# AUSTRALIAN ORTHOPAEDIC ASSOCIATION

# CODE OF CONDUCT FOR MEMBERS 2010

AUSTRALIAN ORTHOPAEDIC ASSOCIATION

# CONTENTS

# INTRODUCTION

The three fundamental pillars of the Australian Orthopaedic Association are:

1 Maintenance of professional standards
2 Continuing professional development, and
3 Training.

The AOA Code of Conduct reflects appropriate professional standards and professional expectations to support compassionate, timely and effective patient care.

Guidelines are also stated for interaction with medical industry, colleagues and other health professionals; interaction with business and health administrators, including insurance and workers' injury bodies; and an ethical approach to research.

These guidelines are based on long-held ethical and professional principles and are of utmost importance to all orthopaedic surgeons.

As doctors nationally registered within Australia, we are expected to abide by the Australian Medical Council (AMC) *Good Medical Practice: A Code of Conduct for Doctors in Australia*, and as Fellows of the Royal Australasian College of Surgeons (RACS) we should take heed of the RACS Code of Conduct. Although many issues raised in these Codes cross over and some principles are universal, AOA recognises the discipline of orthopaedic surgery is unique and thus has its own robust Code of Conduct, which stands alone.

# 1 STANDARDS OF CLINICAL PRACTICE

## 1.1 Principles

1.1a) The Surgeon will:

- provide clinical care, consistent with current standards of orthopaedic surgery (within the constraints of systems and resources) and care for patients utilising the best available evidence
- show respect for the patient's trust and give advice or take action which he or she considers to be in the patient's best interest
- treat all patients according to priority of clinical need, without discrimination on grounds of age, gender, ethnicity, religion, lifestyle, beliefs, culture, nature of illness or health insurance status
- carry out an adequate examination and order appropriate investigation for the condition with which the patient presents
- ensure implementation of correct side and site surgery
- ensure the patient is cared for in an institution capable of providing the appropriate level of care
- arrange for transfer of the patient to an appropriate facility in circumstances where adequate resources are not available for the patient's care
- respond as a priority to a request for help from another surgeon in the operating theatre
- be willing to facilitate a second opinion for the patient when appropriate
- as a teacher remain abreast of current national assessment tools and provide honest and objective feedback to trainees
- when asked specifically to provide a second opinion by the referring doctor, objectively judge the case with all available information and offer opinion on management without taking over the patient care
- when communicating with a lay person, comment only on the opinion or results of treatment of other medical and paramedical professionals in a technical and non-judgmental manner, expressing such comment in terms to avoid misinterpretation by a lay person
- advocate for the patient's benefit in community, government and other forums where appropriate
- not take any action which may bring AOA into disrepute.

### 1.1 b) Continuity of Care

The Surgeon will:

- provide adequate peri-operative care, keep adequate records and ensure arrangements are made for follow-up of patients
- continue to take part in the care of his or her patients in Intensive Care Unit (ICU) and High Dependency Unit (HDU)
- be available to attend promptly for an emergency when on call and accept ongoing responsibility for the patient's care
- ensure that appropriate hand-over is undertaken when care of a patient is transferred
- delegate patient care to trainees, only when assured of their competence
- in an emergency, be prepared to care for the patients of other surgeons, should they be unavailable
- when taking leave, make arrangements with another surgeon to provide cover for his or her patients in hospital.

### 1.1 c) Change of Medical Attendant

- A patient has the right to change his or her doctor. A change of doctor should be brought about in a seemly fashion
- A surgeon may withdraw from treating a patient if he or she feels it is in the best interest of the patient
- In general, no doctor should do anything to try to detach the patient from his or her usual medical attendant
- A surgeon should not be forced to act under duress, either by a patient or their representative or any other party. In such circumstances a change of medical attendant may be suggested.

## 1.2 Relationships with Patients

### 1.2 a) Communication

The Surgeon will:

- respect patients' dignity and privacy at all times
- discuss with patients, relatives, carers and/or legal guardians the available treatment options, including non-operative or no treatment, outline the relevant risks of treatment and provide the opportunity for questions to be asked within the bounds of confidentiality and privacy
- refrain from disclosing without the consent of the patient (unless with statutory sanction) to any third party, information which he or she has learnt in the professional relationship with the patient
- communicate with empathy, honesty and respect with patients, their families, carers and/or legal guardians and communities
- ensure that the patient understands the participation of supervised trainees and students in procedures when appropriate
- communicate sensitively if the patient has suffered an adverse event, providing an explanation of what has occurred, together with a discussion of how the problem is to be managed and an opportunity to ask questions
- make use of a trained interpreter or cultural liaison officer if language or cultural differences exist, to ensure effective communication with patients at all times.

