

## Public consultation

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23 January 2017

### Public consultation on revised Code of conduct for nurses and revised Code of conduct for midwives

The Nursing and Midwifery Board of Australia (NMBA) is releasing this consultation paper and public consultation draft Code of conduct for nurses and public consultation draft Code of conduct for midwives.

#### Making a submission

The NMBA seeks your general feedback on the public consultation draft Code(s) and is interested in feedback to specific questions. You can participate by

- completing the [online survey](#), or
- provide feedback in a Word document to [consultationfeedback@nursingmidwiferyboard.gov.au](mailto:consultationfeedback@nursingmidwiferyboard.gov.au) marked 'Public consultation codes of conduct'.

You are invited to provide your comments by close of business **10 March 2017**.

#### Fact sheet: Public consultation on revised codes of conduct.

To support the release of the public consultation, the NMBA has published a [Fact sheet](#) that provides background information on the revised codes, an explanation on the development of the revised codes and the key features.

#### How your submission is treated

The NMBA publishes submissions on its website to encourage discussion and inform the community and stakeholders. However, the NMBA will not publish on its website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the consultation.

Before publication, the NMBA may remove personally-identifying information from submissions, including contact details. The views expressed in the submissions are those of the individuals or organisations who submit them and their publication does not imply any acceptance of, or agreement with, these views by the NMBA.

The NMBA also accepts submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include personal experiences or other sensitive information. Any request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act 1982* (Cth), which has provisions designed to protect personal information and information given in confidence.

**Please let the NMBA know if you do not want your submission published, or want all or part of it treated as confidential.**

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## Overview

The *Code of conduct for nurses in Australia* and the *Code of conduct for midwives in Australia* (the Codes) set out the legal requirements, professional behaviour and conduct expectations for nurses and midwives in all practice settings, in Australia. The codes describe the principles of professional behaviour that guide safe practice, and clearly outline the conduct expected of nurses and midwives by their colleagues and the broader community.

It is crucial that the codes are research driven and based on the best available evidence and advice to inform nurses and midwives of the standard of conduct and behaviour that is expected. Apart from rebranding/reformatting in June 2013, the content of the codes has not been reviewed since 2008.

The NMBA has an established process for the review of their standards, codes, guidelines and the review of the codes of conduct is part of that process.

This consultation paper seeks feedback on the revised *Code of conduct for nurses in Australia* and the revised *Code of conduct for midwives in Australia* (the Codes). To support the consultation, there is a [Fact sheet](#) and a short [video](#) presentation on the NMBA consultation page.

The NMBA is inviting general comments on these documents. There are also specific questions to which the NMBA is seeking your feedback. The NMBA will consider the consultation feedback on the Codes before finalising the documents.

## Development of the public consultation draft codes of conduct

The Codes are research-based using relevant literature and evidence to provide the direction and platform for content, structure and language. In addition to the under-pinning research, the NMBA has worked and consulted extensively with the professions and stakeholders in the development of the Codes. The NMBA has:

- adopted a number of recommendations from the review of the relevant literature that include:
  - to base the revised Codes on the National Registration and Accreditation Scheme's (National Scheme) multi-profession common Code of conduct
  - to reduce the publication of multiple documents by incorporating content on professional boundaries in the revised Codes, and
  - to include a number of areas on contemporary conduct not addressed in the current Codes.
- undertaken analysis of notification (complaint) data on conduct, behaviour and boundaries for nurses and midwives to ensure contemporary conduct issues are captured in the Codes
- convened workshops with key groups to test conduct and behaviour
- received high-level input and direction from key stakeholder working groups (one each for nursing and midwifery) in the areas of content, presentation, terminology and cultural consideration and a specialist group for literacy, plain English and cultural appropriateness
- used *qualitative* findings from the *thematic* analysis of focus group sessions held in 13 metropolitan and rural/regional locations across the country to garner the perceptions, opinions, beliefs, and attitudes of nurses, midwives and consumers on the codes of conduct, and
- tested views of key stakeholders during preliminary consultation.

