

Schedule 3 Code of conduct for non-registered health practitioners

section 115(1)

Note— In the *Public Health Act 2010* and this code of conduct, **health practitioner**, **health service** and **relevant health organisation** have the same meanings as in the *Health Care Complaints Act 1993*.

A **health practitioner** means an individual who provides a health service. A **health service** includes services in the following areas: medical, hospital, nursing, midwifery, dental, mental health, pharmaceutical, ambulance, community health, health education, some related welfare services, Aboriginal and Torres Strait Islander health practice, medical radiation, Chinese medicine, chiropractic, occupational therapy, optometry, osteopathy, physiotherapy, podiatry, psychology, optical dispensing, dietitian, massage therapy, naturopathy, acupuncture, speech therapy, audiology, audiometry, other alternative health care fields and forensic pathology services.

A **relevant health organisation** means a person, including an individual or a corporation, that provides a health service, other than a health practitioner, and does not include a public health organisation, public hospital or private health facility.

1 Health services to be provided in safe and ethical manner

- (1) A health practitioner must provide health services in a safe and ethical manner.
- (2) Without limiting subsection (1), a health practitioner must comply with the following principles—
 - (a) a health practitioner must maintain the necessary competence in the practitioner's field of practice,
 - (b) a health practitioner must practise in accordance with accepted professional standards,
 - (c) a health practitioner must not provide health care of a type that is outside the practitioner's experience or training,
 - (d) a health practitioner must not provide services that the practitioner is not qualified to provide,
 - (e) a health practitioner must not use the possession of particular qualifications to mislead or deceive a client as to the practitioner's competence in the practitioner's field of practice or ability to provide treatment,
 - (f) a health practitioner must prescribe only treatments or appliances that serve the needs of the client,
 - (g) a health practitioner must recognise the limitations of the treatment the practitioner can provide and refer a client to other competent health practitioners in appropriate circumstances,
 - (h) a health practitioner must recommend to a client that additional opinions and services be sought, where appropriate,
 - (i) a health practitioner must assist a client to find other appropriate health care professionals, if required and practicable,
 - (j) a health practitioner must encourage a client to inform the client's treating medical practitioner, if any, of the treatments the client is receiving,
 - (k) a health practitioner must have a sound understanding of adverse interactions between the therapies and treatments the practitioner provides or prescribes and other medications or treatments, whether prescribed or not, that the practitioner is aware a client is taking or receiving,
 - (l) a health practitioner must ensure appropriate first aid is available to deal with misadventure during a client consultation,

- (m) a health practitioner must obtain appropriate emergency assistance, for example, from the Ambulance Service, if there is a serious misadventure during a client consultation.

2 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 the practitioner practises in a manner that does not put clients at risk.
- (2) Without limiting subsection (1), a health practitioner who has been diagnosed with a medical condition that can be passed on to clients should take and follow relevant advice from an appropriate medical practitioner.
- (3) In this section—
relevant advice means advice on the steps to be taken to modify a health practitioner's practice to avoid the possibility of transmitting the practitioner's medical condition to clients.

3 Health practitioners not to make claims to cure certain serious illnesses

- (1) A health practitioner must not hold out that the practitioner is qualified, able or willing to cure cancer or other terminal or incurable illnesses.
- (2) A health practitioner may make a claim as to the practitioner's ability or willingness to treat or alleviate the symptoms of the illnesses only if the claim can be substantiated.

4 Health practitioners to adopt standard precautions for infection control

- (1) A health practitioner must adopt standard precautions for the control of infection in the practitioner's practice.
- (2) Without limiting subsection (1), a health practitioner who carries out a skin penetration procedure must comply with the relevant provisions of this Regulation in relation to the carrying out of the procedure.

5 Appropriate conduct in relation to treatment advice

- (1) A health practitioner must not attempt to dissuade a client from seeking or continuing with treatment by a registered medical practitioner.
- (2) A health practitioner must accept the client's right to make informed choices in relation to the client's 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 the practitioner's clients.
- (4) A health practitioner who has serious concerns about the treatment provided to a client by another health practitioner or a relevant health organisation must refer the matter to the Health Care Complaints Commission.

