In November 2010 Health Ministers agreed to conduct a national consultation on options for strengthening the regulation of unregistered health practitioners. The majority of unregistered health practitioners practise in a safe, competent and ethical manner. However, there are instances where practitioners engage in conduct that may be so serious that, if the practitioner had been registered, would have resulted in cancellation of their registration and removal of their right to practise.

New South Wales strengthened its health complaints regulation in 2008, with additional powers for the Health Care Complaints Commissioner in NSW to investigate breaches of a Code of Conduct for Unregistered Health Practitioners, and to issue prohibition orders or place conditions on the practice of unregistered practitioners found to be in breach of the Code. A prohibition order may prohibit a practitioner from practising for a limited period of time, or permanently, or place conditions on a practitioner for a limited period of time, or permanently.

South Australia has enacted a similar scheme which commenced operation in March 2013, and legislation is before the Queensland Parliament.

A national consultation was undertaken in 2011 that sought submissions on whether regulatory protections such as those in NSW and South Australia are required in all States and Territories, and the extent to which uniform arrangements are necessary or desirable for the terms of a code of conduct and for its enforcement. Consultation forums were held during 2011 in each State and Territory to enable all interested parties to contribute their views.

At the Standing Council on Health (SCoH) meeting of 14 June 2013, Ministers considered the final report of the national consultation, titled *Decision Regulatory Impact Assessment: Options for regulation of unregistered health practitioners*.

Ministers agreed in principle to strengthen state and territory health complaints mechanisms via:

- a single national Code of Conduct for unregistered health practitioners to be made by regulation in each state and territory, and statutory powers to enforce the Code by investigating breaches and issuing prohibition orders;
- a nationally accessible web based register of prohibition orders; and
- mutual recognition of state and territory issued prohibition orders.

Under the proposed arrangements, each State and Territory will be responsible for:

- enacting new (or amending existing) legislation and regulations to give effect to the national Code of Conduct, the national register of prohibition orders, and mutual recognition of prohibition orders across state boundaries;
- determining a suitable local body to receive and investigate breaches of the Code of Conduct and issue prohibition orders, noting that existing Health
Complaints Entities (HCEs) already have statutory roles to investigate complaints about unregistered health practitioners but only NSW and South Australia have a code of conduct and prohibition order powers.

To give effect to these decisions, Ministers have asked the Australian Health Ministers Advisory Council (AHMAC) to undertake a public consultation on the terms of the first national Code of Conduct and proposed policy parameters to underpin nationally consistent implementation of the Code, for consideration by Ministers.

**Contacts**

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