### 1.2 b) Consent

The Surgeon will:

- respect patients' rights to seek relevant information to make informed decisions about their care
- document matters relevant to the consent process

- support systems that identify and manage co-morbidities and risk factors for surgery, especially early referral for anaesthetic opinion
- ensure involvement in research is separately discussed and consented from the operative procedure
- ensure adequate financial consent is provided.

### 1.2 c) Medical Certification

The Surgeon will:

- ensure that certificates carry the date on which the certificate was written and should be confined to the treating doctor's time of management
- write documents about an illness or injury, only if the patient has been examined by the surgeon for that illness or injury within the surgeon's sphere of expertise
- not release any certificate or report regarding a patient to a third party without the consent of the patient or a patient's legal representative
- restrict medical certification to matters which involve medical knowledge and judgment.

### 1.2 d) Workers Compensation/Insurance Practice

The Surgeon will:

- apply professional confidence as equally to an injured worker as to any other patient. Certificates or reports should not be given to an employer or insurer without the express sanction of the worker. This sanction is implicit if a worker's compensation claim germane to the consultation has been made
- observe the usual ethics, if requested to examine an insured worker on behalf of an employer or insurer
- always act and behave in a polite and courteous manner when examining another surgeon's patient
- always respect the professionalism of a colleague and refrain from making any comments to the patient which criticise the treatment given
- any opinion as to aetiology, diagnosis or prognosis of the case should be furnished only to the employer or insurer (unless the patient is referred by a doctor)
- if an interpreter is present, direct courtesy and politeness to and through the interpreter
- observe the relevant expert witness code in giving expert opinion.

### 1.2 e) Working with Children

The Surgeon will:

- understand the legal definition of a child in differing local jurisdictions and the local policy and guidelines for providing surgical services to such children
- obtain consent for any proposed treatment of a minor from a person with legal responsibility in accordance with the applicable legislation
- be aware of the possibility of non-accidental injury or risk of harm to a child and report this to the appropriate authority within the legal framework of the jurisdiction in which the surgeon is working
- proceed to treat a child without parental consent in a life-threatening emergency—in such a situation notify the appropriate person(s) in authority within the treating hospital
- involve the child/child's parent(s), carer and/or legal guardian in communication, respecting their individual views.

### 1.2 f) Personal Relationships

The Surgeon will:

- refrain from engaging in unethical physical, sexual or business relationships with patients.

### 1.2 g) Special Needs

i) *Specific Requirements*

The Surgeon will:

- be aware that competent adult patients, including those of the Jehovah's Witness faith, have the right to refuse blood or blood component transfusion, and in any cases involving children, abide by the local legislative requirements, including a court order.

ii) *End of Life Decision-making*

The Surgeon will:

- discuss treatment options and possible outcomes with the patient, the patient's relative(s) and/or legal guardian when making decisions regarding treatment at the end of life
- where the patient is unable to make his or her own decisions, discuss treatment options and possible outcomes with the patient's relative(s) or legal guardian
- make decisions about withdrawing or withholding treatment in accordance with relevant guidelines, preferably with the support of other medical colleagues and with ethical and/or legal advice, if required
- withhold or withdraw life-prolonging treatment, where such treatment is lawfully refused by the patient's relative or legal guardian where the patient is not competent to make such decisions
- be aware that life-prolonging treatment may be withheld or withdrawn where such treatment makes no contribution to cure or improvement (subject to patient wishes)
- be aware that life-prolonging treatment may be withheld or withdrawn where such treatment is overly burdensome (subject to patient wishes).

## 1.3 Record-keeping

The Surgeon will:

- ensure maintenance of legible and contemporaneous records, including operative notes and records of discussions with patients and relatives, carers and/or legal guardians
- ensure electronic data entry maintains current standards of lock-out, back-up and privacy
- be aware of individual jurisdiction legislation governing privacy, reporting of illness and access to records
- ensure appropriate handling of patient records upon cessation of practice.