6 Health practitioners not to practise under influence of 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—
 - (a) obtain advice from the prescribing health practitioner on the impact of the medication on the practitioner's ability to practise, and
 - (b) refrain from treating a client in circumstances where the practitioner's ability is or may be impaired.

7 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—

- (a) detrimentally affects, or is likely to detrimentally affect, the practitioner's ability to practise, or
- (b) places clients at risk of harm.

8 Health practitioners not to financially exploit clients

- (1) A health practitioner must not financially exploit a client.
- (2) 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.
- (3) A health practitioner must not offer financial inducements or gifts in return for client referrals from other health practitioners or relevant health organisations.
- (4) A health practitioner must not provide services and treatments to a client unless they are designed to maintain or improve the client's health or wellbeing.

9 Health practitioner required to have clinical basis for treatments

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

10 Health practitioners not to misinform clients

- (1) A health practitioner must not engage in misinformation or misrepresentation about—
 - (a) the products or services the practitioner provides, or
 - (b) the practitioner's qualifications, training or professional affiliations.
- (2) A health practitioner must provide truthful information about the practitioner's qualifications, training or professional affiliations if a client asks for information about the matters.
- (3) A health practitioner must not make claims, directly or in advertising or promotional material, about the efficacy of treatment or services provided if the claims cannot be substantiated.

11 Health practitioners not to engage in sexual or close relationship with clients

- (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 a suitable period of time has elapsed since the conclusion of their therapeutic relationship.

12 Health practitioners must keep appropriate records

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

13 Health practitioners must keep appropriate insurance

A health practitioner must ensure appropriate indemnity insurance arrangements are in place in relation to the practitioner's practice.

14 Health practitioners must ensure confidentiality and privacy of client health information

A health practitioner must have appropriate policies and procedures in place to ensure the health information of the practitioner's clients is kept confidential and the privacy of the practitioner's clients is protected, including by complying with relevant legislation.

Example—A health practitioner may have obligations under the *Health Records and Information Privacy Act 2002* and the *Privacy Act 1988* of the Commonwealth.

15 Display of code of conduct and other information

- (1) A health practitioner must display the following documents at all premises where the practitioner carries on a practice—
 - (a) this code of conduct,
 - (b) a document, in a form approved by the Secretary, containing information about the way in which clients may make a complaint to the Health Care Complaints Commission.
- (2) The documents must be displayed in a position and manner that makes them easily visible to clients entering the premises.
- (3) The documents must also be publicly available on the health practitioner's website, if the health practitioner has a website.
- (4) This section does not apply to the following premises—
 - (a) the premises of a body within the public health system within the meaning of the *Health Services Act 1997*,
 - (b) a private health facility within the meaning of the *Private Health Facilities Act 2007*,
 - (c) premises at which the Ambulance Service of NSW provides ambulance services within the meaning of the *Health Services Act 1997*,
 - (d) premises of an approved provider within the meaning of the *Aged Care Act 1997* of the Commonwealth.

16 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 the practitioner does so in accordance with a prescription from a person lawfully authorised to prescribe the optical appliance.

Note— See the *Health Practitioner Regulation National Law (NSW)*, section 122 for the persons who can lawfully prescribe optical appliances in New South Wales.
- (2) A health practitioner must not sell or supply contact lenses to a person unless the 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 section 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—

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- (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 section—
 - cosmetic contact lenses* means contact lenses that are not designed to correct, remedy or relieve a refractive abnormality or defect of sight.
 - optical appliance* has the same meaning as in the *Health Practitioner Regulation National Law (NSW)*, section 122.

Schedule 4 Code of conduct for health organisations

section 115(2)

Note— In the *Public Health Act 2010* and this code, **health practitioner**, **health service** and **relevant health organisation** have the same meanings as in the *Health Care Complaints Act 1993*.

