in or benefit from a pharmaceutical firm or other supplier.
- iv. When the obstetrician - gynaecologist receives anything of substantial value, including royalties, from companies in the health care industry, such as a manufacturer of pharmaceuticals and medical devices, this fact should be disclosed to patients and colleagues when material.
- v. Financial and administrative constraints imposed by managed care may create disincentives to treatment otherwise recommended by the obstetrician - gynaecologist as in the patient's best interest. Any pertinent constraints should be disclosed to the patient.

5.5 Professional Relations

- i. The Obstetrician – Gynaecologist's relationships with other health care professionals should reflect fairness, honesty, and integrity, sharing a mutual respect and concern for the patient.

- ii. The Obstetrician - Gynaecologist should consult, refer, or cooperate with other health care professionals, and institutions to the extent necessary to serve the best interests of their patients.
- iii. The Obstetrician - Gynaecologist should respect all laws, uphold the dignity and honour of the profession, and accept the profession's self-imposed discipline. The professional competence and conduct of Obstetrician - Gynaecologists are best examined by professional associations, hospital peer-review committees, and state medical and/ or licensing boards. These groups deserve the full participation and cooperation of the doctor.
- iv. The Obstetrician - Gynaecologist should strive to address through the appropriate procedures the status of those obstetrician and gynaecologists who demonstrate questionable competence, impairment, or unethical or illegal behaviour. In addition, the obstetrician – gynaecologist should cooperate with appropriate authorities to prevent the continuation of such behaviour.

5.6 Societal Responsibilities

- i. The Obstetrician - Gynaecologist should support and participate in those health care programs, practices, and activities that contribute positively, in a meaningful and cost-effective way, to the welfare of individual patients, the health care system, or the public good.
- ii. Obstetrician - Gynaecologists who provide expert medical testimony in courts of law recognize their duty to testify truthfully. The Obstetrician - Gynaecologist should not testify concerning matters about which he or she is not knowledgeable. The Obstetrician - Gynaecologist should be prepared to have testimony, given in any judicial proceeding, subjected to peer review by an institution or professional organization to which he or she belongs. It is unethical for an Obstetrician-Gynaecologist to accept compensation that is contingent on the outcome of litigation.

6.0 Other Guidelines

6.1 Medical Certificates

Issuing medical certificates is an integral responsibility of a medical professional. Guidelines to consider include:

- i. Medical Certificates are legal documents. Any Obstetrician/Gynaecologist who deliberately issues a false, misleading, or inaccurate certificate could face disciplinary action under the KOGS Council. He/she may also expose themselves to civil or criminal legal action. The Obstetrician/Gynaecologist may assist their patients by displaying a notice to this effect in their waiting rooms. It is therefore misnomer to state that the medical certificate is “not valid for legal or court purposes” and should be avoided. Registered

Obstetrician/Gynaecologist are responsible for their statements and signing a false certificate may result in an Obstetrician/Gynaecologist facing a charge of negligence or fraud.

- ii. The certificate should be legible, written on a practitioner's letterhead. The certificate should be based on facts known to the practitioner. The certificate may include information provided by the patients, but any medical statements must be based upon the Obstetrician/Gynaecologist's own observations or must indicate the factual basis of those statements. The certificate should only be issued in respect of an illness or injury observed by the Obstetrician/Gynaecologist or reported by the patient and deemed to be true by the Obstetrician/Gynaecologist.
- iii. The certificate should include the date on which the examination took place; indicate degree of incapacity of the patient as appropriate; indicate the date on which the Obstetrician/Gynaecologist considers the patient is likely to be able to return to work; be addressed to the party requiring the certificate as evidence of illness e.g. employer, insurer, magistrate; indicate the date the certificate was written and signed.

6.2 Prescription

WHO's eight-step approach to prescribing suggests that the Obstetrician-Gynaecologist should evaluate and clearly define the patient's problem; specify the therapeutic objective; select the appropriate drug therapy; initiate therapy with appropriate details and consider non-pharmacologic therapies; give information, instructions, and warnings; and evaluate therapy regularly e.g., monitor treatment results, consider discontinuation of the drug; consider drug cost when prescribing; and use computers and other tools to reduce prescribing errors. These eight steps, along with on-going self-directed learning, compose a systematic approach to prescribing that is efficient and practical for the obstetrician/gynaecologist. Using prescribing software and having access to electronic drug references on a desktop or handheld computer can also improve the legibility and accuracy of prescriptions and help Obstetrician and Gynaecologists avoid errors.

6.3 Obtaining Consent

Informed consent to medical treatment is fundamental in both ethics and law. Patients have the right to receive information and ask questions about recommended treatments so that they can make well-considered decisions about care. The process of informed consent occurs when communication between a patient and obstetrician and gynaecologist results in the patient's authorization or agreement to undergo a specific medical intervention. In seeking a patient's informed consent (or the consent of the patient's surrogate if the patient lacks decision-making capacity or declines to participate in making decisions), obstetrician/gynaecologist should:

- i. Assess the patient's ability to understand relevant medical information and the implications of treatment alternatives and to make an independent, voluntary decision.
- ii. Present relevant information accurately and sensitively, in keeping with the patient's preferences for receiving medical information. The obstetrician/gynaecologist should include information about: The diagnosis (when known); The nature and purpose of recommended interventions; The burdens, risks, and expected benefits of all options, including forgoing treatment.; Document the informed consent conversation and the patient's (or surrogate's) decision in the medical record in some manner. When the patient/surrogate has provided specific written consent, the consent form should be included in the record.
- iii. The patient giving consent must have capacity; The consent must be freely given; The consent must be sufficiently specific to the procedure or treatment proposed; The consent must be informed. The four criteria for a valid consent must be met irrespective of whether the consent is in writing or oral.

