

# Code of Conduct for unregistered health practitioners

Made under the Public Health Regulation 2012, Schedule 3

## 1 Definitions

In this code of conduct:

**health practitioner** and **health service** have the same meaning as in the *Health Care Complaints Act 1993*.

**Note.** The *Health Care Complaints Act 1993* defines those terms as follows:

**health practitioner** means a natural person who provides a health service (whether or not the person is registered under the Health Practitioner Regulation National Law).

**health service** includes the following services, whether provided as public or private services:

- (a) medical, hospital, nursing and midwifery services,
- (b) dental services,
- (c) mental health services,
- (d) pharmaceutical services,
- (e) ambulance services,
- (f) community health services,
- (g) health education services,
- (h) welfare services necessary to implement any services referred to in paragraphs (a)–(g),
- (i) services provided in connection with Aboriginal and Torres Strait Islander health practices and medical radiation practices,,
- (j) Chinese medicine, chiropractic, occupational therapy, optometry, osteopathy, physiotherapy, podiatry and psychology services,
- (j1) optical dispensing, dietitian, massage therapy, naturopathy, acupuncture, speech therapy, audiology and audiometry services
- (k) services provided in other alternative health care fields,
- (k1) forensic pathology services,
- (l) a service prescribed by the regulations as a health service for the purposes of the *Health Care Complaints Act 1993*.

## 2 Application of code of conduct

This code of conduct applies to the provision of health services by:

- (a) health practitioners who are not subject to the scheme for registration under the Health Practitioner Regulation National Law (including de-registered health practitioners), and
- (b) health practitioners who are registered under the Health Practitioner Regulation National Law who provide health services that are unrelated to their registration.

**Note.** Health practitioners may be subject to other requirements relating to the provision of health services to which this Code applies, including, for example, requirements imposed by Part 2A of the Act and the regulations under the Act relating to skin penetration procedures.

## 3 Health practitioners to provide services in safe and ethical manner

- (1) A health practitioner must provide health services in a safe and ethical manner.
- (2) Without limiting subclause (1), health practitioners must comply with the following principles:
  - (a) a health practitioner must maintain the necessary competence in his or her field of practice,
  - (b) a health practitioner must not provide health care of a type that is outside his or her experience or training,
    - (b1) a health practitioner must not provide services that he or she is not qualified to provide,
    - (b2) a health practitioner must not use his or her possession of particular qualifications to mislead or deceive his or her clients as to his or her competence in his or her field of practice or ability to provide treatment,
  - (c) a health practitioner must prescribe only treatments or appliances that serve the needs of the client,
  - (d) a health practitioner must recognise the limitations of the treatment he or she can provide and refer clients to other competent health practitioners in appropriate circumstances,
  - (e) a health practitioner must recommend to his or her clients that additional opinions and services be sought, where appropriate,
  - (f) a health practitioner must assist his or her clients to find other appropriate health care professionals, if required and practicable,
  - (g) a health practitioner must encourage his or her clients to inform their treating medical practitioner (if any) of the treatments they are receiving,
  - (h) a health practitioner must have a sound understanding of any adverse interactions between the therapies and treatments he or she provides or prescribes and any other medications or treatments, whether prescribed or not, that the health practitioner is aware the client is taking or receiving,
  - (i) a health practitioner must ensure that appropriate first aid is available to deal with any misadventure during a client consultation,
  - (j) a health practitioner must obtain appropriate emergency assistance (for example, from the Ambulance Service) in the event of any serious misadventure during a client consultation.

## 4 Health practitioners diagnosed with infectious medical condition

- (1) A health practitioner who has been diagnosed with a medical condition that can be passed on to clients must ensure that he or she practises in a manner that does not put clients at risk.
- (2) Without limiting subclause (1), a health practitioner who has been diagnosed with a medical condition that can be passed on to clients should take and follow advice from an appropriate medical practitioner on the steps to be taken to modify his or her practice to avoid the possibility of transmitting that condition to clients.