## Public consultation draft codes of conduct

The public consultation Codes consist of four domains, framed around seven principles of conduct and each with an explanatory value statement (see below). The principles are consistent across the nursing and midwifery codes with only the profession title contextualised for the value statements (as detailed in Appendix 1: Revised draft *Code of conduct for nurses in Australia* and Appendix 2: Revised draft *Code of conduct for midwives in Australia*).

<b>Domain and Principle</b>	<b>Nursing value statements</b>	<b>Midwifery value statements</b>
<b>Practice legally</b>  1. Legal compliance	Nurses respect and adhere to their professional obligations under the National Law, and abide by relevant laws.	Midwives respect and adhere to their professional obligations under the National Law, and abide by relevant laws.
<b>Safe and collaborative practice</b>  2. Person-centred practice	Nurses provide safe, person-centred and evidence-based practice for the health and wellbeing of people and, in partnership with the person, promote shared decision-making and care delivery between the person, health professionals, and appropriate others.	Midwives provide safe, person-centred and evidence-based practice for the health and wellbeing of people and, in partnership with the person, promote shared decision-making and care delivery between the person, health professionals and appropriate others.
3. Cultural practice and respectful relationships	Nurses engage with people as individuals in a culturally safe and respectful way, foster open and honest professional relationships, and recognise their obligations about privacy and confidentiality.	Midwives engage with people as individuals in a culturally safe and respectful way, foster open and honest professional relationships and recognise their obligations about privacy and confidentiality.
<b>Professional integrity</b>  4. Professional behaviour	Nurses embody integrity, honesty, respect and compassion.	Midwives embody integrity, honesty, respect and compassion.
5. Teaching, supervising and assessing	Nurses commit to teaching, supervising and assessing students and other nurses, in order to develop the nursing workforce across all contexts of practice.	Midwives commit to teaching, supervising and assessing students and other midwives, in order to develop the midwifery workforce across all contexts of practice.
6. Research in health	Nurses recognise the important role of research to inform quality healthcare and policy, and support the rights of people who participate in research.	Midwives recognise the important role of research to inform quality healthcare and policy, and support the rights of people who participate in research.
<b>Good health and wellbeing</b>  7. Promote health and wellbeing	Nurses promote good health, wellbeing and equitable access to health services for people, themselves, their colleagues and the broader community.	Midwives promote good health, wellbeing and equitable access to health services for people, themselves, their colleagues and the broader community.

In summary, the public consultation draft revised Codes have the following features:

- conduct is framed around seven principles, each with a supporting values statement
- principles are categorised into four domains
- amended titles for three principles
- adopted 'person' in the nursing code to replace 'patient or client'
- adopted 'person' in the midwifery code to replace 'woman'
- substituted 'therapeutic relationships' and 'partnership' with 'professional relationships'
- added a footnote identifying additional laws to be considered in practice, and
- strengthened the glossary.

## Options statement

In accordance with its responsibilities and functions under Health Practitioner National Law, as in force in each state and territory, (the National law), the NMBA has an obligation to review all codes, guidelines and standards nursing and midwifery professions every three to five years.

The current *Code of professional conduct for nurses in Australia* (2008) and *Code of professional conduct for midwives in Australia* (2008) have not been reviewed since 2008 and the *Nurse's guide to professional boundaries* and *Midwife's guide to professional boundaries* (2010), have not been reviewed since first published in 2010.

The NMBA has considered a number of options in developing this proposal.

### Option one - Status quo

The codes of professional conduct for nurses and for midwives, and the professional boundaries guides as supportive companion documents, may fail to reflect and/or be relevant for current nursing and midwifery practice. Since the revision of the codes in 2008 and the development of the professional boundaries guidelines documents in 2010, substantial changes have occurred within the professions including the scope and context of nursing and midwifery practice.

### Option two - Execute a review and revision

The timely review of the codes of conduct and professional boundaries reflects the intent of the National Scheme and ensures they are current, relevant to the contemporary role and scope of nursing practice and midwifery practice, are based on the best available evidence and aligned with international best practice.

A contemporary code of conduct provides consumer, regulatory, employing and professional bodies with a current basis for guiding and evaluating the professional conduct of nurses and midwives.