6.4 The Rights of the Patients

- Right to Appropriate Medical Care and Humane Treatment.
- Right to Informed Consent.
- Right to Privacy and Confidentiality.
- Right to Information.
- Right to Choose Health Care Provider and Facility
- Right to Self-Determination.
- Right to Religious Belief.
- Right to Medical Records.
- Right to Leave.
- Right to Refuse Participation in Medical Research.
- Right to Correspondence and to Receive Visitors.
- Right to Express Grievances.
- Right to be informed of their Rights and Obligations as a Patient. Dispute Resolution

In case of a dispute, Alternative Dispute Resolution (ADR) has been introduced in the health care to avoid some litigious approach to resolve dispute. Results from healthcare systems that are using ADR suggest this approach meets the needs of both patients and providers with the additional benefit of reducing costs, encouraging disclosure, and improving patient safety. ADR provides a more effective, timely, and less costly approach for patients and providers to deal with adverse events. Alternative Dispute Resolution refers to any means of settling disputes outside of the courtroom and typically includes arbitration, mediation, early neutral evaluation, and conciliation. With escalating court cases, rising costs of litigation, and litigation time delays, more healthcare systems have begun using ADR programs.

6.5 Unethical Act

Unethical acts may constitute the following:

- Practicing without the proper educational qualifications.
- Practicing without required licenses and registrations.
- Over-charging.
- Negligence.
- Erroneous, unwarranted, or uncertain prescriptions, treatments, or surgical procedures.
- Supervising, monitoring, or conducting torture and Sexual misconduct with patients.
- Unethical disclosure of a patient's medical history to employers, credit investigators, banks, attorneys, and others.
- Accepting bribes or excessive fees for expert testimony.
- Making and availing narcotics and other substances that can be misused available to those in their care.
- Performance of illegal abortions.
- Treatment of unreported gunshot wounds.
- Withholding treatment to meet budgetary or insurance policy concerns, “Up coding” to secure patient treatment from an insurer, among others.

7.0 Code of Ethics-Council Members

Members of the Council of KOGS are committed to observing and promoting the highest standards of ethical conduct in the performance of their responsibilities on the Council of KOGS. Council members pledge to accept this code as a minimum guideline for ethical conduct and shall:

7.1 Accountability

- i. Faithfully abide by the Constitution, rules, and policies of KOGS.
- ii. Exercise reasonable care, good faith, and due diligence in the conduct of KOGS affairs.
- iii. Fully disclose, at the earliest opportunity, information that may result in a perceived or actual conflict of interest.
- iv. Fully disclose, at the earliest opportunity, information of fact that would have significance in Council decision-making.
- v. Remain accountable for prudent fiscal management to society members, the Council and where applicable, to government, funding partners and the community in which the society operates.

7.2 Professional Excellence

- i. Maintain a professional level of courtesy, respect, and objectivity in all KOGS activities.

- ii. Strive to uphold those practices and assist other KOGS members of the Council in upholding the highest standards of conduct

7.3 Personal Gain

- i. Exercise the powers invested for the good of all members of the society rather than for personal benefit, or individuals or society business partners.

7.4 Equal Opportunity

- i. Ensure the right of all society members to appropriate and effective services without discrimination on the basis of geography, political, religious, gender, disability or any other bias that may be deemed discriminatory.
- ii. Ensure the right of all society members to appropriate and effective services without discrimination on the basis of the society staff make-up in respect to gender, sexual orientation, national origin, race, religion, age, political affiliation or disability, in accordance with all applicable legal and regulatory requirements.

7.5 Confidential Information

- i. Respect the confidentiality of sensitive information known due to Council service.

7.6 Collaboration and Cooperation

- i. Respect the diversity of opinions as expressed or acted upon by the society Council, committees, and membership, and formally register dissent as appropriate.
- ii. Promote collaboration, cooperation, and partnership among society members.

8.0 Implementation and Enforcement

The following procedures shall apply unless otherwise governed by other legislation. Case of members reported to have breached the professional ethical code shall be referred to the KOGS disciplinary/Ethics committee.

8.1 Policy Implementation

This policy takes effect on the date it is approved by KOGS Governing Council. The CEO will be responsible in consultation with Human resource and the legal department for ensuring that this policy is distributed and complied with.

8.2 Complaint Process

Allegations of a breach to the professional code of ethics shall be made in writing by the witness to KOGS.

The Society will acknowledge receipt to the witness and will advise the accused in writing that he/she is under investigation and the nature of the complaint.

8.3 Investigation

The Disciplinary/Ethics committee will investigate, which will include the opportunity for the accused to present his/her side of the occurrence.

The Ethics committee within a period of 2 weeks will present its report to the Society President. The report will include the nature of the complaint and the decision on the action to be taken.

The President will then send the decision to the accused who has 30 days to appeal.

If the accused decide to appeal, then the request must be in writing to the President.

The President will convene an appeal committee meeting with the witness, the accused and all other persons who could have information about the case. The Appeal committee will make decision within 30days of the request of the appeal.

The decision of the appeal committee is final and without appeal.

8.4 Sanction

A member may, depending on the circumstances and the gravity of the charge be reprimanded, suspended from membership, or expelled and removed from the list of members where the case is proven.

Details of the cases in which members are found in breach of the code may be published in such a manner as the Society shall deem appropriate.