## 1.4 Allocation of Resources

The Surgeon will:

- be aware of the importance of wise stewardship of resources
- avoid unnecessary procedures and wasteful practices and work with colleagues, institutions and the community to promote cost-effective care and to develop policy regarding priorities of care
- be aware that 'elective' and traumatic surgery should be prioritised individually on the basis of clinical need.

# 2 MAINTENANCE OF PROFESSIONAL STANDARDS

## 2.1 Clinical Governance

### 2.1a) Quality Assurance

The Surgeon will:

- participate in and attend regular quality assurance meetings, including morbidity and mortality, in public and/or private hospitals
- participate in peer review and audit.

### 2.1b) Adverse Events

The Surgeon will:

- inform patients of any adverse events that occur during their care
- report events to morbidity and mortality meetings
- consider seeking the opinion and assistance of a peer or senior surgeon when performing a further procedure on a patient in whom a major adverse event has occurred
- demonstrate insight and compassion when dealing with adverse events, acknowledging responsibility appropriately.

## 2.2 Credentialing and Clinical Privileges

The Surgeon will:

- adhere to the regulations relevant to credentials, set by the relevant regulatory authorities
- comply with the regulations concerning clinical privileges and scope of practice stipulated by the relevant institutions
- practise special surgical techniques only with adequate recognised training and expertise
- obtain appropriate training in new procedures to be undertaken.

## 2.3 Continuing Professional Development

The Surgeon will:

- comply with the CPD program requirements specified by AOA or equivalent and be diligent in the documentation of such compliance under the following categories:

  - Surgical Audit and Peer Review
  - Clinical Service
  - Self-directed Learning
  - Scientific Meetings and Research Activities
  - Credentialing.

## 2.4 The Surgeon's Health

The Surgeon will:

- refrain from practising or operating while impaired by alcohol or drugs or when compromised by physical or mental disability
- endeavour to recognise when fatigue, stress, physical or mental illness or another condition reduces his or her clinical or operative skills and request assistance of an appropriately qualified colleague
- endeavour to recognise when the ageing process may affect performance and comply with advice

- recognise impaired health in surgical colleagues and take appropriate action according to the mandatory reporting criteria
- notify relevant authorities if infected with a serious infectious agent that could be transferred to a patient.

### 2.5 Retirement from Surgical Practice, Incapacity or Death

The Surgeon will:

- determine a process to ensure a smooth hand-over of patients currently under the surgeon's care
- ensure that all medical records of patients currently under the surgeon's care or follow-up are transferred to another surgeon in the specialty
- ensure that all medical records in archive or in other storage facilities are either destroyed or transferred according to requirements of the local jurisdiction.

## 3 RESPONSIBILITY IN TEACHING, TRAINING AND SUPERVISION

### 3.1 Teaching and Mentoring Role

The Surgeon will:

- provide appropriate supervision, minimising risks to the patient and accepting responsibility for the patient's welfare
- acknowledge a responsibility to encourage and train future surgeons
- encourage trainees to work safely and to protect their own physical, mental and emotional health
- endeavour to provide delegated tasks that are within the trainee's ability
- encourage trainees to acquire skills progressively, including the use of skills laboratories
- promote the practice of evidence-based medicine
- promote the use of audit and peer review
- promote a comfortable workplace environment, safe from bullying, including belittlement, disparagement and harassment
- respect a trainee's religious and cultural practices.

### 3.2 Surgeons as Supervisors of Training

The Surgeon will:

- always show empathy toward trainees
- facilitate acquisition of competence by trainees in nine areas:
  - Technical expertise
  - Medical expertise
  - Judgment (clinical decision-making)
  - Communication
  - Collaboration
  - Management and leadership
  - Health advocacy
  - Teaching and scholarship
  - Professionalism and ethics

- co-ordinate and document assessment of trainees' competence in accordance with AOA requirements
- manage the underperforming trainee with strict adherence to AOA guidelines.

