

In line with the COAG Health Council agreement to the National Code in 2015, the ACT is in the process of finalising amendments to the *Human Rights Commission Act 2005* and regulations to implement the National Code in the ACT. Initial consultation on these amendments occurred in August 2018.

The ACT Health Directorate is now inviting any final comments on the proposed National Code of Conduct for Health Care Workers (the National Code).

The purpose of the National Code is to protect the public by setting minimum standards of conduct and practice for all public and private health care workers who are not registered under the National Registration and Accreditation Scheme for health practitioners, or for registered health practitioners who provide services unrelated to their registration.

In agreeing to the National Code, Health Ministers noted that, while the vast majority of unregistered health care workers practise in a safe, competent and ethical manner, “there are however, a small proportion of unregistered health care workers who present a serious risk to the public because they are incompetent, impaired or they engage in exploitative, predatory and illegal conduct such that if they were a registered health practitioner, would result in cancellation of their registration and removal of their right to practise”.

Implementation of the National Code in the ACT will enable action to be taken where a health care worker breaches a provision of the National Code.

In the ACT, legislative change will be required to give effect to the National Code. Details about this and further information on the National Code and its provisions, are set out below and in the other attachments.

While consultation was undertaken in the ACT and at the national level to inform development of the National Code, ACT Health is now seeking written comments on the proposed approach to implement the National Code in the ACT.

How to Join the Conversation

Comments should focus on how the National Code is proposed to be implemented in the ACT through the provisions set out in the draft legislative amendments and regulation.

It should be noted that comments relating to the merits of a National Code are not sought as these have already been agreed by the ACT Government as part of the COAG Health Council decision. =

To contribute to this conversation, please:

1. Email your comments to HealthPolicy@act.gov.au with the following subject heading: *Consultation Paper – National Code of Conduct for Health Care Workers*; or
2. Mail your comments to:

Consultation Paper – National Code of Conduct for Health Care Workers

Health Policy Unit

ACT Health

GPO Box 825

CANBERRA CITY ACT 2601

Please indicate:

- Whether the comments are being made by an organisation or an individual, and
- Your name and the name of your organisation (if applicable).

Comments must be received by **close of business Friday 21 December 2018**.

Confidentiality is assured, as submissions will not be published.

Next Steps

Feedback received will contribute to the finalisation of legislation and implementation of the National Code in the ACT, which is anticipated for introduction to the ACT Legislative Assembly in early 2019.

Once passed by the Assembly, the National Code will be enforceable in the ACT, through the amendments to the *Human Rights Commission Act 2005*.

National Code of Conduct for Health Care Workers

Background

In June 2013, the Standing Council on Health, the precursor to the COAG Health Council, agreed in principle to strengthen state and territory health complaints mechanisms by the implementation of a single National Code of conduct for unregistered health practitioners in each jurisdiction; a nationally accessible register of prohibition orders; and mutual recognition arrangements between states and territories to support national enforcement of the National Code.

Consultations and forums were held in all states and territories to seek public comment on the terms of a National Code for health care workers.

On 17 April 2015 the COAG Health Council agreed to the terms of *A National Code of Conduct for Health Care Workers*.

The COAG Health Council decision requires each state and territory to enact (or amend) legislation to give effect to the National Code. The health complaints entities in each jurisdiction are to be responsible for receiving complaints relating to Health Care Workers. In the ACT this is the Health Services Commissioner.

The National Code

The National Code applies to the provision of health services by health care workers who are not included in the Health Practitioner Regulation National Law, as well as registered practitioners providing health services unrelated to their registration, for example, herbalists, counsellors and psychotherapists, massage therapists, alternative medicine practitioners, dental technicians and assistants, speech pathologists, social workers, dietitians and pharmacy assistants.

The National Code sets out the minimum practice and ethical standards with which health care workers must comply, and against which to assess a health care worker's conduct and practice in the event of a complaint or serious adverse event.

The National Code's requirements

The National Code requires health care workers to:

- Provide services in a safe and ethical manner;
- Obtain consent;
- Display appropriate conduct in relation to treatment advice;
- Report concerns about the conduct of other health care workers;
- Take appropriate action in response to adverse events;
- Adopt standard precautions for infection control;
- Take appropriate and timely measures to minimise harm to others if they are diagnosed with infectious medical conditions;
- Not make claims to cure certain serious illnesses;
- Not misinform their clients;
- Not practise under the influence of alcohol or unlawful substances;
- Not provide treatment or care to clients while suffering from a physical or mental impairment, disability, condition or disorder that places or is likely to place clients at risk;
- Not financially exploit clients;
- Not engage in sexual misconduct;
- Comply with relevant privacy laws;
- Keep appropriate records;
- Be covered by appropriate insurance; and
- Display the National Code and other information.

Provision is also made for the Health Services Commissioner to investigate breaches of the National Code and take disciplinary action.

Implementation in the ACT

The consultation draft on proposed ACT legislation seeks to put in place an enforceable National Code of Conduct for Health Care Workers through amendment to the *Human Rights Commission Act 2005*, consistent with the approach taken in other jurisdictions, especially Victoria, by:

- Inserting a new power to make the National Code by regulation;
- Including the National Code as a schedule to the Act;
- Giving the Health Services Commissioner powers to issue prohibition orders, make public statements, and impose restrictions on practice;
- Allowing participation in a national register of prohibition orders;
- Creating an offence of not complying with a prohibition order; and
- Introducing a right of review to the ACT Civil and Administrative Tribunal (ACAT).

The legislation and regulations will define 'health service' consistent with Section 7 of the *ACT Human Rights Commission Act 2005*.

The Health Services Commissioner will be empowered to issue prohibition orders to prevent health care workers from practising, or impose restrictions, where they find that the health care worker has breached the National Code and poses a risk to the health and safety of members of the public.

The Commissioner will also be authorised to issue public warnings during an investigation to alert the public about risks with particular health treatments and health care workers.

Prohibition orders will be published on a national register to prevent practitioners from moving between jurisdictions and undertaking prohibited activities.

Decisions of the Commissioner would be reviewable in the ACT Civil and Administrative Tribunal, and ultimately could be appealed to the courts.