The review of the current Codes helps to ensure there is a current evidence base to inform decision making. It provides nurses and midwives with a reference point from which to reflect on the conduct of themselves, and others, while delivering safe practice and fulfilling their professional roles.

### Preferred option

The preferred option of the NMBA is **Option two**.

## Estimated impacts of the draft Codes

The current codes of conduct set out the minimum national standards that the NMBA expects of nurses and midwives. The codes also inform the community of standards of professional conduct and provide consumer, regulatory, employing and professional bodies with a basis for evaluating professional conduct of nurses and midwives. The current codes are very clinically-based in their advice and lack aspects of conduct that have resulted in the last decade from changes to practice settings and scopes of practice.

The proposed revised codes of conduct for nurses and midwives set out legal requirements, professional behaviour and conduct expectations for all nurses and midwives registered to practise nursing and midwifery, in all contexts of practice, in Australia. The proposed codes describe the principles of professional behaviour that guides safe practice, and clearly outlines the conduct expected of nurses and midwives by their colleagues and the broader community.

Modelled on the National Scheme's multi-profession common code, the proposed Codes have improved in content, language, structure and usability. They incorporate conduct, behaviour and boundary matters that reflect contemporary nursing and midwifery practice.

## Questions for consideration

To answer the questions, you can access the [online survey](#). It is our preference that you complete the questions online.

However, if you are providing a written submission, the questions used in the online survey are provided below to help guide your response. Please provide your feedback in a Word document marked 'Public consultation codes of conduct' to [consultationfeedback@nursingmidwiferyboard.gov.au](mailto:consultationfeedback@nursingmidwiferyboard.gov.au)

Please indicate the Code(s) of conduct on which you are providing feedback (**select one or both**)

**Code of conduct for nurses**

**Code of conduct for midwives**

1. Do the seven principles and the content of the Codes reflect the conduct required of nurses/midwives?
2. Is information in the Code/s presented clearly?
3. Is information in the Code/s applicable to clinical and non-clinical practice settings?
4. At this stage, the NMBA has developed separate codes for nursing and midwifery.

What are your views on either a separate or a combined code of conduct for nurses and midwives?

5. The NMBA wants to get the language used in the codes right and use terms applicable to as many clinical and non-clinical settings as possible. The NMBA has adopted person or people to refer to individuals who enter into professional relationship with a nurse or midwife. Do you support this approach or is there an alternative?
6. Various terms have been used previously to capture the interaction between the nurse or midwife and the person receiving care. 'Professional relationship' is used in the draft *Codes of conduct* to capture this interaction, irrespective of the nurse or midwife's context of practice. Do you support the use of the term 'professional relationship' an appropriate description of the interaction between the nurse or midwife and the person receiving care or is there an alternative?
7. How should the NMBA promote awareness of the new Codes to nurses, midwives, other health professionals, employers, educators and the public?

### Select all that apply

- In person at information forums at venues such as hospitals and universities.
- Via social media, e.g. Twitter, Facebook and LinkedIn.
- On posters and flyers in hospitals and other healthcare workplaces.
- In person at nursing and midwifery conferences and events.
- In print and online media, e.g. newspapers, nursing and midwifery journals and health magazines.
- In the NMBA newsletter.

- In an email to all nurses and midwives.
- On a card that nurses and midwives can carry on their lanyards at work.
- Other (*please list*)

8. Do you have any other comments on the public consultation draft Code/s?

Appendix 1: Public consultation draft *Code of conduct for nurses in Australia*

Appendix 2: Public consultation draft *Code of conduct for midwives in Australia*

Appendix 3: Board's statement of assessment against the COAG principles for best practice regulation  
Code of conduct for nurses and Code of conduct for midwives

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## Appendix 1

# Code of conduct for nurses in Australia

**Note: the presentation of this document is not indicative of the final publication style.**

## Foreword

Will be added on completion of document

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## Introduction

The *Code of conduct for nurses in Australia* (the code) sets out the legal requirements, professional behaviour and conduct expectations for all nurses, in all practice settings, in Australia. It describes the principles of professional behaviour that guide safe practice, and clearly outlines the conduct expected of nurses by their colleagues and the broader community.