# 4 RESEARCH

The Surgeon will:

- perform all research under the conditions of full compliance with ethical, institutional and government guidelines
- not plagiarise the work of others
- declare to research subjects and the appropriate oversight body, the nature of any contractual involvement with industry involved in the research
- perform the assessment of innovative techniques, procedures or devices, in the context of a clinical trial
- claim as his or her intellectual property, only research and academic articles for which he or she made substantial contributions to the design, collection of and interpretation of data and final version of the report
- ensure that appropriate credit is given to individuals for their contributions to the research.

# 5 COMMERCIAL RESPONSIBILITIES

The Surgeon will:

- Comply with the AOA Position Statement on Interaction with Medical Industry (see Addendum)
- be honest in financial and commercial matters relating to his or her work
- act in the patient's best interests when making referrals and providing or arranging care
- not receive any money in connection with services rendered to a patient other than acceptance of a proper professional fee
- provide information about fees and charges when obtaining the patient's consent to treatment wherever possible
- declare any financial ownership or interest in a imaging centre, day surgery centre or other private health care facility.

# 6 INFORMATION DISTRIBUTION

## 6.1 Announcements

The Surgeon may announce commencement or change of practice. This announcement may refer to specialty practised and/or special interests.

## 6.2 Educational Value

Any information distributed should be of educational value.

## 6.3 Accuracy of Information

- Information must not be inappropriate or fraudulent.
- The information must not be misleading or deceptive nor make false representation, either directly, by implication, through emphasis, by comparison, by contrast or by omission.
- The surgeon should always consider how members of the public will receive the information and must be aware that the public may be vulnerable even to accurate information when it is presented inappropriately.
- The surgeon may not communicate testimonials or purported testimonials, as these are likely to convey biased information.
- Information must not overstate or exaggerate the truth.
- Clinical statements should be balanced, evidence-based and peer-reviewed.
- Information must identify the scientific source and this source must be reputable and verifiable.
- Information concerning surgical services should alert the public that there may be health risks associated with the service.

### 6.4 Declaration of Conflicts of Interest

Information communicated must declare any conflicts of interest, in particular, financial relationships with prosthetic companies or hospitals and other corporate entities or persons.

### 6.5 Endorsements

AOA cautions against the provision of endorsements of surgical techniques or therapeutic goods by individuals. There may be potential for these endorsements to be misleading.

### 6.6 Print media—Brochures or Pamphlets

Documents can be used to improve communication between surgeons and patients and community members. They are useful in providing for pre- and post-operative information.

Such documents must comply with the principles of this Code of Conduct.

### 6.7 Internet-based Information

Various internet formats (for example, web pages, blogs, YouTube, Twitter, Facebook) are a means of communicating with the general community. The web format may contain text, images and video.

Internet-based content must comply with the principles of this Code of Conduct.

### 6.8 Other Information Distribution Media

AOA cautions against the use of the radio and television for information distribution because of the risk of misrepresentation of information presented.

Information distribution in any medium must comply with this Code of Conduct

### 6.9 Lectures to a Community Forum

The dissemination of factual and balanced surgical information to the community is encouraged. The presentation must comply with the principles of this Code of Conduct.

## ACKNOWLEDGEMENTS

*Code of Conduct for Members of the AOA*, 2006
http://www.aoa.org.au/AM/Template.cfm?Section=UPLOADED_FILES&Template=/CM/ContentDisplay.cfm&ContentID=4264

*Guide to Professionalism and Ethics in the Practice of Orthopaedic Surgery,* 8th Edition, American Academy of Orthopaedic Surgeons, 2008

*RACS Code of Conduct*
http://www.surgeons.org/AM/TemplateRedirect.cfm?template=/CM/ContentDisplay.cfm&ContentID=13132

*Standards of Professionalism*, American Academy of Orthopaedic Surgeons, 2008
http://searchbt.aaos.org/btc/btclog.dll?QUERY=standards+of+professionalism&SCOPE=&LOGTYPE=Click&URL=http://www3.aaos.org/member/profcomp/sop.cfm

'Patient Care, Professionalism and Relations with Industry', *Journal of the American Academy of Orthopaedic Surgeons*, Special editorial, vol 16, number 1, January 2008

*Victoria Medical Board Code of Conduct*
*http://www.medicalboardvic.org.au/assets/final_code_110809.pdf*

*Good Medical Practice—A Code of Conduct for Doctors in Australia*, Australian Medical Council
*http://goodmedicalpractice.org.au/wp-content/downloads/Final%20Code.pdf*

ADDENDUM

# AOA
# Position Statement on
# Interaction with Medical Industry
# 2010

## Introductory statement

This Position Statement applies to all members of the Australian Orthopaedic Association (AOA), including Fellows, Associates, Affiliates and Registrar Affiliates.