## 5 Health practitioners not to make claims to cure certain serious illnesses

- (1) A health practitioner must not hold himself or herself out as qualified, able or willing to cure cancer and other terminal illnesses.
- (2) A health practitioner may make a claim as to his or her ability or willingness to treat or alleviate the symptoms of those illnesses if that claim can be substantiated.

## 6 Health practitioners to adopt standard precautions for infection control

- (1) A health practitioner must adopt standard precautions for the control of infection in his or her practice.
- (2) Without limiting subclause (1), a health practitioner who carries out a skin penetration procedure within the meaning of section 51 (3) of the Act must comply with the relevant regulations under the Act in relation to the carrying out of the procedure.

**Note.** The Act defines **skin penetration procedure** as any procedure (whether medical or not) that involves skin penetration (such as acupuncture, tattooing, ear piercing or hair removal), and includes any procedure declared by the regulations to be a skin penetration procedure, but does not include:

- (a) any procedure carried out by a health practitioner registered under the Health Practitioner Regulation National Law, or by a person acting under the direction or supervision of a registered health practitioner, in the course of providing a health service, or
- (b) any procedure declared by the regulations not to be a skin penetration procedure.

## 7 Appropriate conduct in relation to treatment advice

- (1) A health practitioner must not attempt to dissuade clients from seeking or continuing with treatment by a registered medical practitioner.
- (2) A health practitioner must accept the right of his or her clients to make informed choices in relation to their health care.
- (3) A health practitioner should communicate and co-operate with colleagues and other health care practitioners and agencies in the best interests of their clients.
- (4) A health practitioner who has serious concerns about the treatment provided to any of his or her clients by another health practitioner must refer the matter to the Health Care Complaints Commission.

## 8 Health practitioners not to practise under influence or alcohol or drugs

- (1) A health practitioner must not practise under the influence of alcohol or unlawful drugs.
- (2) A health practitioner who is taking prescribed medication must obtain advice from the prescribing health practitioner on the impact of the medication on his or her ability to practice and must refrain from treating clients in circumstances where his or her ability is or may be impaired.

## 9 Health practitioners not to practise with certain physical or mental conditions

A health practitioner must not practise while suffering from a physical or mental impairment, disability, condition or disorder (including an addiction to alcohol or a drug, whether or not prescribed) that detrimentally affects, or is likely to detrimentally affect, his or her ability to practise or that places clients at risk of harm.

## 10 Health practitioners not to financially exploit clients

- (1) A health practitioner must not accept financial inducements or gifts for referring clients to other health practitioners or to the suppliers of medications or therapeutic goods or devices.
- (2) A health practitioner must not offer financial inducements or gifts in return for client referrals from other health practitioners.
- (3) A health practitioner must not provide services and treatments to clients unless they are designed to maintain or improve the clients' health or wellbeing.

## 11 Health practitioners required to have clinical basis for treatments

A health practitioner must not diagnose or treat an illness or condition without an adequate clinical basis.

## 12 Health practitioners not to misinform their clients

- (1) A health practitioner must not engage in any form of misinformation or misrepresentation in relation to the products or services he or she provides or as to his or her qualifications, training or professional affiliations.
- (2) A health practitioner must provide truthful information as to his or her qualifications, training or professional affiliations if asked about those matters by a client.
- (3) A health practitioner must not make claims, either directly or in advertising or promotional material, about the efficacy of treatment or services provided if those claims cannot be substantiated.

## 13 Health practitioners not to engage in sexual or improper personal relationship with client

- (1) A health practitioner must not engage in a sexual or other close personal relationship with a client.
- (2) Before engaging in a sexual or other close personal relationship with a former client, a health practitioner must ensure that a suitable period of time has elapsed since the conclusion of their therapeutic relationship.

## 14 Health practitioners to comply with relevant privacy laws

A health practitioner must comply with the relevant legislation of the State or the Commonwealth relating to his or her clients' health information, including the *Privacy Act 1988* of the Commonwealth and the *Health Records and Information Privacy Act 2002*.

## 15 Health practitioners to keep appropriate records

A health practitioner must maintain accurate, legible and contemporaneous clinical records for each client consultation.