Individual nurses have their own personal beliefs and values. However, the code outlines specific standards, which all nurses are expected to adopt in their practice. The code also gives students of nursing an appreciation of the conduct and behaviours expected of nurses. Nurses have a professional responsibility to understand, and abide by, the code. In practice, nurses also have a duty to make the interests of people their first concern, and to practise safely and effectively.

The code is consistent with the [National Law](#). It includes seven principles of conduct, grouped into domains, each with an explanatory value statement. Each value statement is accompanied by practical guidance to demonstrate how to apply it in practice. Underpinning the code is the expectation that nurses will exercise their professional judgement to deliver the best possible outcomes in practice.

The principles of the code apply to all types of nursing practice in all contexts. This includes any work where a nurse uses nursing skills and knowledge, whether paid or unpaid, clinical or non-clinical. This includes work in the areas of clinical care, education, research, administration, management, advisory roles, regulation or policy development. The code also applies to all settings where a nurse may engage in these activities, including face-to-face, publications, or via online or electronic means.

## Using the code of conduct

The code will be used:

- to support individual nurses in the delivery of safe practice and fulfilling their professional roles
- as a guide for the public and consumers of health services about the standard of conduct and behaviour they should expect from nurses
- to help the NMBA protect the public, in setting and maintaining the standards set out in the code and to ensure safe and effective nursing practice
- when evaluating the professional conduct of nurses. If professional conduct varies significantly from the values outlined in the code, nurses should be prepared to explain and justify their decisions and actions. Serious or repeated failure to abide by this code may have consequences for nurses' registration and may be considered as unsatisfactory professional performance, unprofessional conduct or professional misconduct<sup>1</sup>, and
- as a resource for activities which aim to enhance the culture of professionalism in the Australian health system. These include use, for example, in administration and policy development by health services and other institutions, as well as in nursing education, and the orientation, induction and supervision of students.

The code is not a substitute for requirements outlined in the [National Law](#), other relevant legislation, or case law. Where there is any actual or perceived conflict between the code and any law, the law takes precedence. Nurses also need to understand, and comply with, all other NMBA standards, codes and guidelines.

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<sup>1</sup> As defined in the National Law, with the exception of NSW where the definitions of unsatisfactory professional conduct and professional misconduct are defined in the [Health Practitioner Regulation National Law](#) (NSW)

## Code of conduct for nurses in Australia: principles and values

These principles and values set out legal requirements, professional behaviour and conduct expectations for all nurses. The principles apply to all areas of practice, with an understanding that nurses will exercise professional judgement in applying them, with the goal of delivering the best possible outcomes.

(To note: **Person or people** is used to refer to those individuals who have entered into a professional relationship with a nurse. Please see the glossary for further definition).

### Practise legally

1. [Legal compliance](#)

Nurses respect and adhere to their professional obligations under the National Law, and abide by relevant laws.

### Safe and collaborative practice

2. [Person-centred practice](#)

Nurses provide safe, person-centred and evidence-based practice for the health and wellbeing of people and, in partnership with the person, promote shared decision-making and care delivery between the person, health professionals, and appropriate others.

3. [Cultural practice and respectful relationships](#)

Nurses engage with people as individuals in a culturally safe and respectful way, foster open and honest professional relationships, and recognise their obligations about privacy and confidentiality.

### Professional integrity

4. [Professional behaviour](#)

Nurses embody integrity, honesty, respect and compassion.

5. [Teaching, supervising and assessing](#)

Nurses commit to teaching, supervising and assessing students and other nurses, in order to develop the nursing workforce across all contexts of practice.

6. [Research in health](#)

Nurses recognise the important role of research to inform quality healthcare and policy, and support the rights of people who participate in research.

### Good health and wellbeing

7. [Promote health and wellbeing](#)

Nurses promote good health, wellbeing and equitable access to health services for people, themselves, their colleagues and the broader community.

# Code of conduct for nurses in Australia

## Practise legally

### Principle 1: Legal compliance

#### Value

Nurses respect and adhere to professional obligations under the [National Law](#), and abide by relevant laws<sup>2</sup>.

