

A National Code of Conduct for health care workers

It will be up to each state and territory to examine how the National Code of Conduct for health care workers is implemented and progressed. For further information, please email your jurisdiction:

Victoria: health.workforceregulation@dhhs.vic.gov.au

South Australia: HealthPolicyLegislation@sa.gov.au

Western Australia: mail@hadsco.wa.gov.au

Northern Territory: ocmo.doh@nt.gov.au

Queensland: national_workforce@health.qld.gov.au

New South Wales: hccc@hccc.nsw.gov.au

Australian Capital Territory: healthworkforceregulation@act.gov.au

Tasmania: grasp@dhhs.tas.gov.au

Frequently Asked Questions

What is the purpose of the National Code of Conduct?

The purpose of the National Code of Conduct, also referred to as the National Code or code-regulation regime, is to protect the public by setting minimum standards of conduct and practice for all unregistered health care workers who provide a health service. It will set national standards against which disciplinary action can be taken and if necessary a prohibition order issued, in circumstances where a health care worker's continued practice presents a serious risk to public health and safety.

The vast majority of health care workers practice in a safe, competent and ethical manner. However there is a small proportion who present a serious risk to the public because they are incompetent or impaired, or engage in exploitative, predatory or illegal conduct such that if they were a registered health practitioner, their registration would be cancelled and their right to practice withdrawn.

What are the key features of a 'code-regulation' regime?

A code-regulation regime provides:

- a 'negative licensing' regulatory regime that does not restrict entry to practice, but allows effective action to be taken against an unregistered health care worker who fails to comply with proper standards of conduct or practice
- a set of objective and clear standards (a code of conduct) against which to assess a health care worker's conduct and practice in the event of a complaint or serious adverse event
- an independent investigator to receive and investigate complaints about breach of the National Code

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- power for the independent investigator (or a tribunal) to issue prohibition orders and give public warnings about health care workers who have failed to abide by the required standards of conduct and practice, and
- offence provisions for any person who breaches a prohibition order to be prosecuted through the appropriate court.

How was the National Code of Conduct developed?

In 2011, the then Victorian Department of Health, on behalf of the Australian Health Minister's Advisory Council (AHMAC), undertook a national public consultation on options for the regulation of unregistered health practitioners. In June 2013, in response to the report of the consultation, Health Ministers agreed in principle to strengthen state and territory health complaints mechanisms via:

- a single national Code of Conduct for unregistered health practitioners to be made by regulation in each state and territory, and statutory powers to enforce the National Code
- investigating breaches and issuing prohibition orders
- a nationally accessible web-based register of prohibition orders
- mutual recognition of prohibition orders across all states and territories.

In March 2014, the then Victorian Department of Health, on behalf of AHMAC, undertook a second national public consultation process on the terms of a proposed National Code and policy parameters to underpin the nationally consistent implementation of the National Code. A draft Code of Conduct was prepared for discussion, based on the codes already applied in New South Wales and South Australia.

What does the National Code of Conduct include?

The National Code includes the following main clauses (further detail is set out in sub-clauses):

Clause 1: Health care workers to provide services in a safe and ethical manner

Clause 2: Health care workers to obtain consent

Clause 3: Appropriate conduct in relation to treatment advice

Clause 4: Health care workers to report concerns about treatment or care provided by other health care workers

Clause 5: Health care workers to take appropriate action in response to adverse events

Clause 6: Health care workers to adopt standard precautions for infection control

Clause 7: Health care workers diagnosed with infectious medical conditions

Clause 8: Health care workers not to make claims to cure certain serious illnesses

Clause 9: Health care workers not to misinform their clients

Clause 10: Health care workers not to practice under the influence of alcohol or drugs

Clause 11: Health care workers with certain mental or physical impairment

Clause 12: Health care workers not to financially exploit clients

Clause 13: Health care workers not to engage in sexual misconduct

Clause 14: Health care workers to comply with relevant privacy laws

Clause 15: Health care workers to keep appropriate records

Clause 16: Health care workers to be covered by appropriate insurance

Clause 17: Health care workers to display code and other information

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Who does the National Code of Conduct apply to?

The National Code, once enacted in a state or territory, applies to any person who provides a health service and is not subject to regulation under the National Registration and Accreditation Scheme (NRAS). In some circumstances it also applies to health practitioners registered under NRAS, to the extent that they provide services that are unrelated to or outside the typical scope of practice of their registration.