## 16 Health practitioners to keep appropriate insurance

A health practitioner should ensure that appropriate indemnity insurance arrangements are in place in relation to his or her practice.

## 17 Certain health practitioners to display code and other information

- (1) A health practitioner must display a copy of each of the following documents at all premises where the health practitioner carries on his or her practice:
  - (a) this code of conduct,
  - (b) a document that gives information about the way in which clients may make a complaint to the Health Care Complaints Commission, being a document in a form approved by the Director-General.
- (2) Copies of those documents must be displayed in a position and manner that makes them easily visible to clients entering the relevant premises.
- (3) This clause does not apply to any of the following premises:
  - (a) the premises of any body within the public health system (as defined in section 6 of the *Health Services Act 1997*),
  - (b) private health facilities (as defined in the *Private Health Facilities Act 2007*)
  - (c) premises of the Ambulance Service of NSW (as defined in the *Health Services Act 1997*),
  - (d) premises of approved providers (within the meaning of the *Aged Care Act 1997* of the Commonwealth).

## 18 Sale and supply of optical appliances

- (1) A health practitioner must not sell or supply an optical appliance (other than cosmetic contact lenses) to a person unless he or she does so in accordance with a prescription from a person authorised to prescribe the optical appliance under section 122 of the Health Practitioner Regulation National Law.
- (2) A health practitioner must not sell or supply contact lenses to a person unless the health practitioner:
  - (a) was licensed under the *Optical Dispensers Act 1963* immediately before its repeal, or
  - (b) has a Certificate IV in optical dispensing or an equivalent qualification.
- (3) A health practitioner who sells or supplies contact lenses to a person must provide the person with written information about the care, handling and wearing of contact lenses, including advice about possible adverse reactions to wearing contact lenses.
- (4) This clause does not apply to the sale or supply of the following:
  - (a) hand-held magnifiers,
  - (b) corrective lenses designed for use only in diving masks or swimming goggles,
  - (c) ready made spectacles that:
    - (i) are designed to alleviate the effects of presbyopia only, and
    - (ii) comprise 2 lenses of equal power, being a power of plus one dioptré or more but not exceeding plus 3.5 dioptrés.
- (5) In this clause:

**cosmetic contact lenses** means contact lenses that are not designed to correct, remedy or relieve any refractive abnormality or defect of sight.

**optical appliance** has the same meaning as it has in section 122 of the Health Practitioner Regulation National Law.

### CONCERNED ABOUT YOUR HEALTH CARE?

The Code of Conduct for unregistered health practitioners sets out what you can expect from your provider. If you are concerned about the health service that was provided to you or your next of kin, talk to the practitioner immediately. In most cases the health service provider will try to resolve them.

If you are not satisfied with the provider's response, contact the Inquiry Service of the Health Care Complaints Commission on (02) 9219 7444 or toll free on 1800 043 159 for a confidential discussion. If your complaint is about sexual or physical assault or relates to the immediate health or safety of a person, you should contact the Commission immediately.

### What is the Health Care Complaints Commission?

The Health Care Complaints Commission is an independent body dealing with complaints about health services to protect the public health and safety.

### Service in other languages

The Commission uses interpreting services to assist people whose first language is not English. If you need an interpreter, please contact the Translating and Interpreting Service (TIS National) on 131 450 and ask to be connected to the Health Care Complaints Commission on 1800 043 159 (9.00 am to 5.00 pm Monday to Friday).

### More information

For more information about the Health Care Complaints Commission, please visit the website [www.hccc.nsw.gov.au](http://www.hccc.nsw.gov.au).

### Contact the Health Care Complaints Commission

Office address: Level 13, 323 Castlereagh Street, SYDNEY NSW 2000

Post address: Locked Mail Bag 18, STRAWBERRY HILLS NSW 2012

Telephone: (02) 9219 7444

Toll Free in NSW: 1800 043 159

Fax: (02) 9281 4585

E-mail: [hccc@hccc.nsw.gov.au](mailto:hccc@hccc.nsw.gov.au)

People using telephone typewriters please call (02) 9219 7555