The primary focus of the orthopaedic profession is to provide excellence in patient care, with compassion and respect.

AOA expects the highest qualities of professionalism, integrity, ethical behaviour and standards of its members.

AOA recognises that collaborative relationships between members and industry (refer Addendum 1) are important in advancing and improving patient care.

While AOA recognises that its members may pursue academic and commercial ventures, members must be mindful of their professional responsibilities and the potential for such ventures to cause conflicts of interest with patient care. A conflict of interest is considered to exist when professional judgment concerning the wellbeing of the patient has a reasonable chance of being influenced by other interests of the member. (Refer Addendum 2)

1. **AOA Members' Responsibilities to the Patient**
   All members must act in a patient's best interest when recommending or using medical devices. Members' recommendations must be unencumbered by commercial persuasion that may influence their judgment towards a patient's treatment options.

   Members must declare to the patient or their representative any potential conflict of interest associated with their care. Such a declaration must enable the patient to make an informed decision about their care.

2. **AOA Members' Commercial Responsibilities**
   A member must disclose to colleagues, institutions, and other affected entities, any financial interest in a medical device or a procedure if the member or an institution with which they are associated, has received or will receive any direct or indirect payment of a financial or other benefit from the inventor or manufacturer of the medical device or procedure.

   A member must not accept any form of personal promotion or advertising from industry.

   A member must not seek gifts from industry.

   Members must not receive any gifts, money or other benefits from industry exceeding an individual value of A$50.

   A member must not accept any direct or indirect financial inducement from industry for utilising a particular implant or for switching from one manufacturer's product to another.

   AOA recognises that a genuine commercial relationship may exist between a member and industry and that a payment to, or a subsidy of, the member may be appropriate in certain circumstances. Any such payment or subsidy should conform to an AOA-approved process. (Refer Addendum 3)

- A member may enter into a bona fide consultancy (including the evaluation of a product or development of a new product), provided it is covered by a contract in writing as per Addendum 3.

- The learning of new surgical techniques (demonstrated by an expert in the field) or the review of new implants or devices with on-site education may provide the added benefit of educating a number of attendees per session and offer important insights into the function of ancillary staff and institutional protocols. In these circumstances, reimbursement for expenses may be appropriate.

Reimbursement should be limited to expenses that are strictly necessary and able to withstand public scrutiny. In no case should honoraria or reimbursement for leave from paid employment to attend a course be accepted. In addition, attending a course and learning techniques must not require or imply that the member should subsequently use the products or services provided by the particular commercial organisation.

A member who has influence in selecting medical devices or services for an institution or group shall, prior to the commencement of any such selection process, disclose any relationship with industry to their colleagues, any institution with which they are associated and any other related entities.

## 3. Educational Meetings

AOA recognises the collaborative role of industry in the education of members.

Education is defined as ‘an exchange of information, opinion and contemporary trends in the interests of improved patient outcomes’

**Meetings conducted by AOA or AOA members**
Support for AOA meetings will only be accepted from a company that has subscribed to an industry code of conduct. (Refer Addendum 5)

Industry donations received by AOA or a meeting convening body, to help lower the costs of the meeting, are acceptable, provided donations are publicly acknowledged. The convening body must ultimately determine the location, curriculum, faculty and educational methods of the conference or meeting, not industry.

**Industry Meetings**
If a member is part of the faculty (refer Addendum 4) or the organising committee, when recompense (in the form of a payment, subsidy or otherwise) is received, such recompense should be limited to expenses that are appropriate and able to withstand public scrutiny.

The value of educational dinners at reasonable cost is recognised as an acceptable concise and practical delivery of information.

A member must not (apart from the abovementioned) accept financial, or in-kind support from industry:

(i) to attend educational meetings;

(ii) to attend industry-related functions with no educational value; or

(iii) for or on behalf of any person who does not have a bona fide professional interest in the information being shared at the meeting.