A **health practitioner** means an individual who provides a health service. A **health service** includes services in the following areas: medical, hospital, nursing, midwifery, dental, mental health, pharmaceutical, ambulance, community health, health education, some related welfare services, Aboriginal and Torres Strait Islander health practice, medical radiation, Chinese medicine, chiropractic, occupational therapy, optometry, osteopathy, physiotherapy, podiatry, psychology, optical dispensing, dietitian, massage therapy, naturopathy, acupuncture, speech therapy, audiology, audiometry, other alternative health care fields and forensic pathology services.

A **relevant health organisation** means a body that provides a health service, other than a health practitioner, and does not include a public health organisation, public hospital or private health facility.

1 Definition

In this code—

employee of a relevant health organisation means a person employed or engaged by the relevant health organisation to provide health services and includes a health practitioner, whether or not the code of conduct set out in Schedule 3 applies to the health practitioner.

2 Compliance with code of conduct for health practitioners

If the code of conduct set out in Schedule 3 applies to an employee of a relevant health organisation, the relevant health organisation must ensure the employee complies with the code.

3 Health services to be provided in safe and ethical manner

- (1) A relevant health organisation must provide health services in a safe and ethical manner.
- (2) Without limiting subsection (1), a relevant health organisation must comply with the following principles—
 - (a) a relevant health organisation must ensure its employees maintain the necessary competence in the relevant field of practice,
 - (b) a relevant health organisation must provide health services in accordance with accepted professional standards,
 - (c) a relevant health organisation must assist a client to find other appropriate health care professionals, if required and practicable,
 - (d) a relevant health organisation must encourage a client to inform the client's treating medical practitioner, if any, of the treatments the client is receiving,
 - (e) a relevant health organisation must ensure appropriate first aid is available to deal with misadventure during a client consultation,
 - (f) a relevant health organisation must obtain appropriate emergency assistance, for example, from the Ambulance Service, if there is a serious misadventure during a client consultation.
- (3) A relevant health organisation may make a claim as to the organisation's ability or willingness to treat or alleviate the symptoms of the illnesses only if the claim can be substantiated.

4 Standard precautions for infection control to be adopted

- (1) A relevant health organisation must adopt standard precautions for the control of infection in the organisation's provision of health services.

- (2) Without limiting subsection (1), a relevant health organisation who provides a health service that includes the carrying out of a skin penetration procedure must comply with the relevant provisions of this Regulation in relation to the carrying out of the procedure.

5 Appropriate conduct in relation to treatment advice

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

6 Clients not to be financially exploited

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

7 Clients not to be misinformed

- (1) A relevant health organisation must not engage in misinformation or misrepresentation about—
 - (a) the products or services the organisation provides, or
 - (b) the qualifications, training or professional affiliations of the organisation's employees.
- (2) A relevant health organisation must provide truthful information about the qualifications, training or professional affiliations of the organisation's employees if a client asks for information about the matters.
- (3) A relevant health organisation must not make claims, directly or in advertising or promotional material, about the efficacy of treatment or services provided if the claims cannot be substantiated.

8 Confidentiality of client health information

A relevant health organisation must have appropriate policies and procedures in place to ensure the health information of the organisation's clients is kept confidential and the privacy of the organisation's clients is protected, including by complying with relevant legislation.

Example— A relevant health organisation may have obligations under the *Health Records and Information Privacy Act 2002* and the *Privacy Act 1988* of the Commonwealth.

9 Storage and supply of medicines

A relevant health organisation must have appropriate policies and procedures in place to ensure the following is carried out in accordance with relevant legislation—

- (a) the storage of medicines,
- (b) the supply and administration of medicines,
- (c) the keeping of records about the storage, supply and administration of medicines.

Example— A relevant health organisation may have obligations under the *Poisons and Therapeutic Goods Act 1966*.

10 Display of code of conduct and other information

- (1) A relevant health organisation must display the following documents at all premises where the relevant health organisation provides health services—
 - (a) this code of conduct,
 - (b) a document, in a form approved by the Secretary, containing information about the way in which clients may make a complaint to the Health Care Complaints Commission.
- (2) The documents must be displayed in a position and manner that makes them easily visible to clients entering the premises.
- (3) The documents must also be publicly available on the relevant health organisation's website, if the organisation has a website.