

National Code of Conduct for health care workers



The National Code of Conduct for health care workers has not yet commenced in Western Australia. It will commence on a day to be proclaimed. The information below is provided to assist all Western Australians with understanding the National Code.

The Health and Disability Services Complaints Office (HaDSCO) is an independent Statutory Authority providing an impartial resolution service for complaints about health, disability and mental health services in Western Australia and the Indian Ocean Territories.

HaDSCO will become responsible for implementing a new complaints jurisdiction for the National Code of Conduct for health care workers once the *Health and Disability Services (Complaints) Amendment Act 2022* is proclaimed.

What is the National Code?

The National Code is a statutory code of conduct that sets minimum standards of practice for health care workers who are not registered under the National Registration Accreditation Scheme (NRAS), or who provide services unrelated to their registration, or who are student or volunteer health care workers. The NRAS covers 16 practitioner groups (professions) who are regulated by 15 National Boards. The NRAS is administered by the Australian Health Practitioner Regulation Agency.

The National Code does not restrict entry into practice but allows for effective action to be taken against a health care worker who fails to comply with the proper standards as provided for in the code. This includes the issuing of Prohibition Orders to cease practice or placing conditions on a health care worker's practice where their conduct presents a serious risk to public health and safety.

The National Code contains 17 clauses which set out the way in which health care workers should undertake their practice. The clauses were agreed to by the former Council of Australian Governments (COAG) Health Council in 2015 and were developed to be a nationally consistent legislative model.

Amongst other things, the National Code will require unregistered health care workers to:

- Provide services in a safe and ethical manner
- Not provide health care of a type outside of their experience or training or services they are not qualified to provide
- Not make claims to cure certain illnesses
- Not financially exploit clients
- Not engage in improper personal relationships with a client
- Be covered by appropriate professional indemnity insurance, and
- Display the code clauses and information about how to make a complaint.

The 17 code clauses are included as an Appendix at the end of this information sheet.





Why do we need a National Code?

The purpose of the National Code 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 also addresses a regulatory gap in relation to health care workers who are not regulated under the NRAS.

Western Australia will now be joining most other states that have already passed similar legislation to implement the National Code.

While the majority of unregistered health care workers are practicing in a safe, competent and ethical manner, there are however occasions where a health care worker's conduct or performance may be placing people at risk of serious harm.

Which health care workers will the National Code apply to?

The National Code will apply to any individual providing a health service who is otherwise not included in the 16 health professions currently regulated by the NRAS or who provide services unrelated to their NRAS registration.

This can include (but is not limited to): counsellors, dieticians, doulas, kinesiologists, massage therapists, naturopaths, nutritionists, psychotherapists, reiki practitioners, social workers and speech pathologists. It may also include some other types of allied, alternative and community health service workers.

What is HaDSCO's role?

Implementation of the National Code in Western Australia allows HaDSCO to take effective action against a health care worker who fails to comply with the National Code's standards and presents a serious risk to public health and safety.

Following implementation of the National Code HaDSCO will be able to:

- Investigate complaints about alleged National Code breaches.
- Undertake 'Director-initiated' investigations into possible National Code breaches, allowing for investigations to be undertaken without a complaint being received.
- Issue an Interim Prohibition Order (IPO) against a health care worker to allow for an investigation into their conduct to be completed in cases where a risk to public health and safety has been identified.
- Issue a Prohibition Order (PO) against a health care worker at the end of an investigation where their continued practice represents a serious risk to public health and safety.
- Monitor compliance with IPOs and POs and take action for breaches.
- Publish Public Health Warning Statements when there is a risk to the health and safety of the public.

What are some other features of the National Code jurisdiction?

- Anyone can make a complaint about an alleged breach of the National Code.
- Health care workers have a right of review to the State Administrative Tribunal in regard to the issuing of IPOs, POs and Public Health Warning Statements.
- IPOs, POs and Public Health Warning Statements can be varied or revoked.
- IPOs, POs and Public Health Warning Statements must also be published on HaDSCO's website.





- Before issuing an IPO, the Director of HaDSCO has to reasonably believe that a health care worker has failed to comply with the National Code or has been convicted of a prescribed offence and is satisfied that it is necessary to issue the IPO to avoid a serious risk to the life, health, safety or welfare of a person or the public.
- Before issuing a PO, the Director of HaDSCO has to be satisfied that a health care worker has failed to comply with the National Code or has been convicted of a prescribed offence and the Director is satisfied that it is necessary to issue the PO to avoid a serious risk to the life, health, safety or welfare of a person or the public.
- HaDSCO has expanded investigation powers under the National Code to obtain a level of evidence to enable an informed decision to be made on whether a PO should be issued.
- The Director of HaDSCO can request criminal record information from the Police Commissioner. This request can only be made when deciding whether to issue an IPO or PO or publish a Public Health Warning Statement.
- IPOs and POs issued in New South Wales, South Australia, Queensland, Victoria and Western Australia are mutually recognised in each of these States and it is an offence to deliver health services where IPOs and POs have already been issued in one of these States.
- Penalties apply where a health care worker fails to comply with an IPO or PO. These are set at \$30,000. This also includes a failure to comply with an interstate IPO or PO. This is set at \$30,000 for an individual and \$60,000 for a body corporate.

When can National Code complaints be made?

National Code complaints can be made once the *Health and Disability Services (Complaints) Amendment Act 2022* is proclaimed. This is expected to occur in early 2023.

The National Code will not apply retrospectively. This means that HaDSCO can only deal with matters giving rise to complaints following National Code implementation.

Further details of the National Code as it applies in Western Australia will be made available on the [HaDSCO website](#) once the National Code has been implemented.

What can health care workers do to prepare for the National Code?

Health care workers who are not registered through the NRAS are automatically covered by and must comply with the National Code.

Once the National Code is implemented, HaDSCO will be working closely with stakeholders to provide education, advice and guidance to assist in building their capacity to meet their obligations under the National Code.

Posters displaying the National Code of Conduct clauses will also be made available to download from HaDSCO's website for the use of health care workers.

How do I get more information?

Phone: (08) 6551 7600
Email: mail@hadsco.wa.gov.au
Web: www.hadsco.wa.gov.au



Interpreter Service: 131 450
tisonational.gov.au
National Relay Service:
1800 555 660
relayservice.wa.gov.au





Appendix

Clauses of the National Code of Conduct for health care workers

Extract below is from the former Council of Australian Governments Health Council's [Communique 17 April 2015: A National Code of Conduct for health care workers.](#)

The clauses are listed below. Each clause also has subclauses.

- 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 unlawful substances.
- 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.



Health and Disability Services
Complaints Office (HaDSCO)