## 4. Presentations and Publications

A member must acknowledge industry support in any publication or presentation of research results, accompanied by a declaration of the potential conflict of interest.

In all presentations acknowledgement of any industry support and a declaration of conflict of interest or otherwise must be made at the commencement of that presentation.

Abstracts submitted for all educational meetings must include acknowledgement of industry support and potential conflict of interest for inclusion in the abstracts.

**5. Orthopaedic Fellowships**

All fellowships of six months duration or longer and supervised by members should be accredited by AOA.

Industry support for fellowships should be funded through a third party to ensure 'arm's length' administration. Such third parties may include: the AOA Fellowship Fund, universities, research institutions and foundations, philanthropic associations, public and private hospitals or other organisations associated with the provision of health care.

To assist with compliance, the AOA Fellowship Fund can accept industry support for fellowships that are accredited by AOA, as an alternative to other suitable third parties (as convenient) or where no alternative appropriate administrative third party is readily available.

All donations by industry must be publicly acknowledged.

No fellowship should bear an industry sponsor's name.

Contributions to the AOA Fellowship Fund will only be accepted from a company that has subscribed to an industry code of practice. (Refer Addendum 5)

Periods less than six months will not be recognised as Fellowships by AOA, but need to abide by the same guidelines.

**6. Orthopaedic Trainees (Registrar Affiliates)**
All orthopaedic trainees, training, research and education are covered by this Position Statement.

**7. Compliance**
Matters of non-compliance with this Position Statement will be handled in accordance with clause 10 of AOA's Constitution (www.aoa.org.au).

## Addenda

**Addendum 1 – Definition of 'Industry'**
For the purposes of this Position Statement, 'industry' is defined as suppliers of medical devices, including implants or other therapeutic goods.

**Addendum 2 – Definition of 'Conflicts of Interest'**
For purposes of this Position Statement, a conflict of interest occurs when a member or an immediate family member has, directly or indirectly, a financial interest or positional interest or other relationship with industry that could be perceived as influencing the member's obligation to act in the best interest of the patient.

A 'financial interest', 'financial arrangement', 'financial inducement' or 'financial support' includes, but is not limited to:

- Compensation from employment;
- Compensation from patient referral pattern;
- Paid consultancy, advisory board service, etc;
- Share ownership or options;
- Intellectual property rights (patents, copyrights, trademarks, licensing agreements, and royalty arrangements);
- Paid expert opinion;
- Honoraria, speakers' fees;

- Gifts;
- Travel; and
- Meals and hospitality.

A 'positional interest' occurs when an orthopaedic surgeon or family member is an owner, officer, director, trustee, editorial board member, consultant, or employee of a company with which the orthopaedic surgeon has or is considering a transaction or arrangement.

**Addendum 3 – Bona Fide Consultancy Arrangements**
A member shall enter into consulting agreements with industry, only when such arrangements are established in advance and in writing to include evidence of the following:

- Documentation of an actual need for the service;
- A need to provide some proof at the time of completion of the contract, that the service has been provided;
- Evidence that reimbursement for consulting services is consistent with fair market value;
- Reimbursement should not be based on the volume or value of business he or she generates, by means of the member's own surgical practice;
- Where the consultancy agreement includes a research project that involves human or animal experimentation the research project must be approved by a research ethics committee; (refer Addendum 6)
- Where the consultancy involves a research project, a member who is the principal investigator shall use his or her best efforts to ensure at the completion of the study that relevant research results are reported and reported truthfully and honestly with no bias or influence from funding sources, regardless of positive or negative findings.

**Addendum 4 – Definition of 'Faculty'**
For the purposes of this Position Statement, 'faculty' is defined as a speaker at a conference or meeting.

Chairmen of educational sessions per se, are not considered faculty.

**Addendum 5 – Industry Codes of Conduct**
The Medical Technology Association of Australia Code of Practice is an acceptable benchmark of an industry code.

