



Australian Capital Territory

Human Rights Commission Regulation 2023

SL2023-16

made under the

Human Rights Commission Act 2005

Republication No 1

Effective: 7 January 2024

Republication date: 7 January 2024

Regulation not amended

About this republication

The republished law

This is a republication of the *Human Rights Commission Regulation 2023*, made under the *Human Rights Commission Act 2005* (including any amendment made under the [Legislation Act 2001](#), part 11.3 (Editorial changes)) as in force on 7 January 2024. It also includes any commencement, repeal or expiry affecting this republished law.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the [Legislation Act 2001](#) applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial amendments

The [Legislation Act 2001](#), part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see [Legislation Act 2001](#), s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the [Legislation Act 2001](#), section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see [Legislation Act 2001](#), s 133).



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Australian Capital Territory

Human Rights Commission Regulation 2023

made under the

[Human Rights Commission Act 2005](#)

Part 1 Preliminary

1 Name of regulation

This regulation is the *Human Rights Commission Regulation 2023*.

2 Dictionary

The dictionary at the end of this regulation is part of this regulation.

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation.

For example, the signpost definition ‘*client*, of a health care worker, for part 2 (Code of conduct for health care workers—Act, s 94C)—see section 4.’ means that the term ‘client’ is defined in that section for pt 2.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

3 Notes

A note included in this regulation is explanatory and is not part of this regulation.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

Part 2 Code of conduct for health care workers—Act, s 94C

4 Meaning of *client*—pt 2

In this part:

client, of a health care worker, means an individual to whom a health service is provided or offered by the health care worker.

5 Prescribed corresponding law

For the Act, division 5.3 (Health care worker code of conduct), the following laws are prescribed:

- (a) the *Health and Community Services Complaints Act 2004* (SA);
- (b) the *Health and Disability Services (Complaints) Act 1995* (WA);
- (c) the *Health Care Complaints Act 1993* (NSW);
- (d) the *Health Complaints Act 2016* (Vic);
- (e) the *Health Ombudsman Act 2013* (Qld).

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

6 Corresponding prohibition or condition orders

For the Act, division 5.3 (Health care worker code of conduct), the following orders are prescribed:

- (a) an order under the *Health and Community Services Complaints Act 2004* (SA), section 56B (Interim action) or section 56C (Commissioner may take action);
- (b) an order under the *Health and Disability Services (Complaints) Act 1995* (WA), part 3D, division 1 (Interim prohibition orders) or division 2 (Prohibition orders);

- (c) an order under the *Health Care Complaints Act 1993* (NSW), section 41AA (Interim protection orders) or section 41A (Prohibition orders and public statements);
- (d) an order under the *Health Complaints Act 2016* (Vic), part 8, division 1 (Interim prohibition orders) or division 2 (Prohibition orders);
- (e) an order under the *Health Ombudsman Act 2013* (Qld), part 7, division 2 (Interim prohibition orders) or part 8A (Prohibition orders).

7 Application of code of conduct

This code applies to a health care worker.

8 Health care worker must provide safe and ethical health service

- (1) A health care worker must provide a health service in a safe and ethical way.
- (2) Without limiting subsection (1), a health care worker must—
 - (a) be competent to provide the health service; and
 - (b) have the experience, training and qualification required to provide the health service; and
 - (c) only prescribe or recommend a treatment or appliance to a client that the health care worker believes serves the needs of the client; and
 - (d) recognise the limit of the treatment the health care worker can provide; and
 - (e) if appropriate, refer a client to another competent health service; and

- (f) if appropriate, recommend a client seek another opinion or health service; and
- (g) if required and practicable, assist a client to find another appropriate health service; and
- (h) encourage a client to tell the client's treating doctor (if any) about the health service being provided by the health care worker; and
- (i) provide a health service in a manner that is sensitive to the cultural needs of a client; and
- (j) if the health care worker is, or should be, aware a client is taking or receiving another health service—understand the interaction between the health services and tell the client about any possible adverse interaction.

9 Health care worker must have client consent

Before a health care worker provides a health service to a client, the health care worker must be satisfied on reasonable grounds that the client consents to the health service.

10 Health care worker must not claim to cure cancer or terminal illness

- (1) A health care worker must not claim to be qualified, able or willing to cure cancer or another terminal illness.
- (2) A health care worker may claim to be able to treat or alleviate the symptoms of cancer or another terminal illness only if the claim can be substantiated.

11 Health care worker must not misinform

- (1) This section applies to information a health care worker gives a person in relation to a health service.

Examples

- information given when consulting a client
- information included in an advertisement
- information given to a professional body for a health service

- (2) The health care worker must not—

- (a) give false, misleading or deceptive information about, or otherwise misrepresent, any of the following:
- (i) a health service the health care worker provides;
 - (ii) the health care worker's competence to provide a health service;
 - (iii) the health care worker's experience, training and qualification in relation to providing a health service;
 - (iv) the health care worker's professional affiliation;
 - (v) the health care worker's ability to provide treatment; or
- (b) make a claim about the efficacy of a health service if the claim cannot be substantiated.

12 Health care worker must provide accurate advice

- (1) This section applies to advice a health care worker gives a client in relation to a health service provided to the client.
- (2) The health care worker must—
- (a) allow the client to make an informed choice in relation to the health service, and other health services; and
 - (b) not attempt to dissuade the client from seeking or continuing medical treatment; and

- (c) communicate and co-operate with colleagues, other health service providers and relevant entities in the best interests of a client.
- (3) However, subsection (2) does not prevent a health care worker from telling a client that the health care worker believes a health service provided by the health care worker will not benefit, or continue to benefit, the client.