While each state and territory's statute will identify who is subject to the National Code, health occupations likely to be captured will include (but are not limited to):

allied health assistants	medical scientists
art therapists	music, dance and drama therapists
aromatherapists	myotherapists
assistants in nursing	naturopaths
audiologists and audiometrists	nutritionists
ayurvedic medicine practitioners	optical dispensers
bioresonance practitioners	orthoptists
cardiac scientists	orthotists and prosthetists
clinical perfusionists	paramedics
complementary and alternative medicine (CAM) practitioners	pharmacy assistants
counsellors and psychotherapists	phlebotomists
dental technicians	reflexologists
dental assistants	reiki practitioners
dietitians	respiratory scientists
herbalists	shiatsu therapists
homoeopaths	sleep technologists
hypnotherapists	social workers
lactation consultants	sonographers
massage therapists	speech pathologists

Which states and territories already have a code-regulation regime for unregistered health care workers?

As at April 2015, three states have already established Codes of Conduct for unregistered health practitioners or code-regulation regimes. They are:

- NSW – enacted 2007, commenced 2008
- South Australia – enacted 2012, commenced 14 March 2013
- Queensland – enacted 2013, commenced 1 July 2014.

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How is the National Code of Conduct to be implemented?

Each state and territory is responsible for progressing legislative changes to give effect to the National Code or code-regulation regime. A number of jurisdictions already have statutory Codes of Conduct and code-regulation regimes. These jurisdictions will examine the National Code, how it should apply and its relationship to jurisdiction-based codes.

A lead jurisdiction (still to be determined) will undertake national work that will include making arrangements for the administration of a national register of prohibition orders; developing and maintaining explanatory materials; and establishing a common framework for data collection and performance reporting.

How do I make a complaint about a health care worker who I believe has breached the National Code of Conduct?

You may contact the relevant health complaints entity in the state or territory where you live. A list is provided below. However, please be aware that while Health Ministers have agreed to take necessary action to implement the National Code of Conduct, a code-regulation regime is not yet in force in every state and territory. Therefore, while your complaint about an unregistered health care worker can be lodged with your state or territory health complaints entity, only some complaints will be able to be accepted and investigated. In other situations, your local Commissioner may not currently have the legislative power to address your complaint, including issuing prohibition orders and/or making a public statement.

Who is responsible for investigating complaints about breaches of the National Code of Conduct?

Each state and territory determines the body or bodies responsible for receiving and investigating complaints about a possible breach of the National Code of Conduct. In most cases, this will be the state or territory's health complaints entity.

A health complaints entity has the same meaning as in section 5 of the *Health Practitioner Regulation National Law*, that is, an entity that is established by or under an Act of a jurisdiction and whose functions include conciliating, investigating and resolving complaints made against health service providers and investigating failures in the health system.

State and territory health complaint entities and their contact details:

ACT: Health Services Commissioner / Human Rights Commission: (02) 6205 2222

NSW: Health Care Complaints Commission: (02) 9219 7444

NT: Health and Community Services Complaints Commission: (08) 8999 1969

Qld: Office of the Health Ombudsman: (07) 3120 5999

SA: Health and Community Services Complaints Commissioner: (08) 8226 8666

WA: The Health and Disability Services Complaints Office: 1800 813 583

Tas: Health Complaints Commissioner: 1800 001 170

Vic: Health Services Commissioner: 1300 582 113

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What powers does a health complaints entity have with respect to the National Code?

State and territory health complaints entities have powers to receive and investigate complaints about health care workers. In those jurisdictions that have enacted (or amended) legislation to give effect to a code-regulation regime, the health complaints entity has powers to issue a prohibition order or interim prohibition order, where the National Code has been breached or where the health care worker has been charged with or found guilty of certain specified and serious criminal offences.

What happens if a health care worker does not comply with a prohibition order?

Either the police or the health complaints entity in a state or territory initiates a prosecution before the relevant state or territory court. If the health care worker is found guilty of breaching a prohibition order, the court may impose a penalty. Penalties for breach of a prohibition order are specified in each state or territory's statute. Penalties commonly include a fine and/or imprisonment for periods of up to 12 months or two years.

Where can I find out whether a health care worker is subject to a prohibition order?

Health Ministers have agreed to proceed to establish a National Register of Prohibition Orders that is accessible via the internet. In the interim, the prohibition orders published in those states that have already implemented a code-regulation regime are published on their respective websites. You may check the following websites:

New South Wales:

<http://www.hccc.nsw.gov.au/Hearings---decisions/Public-Statements-Warnings>

South Australia:

<http://www.hcsc.sa.gov.au/orders-issued-code-conduct-unregistered-health-practitioners/>

Queensland:

<http://www.oho.qld.gov.au/news-updates/prohibition-orders/>

How can I find out more about the National Code of Conduct and the code-regulation regime?

Further information is available on this website, including the reports and communiqués released by Health Ministers.

<http://www.coaghealthcouncil.gov.au/Announcements/ArtMID/527/ArticleID/54/A-National-Code-of-Conduct-for-health-care-workers-final-report>

You may also contact your local health complaints entity.