**Addendum 6 – References**
*The National Statement on Ethical Conduct in Human Research*
http://www.nhmrc.gov.au/guidelines/ethics/human_research/index.htm

*Australian Code of Practice for the Care and Use of Animals for Scientific Purposes*
7th edition, 2004, NHMRC
http://www.nhmrc.gov.au/publications/synopses/eA16syn.htm

*Standards of Professionalism (SOPs) of the American Academy of Orthopaedic Surgeons*
http://searchbt.aaos.org/btc/btclog.dll?QUERY=standards+of+professionalism&SCOPE=&LOGTYPE=Click&URL=http://www3.aaos.org/member/profcomp/sop.cfm

*AOA Code of Conduct*
*2006*
http://www.aoa.org.au/AM/Template.cfm?Section=UPLOADED_FILES&Template=/CM/ContentDisplay.cfm&ContentID=4264

*RACS Code of Conduct*
http://www.surgeons.org/AM/TemplateRedirect.cfm?template=/CM/ContentDisplay.cfm&ContentID=13132

*The Medical Technology Association of Australia and MTANZ Code of Practice*
4th Edition, 1 October 2008
http://www.miaa.org.au/pages/page90.asp

## Commonly Asked Questions
## During Consultation with Members on the Position Statement

### Why is this Position Statement needed?

It was originally felt that comments on 'interaction with industry' could be included in a revised AOA Code of Conduct, targeted for 2009/10.

However, following events in the United States, with the Department of Justice requiring companies to put in place various compliance arrangements, it was necessary to develop a Position Statement in order to place in the public domain a strong statement that defines appropriate relationships between orthopaedic surgeons and medical device companies.

This Position Statement will remain a 'live' document, open to discussion/change as required, and it is anticipated that the Statement will ultimately be reincorporated into the AOA Code of Conduct.

### This Statement is too prescriptive.
### This Statement is not prescriptive enough.

The Working Group established by the Board of AOA to develop the Position Statement undertook extensive consultation with members, Branch Committees and the Subspecialty Groups. The Board carefully considered the Statement and the final version represents the culmination of this consultative process with members.

The document represents a pragmatic Statement that outlines standards of professionalism, integrity and ethics, while recognising that there are sound reasons for members to have appropriate relationships with industry that ultimately enhance patient care. It provides an appropriately robust framework without being unnecessarily prescriptive. It should be noted that the impact and efficacy of the Statement will be regularly reviewed.

### 'Members must not receive any gifts, money or other benefits from industry exceeding an individual value of $50.' Why is this statement included?

AOA has a comprehensive complaints process available through the Professional Conduct and Standards Committee, as set out in clause 10 of the Constitution. This statement is included to avoid trivialisation and potential abuse of that process.

### Are industry-sponsored and run meetings covered by this Statement?

AOA recognises the collaborative role of industry in the education of members and this is reflected in the CPD recognition of 'quality' industry meetings.

Members must not accept financial or 'in kind' support from industry to attend such meetings if they are not part of a contributing faculty or organising committee.

Educational dinners at reasonable cost are acceptable.

### Fellowship names should include the sponsor's name.

The Statement specifies that 'no Fellowship should bear an industry sponsor's name'.

It is acceptable, however, to recognise a company that provides sponsorship, with the Statement requiring that 'all donations by industry must be publicly acknowledged'.

That is, although a fellowship should not be specifically named as a particular company's fellowship, the support of that company can and should be acknowledged. For example, 'The XYZ Orthopaedic Fellowship' is not acceptable but 'The Orthopaedic Fellowship, sponsored by XYZ' is acceptable.

A number of companies have indicated their support for this approach. It should also be noted that the MTAA Code of Practice requires member companies to provide funding for fellowships to an organisation (not an individual) and that the fellowship must be accredited by a professional association.

### What about the arrangement some surgeons have with hospitals?

Industry has deliberately been defined in this document as 'suppliers of medical devices including implants or other therapeutic goods'.

It is considered that surgeons' commercial arrangements with hospitals fall within the domain of 'Informed Financial Consent', when a patient consents to treatment. This scenario will be addressed in the AOA Code of Conduct.

### How will the AOA Fellowship Fund work and how will it be different from a company directly remunerating a fellow?

Many companies have involved reputable third parties (for example, universities or research foundations) to ensure arms-length administration. AOA has offered to provide such a service and act as a third party for support of a fellowship, where no alternative third party arrangement for support of the fellowship is available. While AOA encourages all orthopaedic fellowships to be AOA accredited, there is no compulsion for fellowship funding to be directed through AOA, but any fellowship funding that is, must be for an AOA accredited fellowship.