13 Health care worker must not exploit client—financial misconduct

- (1) A health care worker must not financially exploit a client.
- (2) Without limiting subsection (1), a health care worker must—
 - (a) only provide a health service to a client that is designed to maintain or improve the client’s health or wellbeing; and
 - (b) not accept or offer financial inducements or gifts in relation to a client referral arrangement with another health care worker; and
 - (c) not ask a client to give, lend or bequeath money or gifts that will benefit the health care worker directly or indirectly.

14 Health care worker must not exploit client—sexual misconduct

- (1) A health care worker must not engage in behaviour of a sexual or other inappropriate close personal nature with a client.
- (2) A health care worker must not engage in a sexual or other close personal, physical or emotional relationship with a client.
- (3) A health care worker must ensure there is a reasonable period after the health care worker stops providing a health service to a client before starting a sexual or close personal relationship with the former client.

15 Health care worker must mitigate harm

- (1) If an adverse event occurs in connection with providing a health service to a client, a health care worker must take appropriate and timely measures to minimise harm to the client.
- (2) Without limiting subsection (1), a health care worker must, as soon as practicable after the adverse event occurs—
 - (a) tell the client about the adverse event; and
 - (b) for a serious adverse event—obtain appropriate emergency assistance; and
 - (c) take steps to reduce the risk of a similar adverse event occurring; and
 - (d) report the adverse event to any relevant authority.
- (3) A health care worker must ensure that appropriate first aid is available to deal with any adverse event.

16 Health care worker must control infection

- (1) A health care worker must take reasonable precautions for the control of infection in the course of providing a health service.
- (2) Without limiting subsection (1), a health care worker who carries out skin penetration or another invasive procedure must comply with the *Public Health Act 1997*, including the following:
 - (a) any declaration made under that [Act](#), section 18 (Public health risk activities and procedures—declaration);
 - (b) any code about infection control made under that [Act](#), section 133 (Codes of practice).

17 Health care worker with transmissible condition

- (1) This section applies if a health care worker is diagnosed with a medical condition that has a risk of transmission to a client of the health care worker.
- (2) The health care worker must—
 - (a) seek advice from a health practitioner about how to avoid transmitting the condition to a client; and
 - (b) provide a health service in a way that does not transmit the condition.

18 Health care worker under influence of intoxicating or unlawful substance

- (1) A health care worker must not provide a health service while under the influence of an intoxicating or unlawful substance.
- (2) A health care worker may provide a health service while under the influence of a medicine if—
 - (a) the health care worker follows the advice of the prescribing health practitioner or dispensing pharmacist about the impact of the medicine on the health care worker's ability to provide a health service; and
 - (b) the health care worker's capacity to provide the service is not impaired.
- (3) In this section:
medicine—see the *Medicines, Poisons and Therapeutic Goods Act 2008*, section 11.

19 Health care worker with impairment etc

- (1) This section applies if a health care worker has a physical or mental impairment, disability, condition or disorder (including an addiction).
- (2) The health care worker must—
 - (a) ask a relevant health practitioner to determine whether and how the health care worker should modify, suspend or end the provision of the health service to minimise the risk of harm to a client; and
 - (b) follow the advice of the health practitioner.

20 Health care worker must comply with privacy laws

A health care worker must comply with privacy laws that apply to a client's health information, including—

- (a) the *Health Records (Privacy and Access) Act 1997*; and
- (b) the *Information Privacy Act 2014*; and
- (c) the *Privacy Act 1988* (Cwlth).

21 Health care worker must keep records

- (1) This section applies if it is reasonably likely that information about the provision of a health service to a client by a health care worker will be relevant to the ongoing health or wellbeing of the client after the health service is provided.
- (2) The health care worker must—
 - (a) make accurate, legible and up-to-date records in relation to the health service provided to the client; and
 - (b) keep the record secure; and
 - (c) prevent unauthorised access to the record; and

- (d) if a client asks for information in a record about the client—give the client access to the information; and
- (e) if a client or the client’s legal representative asks for the transfer of a record about the client—transfer the record in a timely manner.

22 Health care worker must have insurance

A health care worker must have appropriate indemnity insurance arrangements in relation to the health care worker’s practice.

23 Health care worker must report concern about conduct of other health care worker

A health care worker must tell the commission if the health care worker believes on reasonable grounds that another health care worker has put a client at serious risk of harm.

24 Health care worker must display code and other information

A health care worker must make the following easily visible and accessible at all premises where the health care worker provides a health service:

- (a) the code of conduct;
- (b) information about how a client may make a complaint to the commission.

Dictionary

(see s 2)

Note 1 The [Legislation Act](#) contains definitions relevant to this regulation. For example:

- health practitioner
- may (see s 146)
- must (see s 146)
- person (see s 160).

Note 2 Terms used in this regulation have the same meaning that they have in the [Human Rights Commission Act 2005](#). For example, the following terms are defined in the [Human Rights Commission Act 2005](#), dict:

- code of conduct
- commission
- complaint
- health care worker
- health service (see s 7)
- relevant professional body.

client, of a health care worker, for part 2 (Code of conduct for health care workers—Act, s 94C)—see section 4.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

This regulation was made as part of the *Human Rights Commission Amendment Act 2023* (see A2023-29, s 4 and sch 1) and is taken to have been made under the *Human Rights Commission Act 2005* A2005-40 (see A2023-29, s 4 (1)).

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taken to have been notified LR 7 July 2023 (A2023-29 s 4 (2) (a))

s 1 commenced 7 July 2023 (LA s 75 (1))

s 5 (b), s 6 (b) commenced 7 January 2024 (A2023-29 s 4 (3) and LA s 79)

remainder commenced 7 January 2024 (A2023-29 s 4 (2) (b))

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