#### 1.1 Obligations

It is important that nurses are aware of their obligations under the [National Law](#), including reporting requirements and meeting registration standards. Nurses must

- a. abide by any reporting obligations under the National Law and other relevant legislation. Please refer to sections 129, 130, 131 and 141 of the [National Law](#) and the NMBA [Guidelines on mandatory notifications](#)
- b. inform AHPRA and their employer(s) if a legal or regulatory entity has imposed restrictions on their practice, including limitations, conditions, undertakings, suspension, cautions or reprimands, and recognise that a breach of any restriction would place the public at risk and may constitute unprofessional conduct or professional misconduct
- c. when generally registered, complete the required amount of CPD relevant to their context of practice. See the NMBA [Registration standard: Continuing professional development](#), [Policy: Exemptions from continuing professional development for nurses and midwives](#) and [Fact sheet: Continuing professional development](#) for these requirements
- d. ensure their practice is appropriately covered by professional indemnity insurance (see the NMBA [Registration standard: Professional indemnity insurance arrangements](#) and [Fact sheet: Professional indemnity insurance arrangements](#)), and
- e. inform AHPRA of charges, pleas and convictions relating to criminal offences (see the NMBA [Registration standard: Criminal history](#)).

#### 1.2 Lawful behaviour

Nurses practise honestly and ethically and should not engage in criminal behaviour as it may affect their practice and/or damage the reputation of the profession. Nurses must

- a. respect the nurse-person professional relationship by not taking possessions and/or property that belong to the person and/or their family
- b. not participate in any behaviour that could be considered sexual misconduct, including, but not limited to, sexual crimes as identified in the criminal laws of each state and territory
- c. comply with relevant poisons legislation, authorisation, local policy and own scope of practice, including to safely use, administer, obtain, possess, prescribe, sell, supply and store medications and other therapeutic products
- d. understand that unlawful behaviour may be viewed as unprofessional conduct or professional misconduct and have implications for their registration, and

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<sup>2</sup> The code does not address in detail the full range of legal and ethical obligations that apply to nurses. Examples of legal obligations include, but are not limited to, obligations arising in Acts and Regulations relating to privacy, aged and disabled, child protection, bullying, anti-discrimination and workplace health and safety issues. Nurses should ensure they know all of their legal obligations relating to professional practice, and abide by them.

- e. understand that making frivolous or vexatious complaints may be viewed as unprofessional conduct or professional misconduct and have implications for their registration.

### 1.3 Mandatory reporting

Caring for those who are vulnerable brings additional responsibilities for nurses, including the need to abide by relevant mandatory reporting requirements. Nurses must:

- a. abide by the relevant mandatory reporting legislation that is imposed to protect groups that are particularly at risk, including reporting obligations for children and young people, and
- b. remain alert to those groups who may be vulnerable and at risk and act on welfare concerns where appropriate.

## Safe and collaborative practice

### Principle 2: Person-centred practice

#### Value

Nurses provide safe, person-centred, evidence-based practice for the health and wellbeing of people and, in partnership with the person, promote shared decision-making and care delivery between the person, health professionals, and appropriate others.

### 2.1 Nursing practice

Nurses apply person-centred and evidence-based decision-making for delivery of safe and quality care. Nurses must:

- a. practise in accordance with the standards of the profession and broader health system (see the [NMBA standards, codes and guidelines](#) and the [Australian Commission on Safety and Quality in Health Care](#)).

### 2.2 Decision-making

Making decisions about healthcare is the shared responsibility of the person (who may wish to involve their nominated partners, family and friends) the nurse and other health professionals. Nurses should create and foster conditions that promote shared decision-making. To support shared decision-making, nurses must:

- a. take a person-centred approach to managing a person's symptoms and concerns, in a manner consistent with that person's values and preferences
- b. advocate on behalf of the person where necessary, and recognise when substitute decision-makers are needed (including legal guardians or holders of power of attorney)
- c. support the right of people to seek second and/or subsequent opinions or the right to refuse the treatment/care
- d. recognise and work within their scope of practice which is determined by their education, training, authorisation, competence, qualifications and experience to perform a particular aspect of practice
- e. recognise collaborative practice, and accept that care may be provided to the same person by different nurses, and by other members of the healthcare team, at various times
- f. recognise when an activity is not within their scope of practice and refer people to another health practitioner when this is in the best interests of the person receiving care
- g. take reasonable steps to ensure any person to whom a nurse delegates, refers, or hands over care has the qualifications, experience, knowledge, skills and scope of practice to provide the care needed (see also the NMBA [Decision-making framework](#)), and

- h. recognise that their context of practice can influence decision-making. This includes the type and location of practice setting, the characteristics of the person receiving care, the focus of nursing activities, the degree to which practice is autonomous and the resources available.

### **2.3 Informed consent**

Informed consent is a person's voluntary agreement to healthcare, which is made with knowledge and understanding of the potential benefits and risks involved. In supporting the right to informed consent, nurses must:

- a. support the provision of information to the person about their clinical care in a way and/or in a language/dialect they can understand. This includes information on examinations and investigations, as well as treatments
- b. give the person adequate opportunities to ask questions, make decisions and to refuse investigations and treatments, and proceed in accordance with local policy
- c. act according to the person's capacity for decision-making and consent, including when caring for children and young people, based on their maturity and capacity to understand, and the nature of the proposed care
- d. obtain informed consent or other valid authority before carrying out an examination or investigation, provide treatment (this may not be possible in an emergency), or involving people in teaching or research, and
- e. advise people of the benefit, as well as associated costs or risks, if referring the person for investigations or treatments, which they may wish to clarify before proceeding.

### **2.4 Adverse events and open disclosure**

When a person is harmed by healthcare (adverse events), nurses have responsibilities to be open and honest in communicating with the person, to review what happened, and to report the event in a timely manner. When something goes wrong, nurses must:

- a. recognise and reflect on what happened and report the incident
- b. act immediately to rectify the problem if possible, and intervene directly if it is needed to protect the person's safety. This responsibility includes escalating concerns if needed
- c. abide by the principles of open disclosure and approaches to incident management that do not place excessive emphasis on punishment (non-punitive approaches)
- d. identify the most appropriate healthcare team member to provide an apology and an explanation to the person and as promptly and completely as possible, about what happened, and the possible short-term and long-term consequences in accordance with local policy
- e. listen to the person, acknowledge any distress they experienced and provide support. In some cases it may be advisable to refer the person to another nurse or health professional
- f. ensure people have access to information about how to make a complaint, and that in doing so, not allow a complaint or notification to negatively affect the care they provide, and
- g. seek advice from their employer, AHPRA, their professional indemnity insurer, or other relevant bodies, if they are unsure about their obligations.

See also the [Australian Commission on Safety and Quality in Health Care's National Open Disclosure Standard](#).



### Principle 3: Cultural practice and respectful relationships

#### Value

Nurses engage with people as individuals in a culturally safe and respectful way, foster open and honest professional relationships, and recognise their obligations about privacy and confidentiality.

#### 3.1 Aboriginal and/or Torres Strait Islander peoples' health

Australia has always been a culturally and linguistically diverse nation. Aboriginal people and Torres Strait Islander people have inhabited and cared for the land as the first peoples of Australia for millennia, and their histories and cultures have uniquely shaped our nation. Understanding and acknowledging historic factors such as colonisation and its impact on Aboriginal and/or Torres Strait Islander Peoples health helps inform care. In particular, Aboriginal and/or Torres Strait Islander people bear the burden of gross social, cultural and health inequality. In supporting the health of Aboriginal and/or Torres Strait Islander people, nurses must:

- a. provide care that is holistic, free of bias and exposes racism, challenges belief based upon assumption and
- b. is culturally safe and respectful for Aboriginal and/or Torres Strait Islander people
- c. act to facilitate access to quality health services for Aboriginal and/or Torres Strait Islander people, and
- d. recognise the importance of family, community, partnership and collaboration in the healthcare decision-making of Aboriginal and/or Torres Strait Islander people, for both prevention strategies and care delivery.

See the [National Aboriginal and Torres Strait Islander Health Plan 2013-2023](#).

