Schedule 3 Code of conduct for non-registered health practitioners

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

- **health organisation** means a body that provides a health service, not being a health practitioner, and
- **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, and
- **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
k) optical dispensing, dietitian, massage therapy, naturopathy, acupuncture, speech therapy, audiology and audiometry services
l) services provided in other alternative health care fields
m) forensic pathology services
n) a service prescribed by the regulations as a health service for the purposes of the *Health Care Complaints Act 1993* and

- **relevant health organisation** means a person that is a health organisation other than the following:

a) a public health organisation within the meaning of the *Health Services Act 1997*
b) a public hospital within the meaning of the *Health Services Act 1997*
c) a private health facility licensed under the *Private Health Facilities Act 2007*
d) an organisation or class of organisation prescribed by the regulations for the purposes of this definition.

1 – Health services to be provided in safe and ethical way

1) A health practitioner must provide health services in a safe and ethical way.
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 practitioners 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 practitioners 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 practitioners competence in the practitioners 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, if 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 transmitted to clients must ensure the practitioner practises in a way 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 transmitted 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 practitioners practice to avoid the possibility of transmitting the practitioners 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 practitioners 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 practitioners 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 practitioners 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 obtain advice from the prescribing health practitioner on the impact of the medication on the practitioners ability to practise.
3) A health practitioner who is taking prescribed medication must not treat a client if the practitioners ability is or may be impaired.

7 – Health practitioners not to practise with certain physical or mental conditions

1) 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 practitioners 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 practitioners qualifications, training or professional affiliations.
2) A health practitioner must provide truthful information about the practitioners 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 practitioners 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 practitioners clients is kept confidential and the privacy of the practitioners 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:
   a) this code of conduct
   b) a document in the approved form that contains information about how clients may make a complaint to the Health Care Complaints Commission.
2) The documents must be displayed:
   a) at all premises where the practitioner practises, so that the documents are easily visible to clients entering the premises, or
   b) if the health practitioner has a website on the website.
3) This section does not apply to the following:
   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.
   a) 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) handheld 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 dioptre or more but not exceeding plus 3.5 dioptres.
5) In this section:
   a) cosmetic contact lenses means contact lenses that are not designed to correct, remedy or relieve a refractive abnormality or defect of sight.
   b) optical appliance has the same meaning as in the Health Practitioner Regulation National Law (NSW), section 122.

Concerned about a healthcare practitioner's standard of care or conduct?

The Code of Conduct for non-registered health practitioners sets out what you can expect from health practitioners. If you are concerned about the health service that was provided to you or another person, talk to the practitioner immediately. In most cases the practitioner will try to resolve them.

If you are not satisfied with the practitioner's response, contact the Enquiry Service of the Health Care Complaints Commission toll free on 1800 043 159 for a confidential discussion about the issues and how the Commission may be able to assist.

If your complaint is about sexual or physical assault or relates to the immediate health or safety of a person, you should contact emergency services and the Commission immediately.

About the Health Care Complaints Commission

The Health Care Complaints Commission is an independent body that acts to protect public health and safety by resolving, investigating and prosecuting complaints about health care. The Commission's overarching aim is to protecting the health and safety of individuals and the community.

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.

Contact the Health Care Complaints Commission

To make a complaint, visit www.hccc.nsw.gov.au and select 'make a complaint'.

For any questions or to seek more information, our enquiry service can be contacted on:

- (02) 9219 7444, select option 1
- Toll Free in NSW: 1800 043 159, select option 1
- TTY (02) 9219 7555
- by email to hccc@hccc.nsw.gov.au.

Postal address:
PO Box K549
Haymarket NSW 1240

HEALTH CARE COMPLAINTS COMMISSION