

CLAUSE NOTES

Health Complaints (Code of Conduct) Amendment Bill 2018

Clause 1	Short Title
Clause 2	Commencement Provides for the Act to commence on proclamation.
Clause 3	Principal Act Cites the <i>Health Complaints Act 1995</i> as the Principal Act
Clause 4	Section 3 amended (Interpretation) Inserts definitions for “code of conduct”, “health care worker”, “interim prohibition order”, “prohibition order”, “public warning statement”, “registered health practitioner” and “relevant law”. Consequential amendments have been made to the definition of “health care provider” to incorporate the new terms of “health care worker” and “registered health practitioner” within that definition.
Clause 5	Section 6 amended (Functions of Commissioner) Amends the functions of the Commissioner to provide for information, education and advice in relation to a code of conduct, to conduct own motion investigations and undertake monitoring of compliance with and the effectiveness of prohibition orders and interim prohibition orders.
Clause 6	Section 22A inserted Provides that any person may make a complaint in relation to a health care worker in respect of a breach of the Code.
Clause 7	Section 25 amended (Assessment) Provides that a complaint regarding a health care worker is dismissed if it is made more than 2 years after the circumstances that gave rise to the complaint.
Clause 8	Section 29 amended (Splitting of complaints) Provides that complaints may also be split in the interests of the complainant.
Clause 9	Section 40 amended (Matters that may be investigated) Provides for own motion investigations by the Commissioner of possible breaches of a code of conduct by a health care worker.

Clause 10	<p>Section 41 amended (Continuation of investigation after resolution)</p> <p>Provides for a consequential change to Section 41 due to the change to section 40 so that the Commissioner can continue an own motion investigation where a complaint that gave rise to the investigation has been resolved.</p>
Clause 11	<p>Part 6 Division 5 inserted</p> <p>Inserts a new Division of the Act which establishes the power to make codes of conduct and outlines the actions that can be taken in relation to a breach of the code of conduct or a prescribed offence. The actions which may be taken include the issue of an interim prohibition order, the issue of a prohibition order and the publication of a public warning statement. Offences are established for the breaching of an interim prohibition order or a prohibition order. The division also provides for an offence for breaching of prohibition orders made in other jurisdictions. The division also provides appeal rights in relation to the issue of an interim prohibition order, the issue of a prohibition order and the intent to publish a public warning statement. There is also provision to exclude persons or classes of persons from the workings of this Division where required (for example where other legislation covers these persons such as National Disability Insurance Scheme proposed quality and safety framework). The Division is excluded from applying to matters that are the responsibility of registration boards.</p>
Clause 12	<p>Section 60 amended (Information from registration board)</p> <p>Amends section 60 of the Principal Act to permit the Commissioner to receive information from relevant professional bodies or associations.</p>
Clause 13	<p>Sections 62C and 62D inserted</p> <p>Provides for the sharing of information or copies of orders or statements with other bodies or jurisdictions. This will include the Australian Health Practitioner Regulation Agency, any relevant national board, any other body charged by law for dealing with complaints, including bodies in other jurisdictions dealing with health complaints and any relevant professional body or association.</p>
Clause 14	<p>Repeal of Act</p> <p>Provides for the automatic repeal of the Amendment Act after one year.</p>