#### 3.2 Culturally safe and respectful practice

Culturally safe and respectful practice requires having knowledge of how a nurses' own culture, values, attitudes, assumptions and beliefs influence their interactions with people and families, the community and colleagues. To ensure culturally safe and respectful practice, nurses must:

- a. understand that only the person and/or their family can determine whether or not care is culturally safe and respectful
- b. respect diverse cultures, beliefs, gender identity/sexuality and experiences of people, including among team members
- c. acknowledge the social, economic, cultural, historic and behavioural factors influencing health, both at the individual, community and population levels
- d. adopt practices that respect diversity, avoid bias, identify and expose racism, and challenge belief based upon assumption (for example, based on gender, disability, race, ethnicity, religion, sexuality, age or political beliefs)
- e. support an inclusive environment for the safety and security of the individual person and their family and/or significant others, and
- f. create a positive, culturally safe work environment through role modelling, and supporting the rights, dignity and safety of others, including people and colleagues.

#### 3.3 Effective communication

Positive professional relationships are built on effective communication that is respectful, kind, compassionate and honest. To communicate effectively, nurses must:

- a. be aware of health literacy issues, and take health literacy into account when communicating with people

- b. make arrangements, whenever possible, to meet the specific language, cultural, and communication needs of people and their families, and be aware of how these needs affect understanding
- c. endeavour to confirm a person understands any information communicated to them
- d. clearly and accurately communicate relevant and timely information about the person to colleagues, within the bounds of relevant privacy requirements, by keeping accurate, up-to-date, factual, objective and legible health records, created in a timely fashion, and in a format that can be understood by the person, other nurses and health professionals
- e. be non-judgemental, and refrain from discussing people in a non-professional manner or context, and
- f. not refer to people in an abusive or disparaging manner verbally or in correspondence/records, including refraining from behaviour that may constitute, or be interpreted as, bullying or harassment and/or culturally unsafe.

### 3.4 Bullying and harassment

When people repeatedly and intentionally use words or actions against someone or a group of people, it causes distress and risks their wellbeing. Nurses understand that bullying and harassment relating to their practice or workplace is not acceptable or tolerated and that where it is affecting public safety it may have implications for their registration. Nurses must:

- a. never engage in, ignore or excuse such behaviour
- b. recognise that bullying and harassment takes many forms, including behaviours such as physical and verbal abuse, racism, discrimination, violence, aggression, humiliation, pressure in decision-making, exclusion and intimidation directed towards people or colleagues
- c. understand social media is sometimes used as a mechanism to bully or harass, and that nurses should not engage in, ignore or excuse such behaviour
- d. act to eliminate bullying, harassment, collective bullying and discrimination in the workplace by reporting such behaviour, and
- e. escalate their concerns if an appropriate response does not occur.

For additional guidance see the [Australian Human Rights Commission Fact sheet](#)

### 3.5 Confidentiality and privacy

Nurses have ethical and legal obligations to protect the privacy of people. People have a right to expect that nurses will hold information about them in confidence, unless the release of information is needed by law, legally justifiable under public interest considerations or is required to facilitate emergency care. To protect privacy and confidentiality, nurses must:

- a. respect the confidentiality and privacy of people by seeking informed consent before disclosing information, including formally documenting such consent where possible
- b. provide surroundings to enable private and confidential consultations and discussions, particularly when working with multiple people at the same time, or in a shared space
- c. abide by the NMBA [Social media policy](#) and relevant [Standards for practice](#), to ensure use of social media is consistent with the nurse's ethical and legal obligations to protect privacy
- d. access records only when professionally involved in the care of the person and authorised to do so
- e. not transmit, share, or post any person's information or images including via social media or other online platforms, even if the person is not directly named or identified, without having first gained written and informed consent. See also the NMBA [Social media policy](#) and [Guidelines for advertising regulated health services](#)

- f. recognise people's right to access information contained in their health records, facilitate that access and promptly facilitate the transfer of health information when requested by people in accordance with local policy, and
- g. when closing or relocating a practice, facilitating arrangements for the transfer or management of all health records in accordance with the legislation governing privacy and health records.

### 3.6 End-of-life care

Nurses have a vital role in helping the community to deal with the reality of death and its consequences. In providing end-of-life care, nurses must:

- a. understand the limits of healthcare in prolonging life, and recognise when efforts to prolong life may not be in the best interest of the person
- b. accept that people have the right to refuse treatment, or to request withdrawal of treatment, while ensuring they receive relief from distress
- c. respect diverse cultural practices and beliefs related to death and dying
- d. facilitate advanced care planning and provision of end-of-life care where relevant and in accordance with local policy, and
- e. take reasonable steps to ensure support is provided to people, and their families, even when it is not possible to deliver the outcome they desire.

## Professional integrity

### Principle 4: Professional behaviour

#### Value

Nurses embody integrity, honesty, respect and compassion.

### 4.1 Professional boundaries

Professional boundaries allow nurses, the person and the person's nominated partners, family and friends, to engage safely and effectively in professional relationships, including where care involves personal contact and/or emotional intimacy. In order to maintain professional boundaries, there is a start and end point to the professional relationship and it is integral to the nurse–person professional relationship. Professional boundaries promote person-centred practice and protect both parties. To maintain professional boundaries, nurses must:

- a. establish and maintain professional boundaries
- b. actively manage the person's expectations, and be clear about professional boundaries that must exist in professional relationships for objectivity in care and prepare the person for when the episode of care ends
- c. avoid the potential conflicts, risks, and complexities of providing care to those with whom they have a pre-existing non-professional relationship and ensure that such relationships do not impair their judgement. This is especially relevant for those living and working in small, regional or cultural communities and/or where there is long-term professional, social and/or family engagement
- d. recognise when over-involvement has occurred, and disclose this concern to an appropriate person, whether this is the person involved or a colleague
- e. reflect on the circumstances surrounding any occurrence of over-involvement, document and report it, and engage in management to rectify or manage the situation
- f. in cases where the professional relationship has become compromised or ineffective and ongoing care is needed, facilitate arrangements for the continuing care of the person to another health

practitioner, including passing on relevant clinical information (see also 3.3 Effective communication)

- g. actively address indifference, omission, disengagement/lack of care and disrespect to people that may reflect under-involvement, including escalating the issue to ensure the safety of the person if necessary
- h. avoid expressing personal beliefs to people in ways that exploit the person's vulnerability, are likely to cause them unnecessary distress, or may negatively influence their autonomy in decision-making (see the [NMBA Standards for practice](#)), and
- i. not participate in physical assault such as striking, unauthorised restraining and/or applying unnecessary force.

#### **4.2 Advertising and professional representation**

Nurses must be honest and transparent when describing their education, qualifications, previous occupations and registration status. This includes, but is not limited to, when nurses are involved in job applications, self-promotion, publishing of documents or web content, public appearances, or advertising goods or services. To honestly represent products and regulated health services, and themselves, nurses must:

- a. comply with legal requirements about advertising outlined in the National Law (explained in the NMBA [Guidelines for advertising regulated health services](#)), as well as other relevant Australian state and territory legislation
- b. provide only accurate, honest and verifiable information about their registration, experience and qualifications, including any conditions that apply to their registration (see also Principle 1: *Legal compliance*)
- c. only use the title of nurse if they hold valid registration and/or endorsement (see also the NMBA [Fact sheet on title protections](#)), and
- d. never misrepresent, by either a false statement or an omission, their registration, experience, qualifications or position.

#### **4.3 Legal, insurance and other assessments**

Nurses may be contracted by a third party to provide an assessment of a person who is not in their care, such as for legal, insurance or other administrative purposes. When this occurs the usual nurse-person professional relationship does not exist. In this situation, nurses must:

- a. explain to the person their professional area of practice, role, and the purpose, nature and extent of the assessment to be performed
- b. anticipate and seek to correct any misunderstandings the person may have about the nature and purpose of the assessment and report, and
- c. inform the person and/or their referring health professional of any unrecognised, serious problems that are discovered during the assessment, as a matter of duty-of-care.

#### **4.4 Conflicts of interest**

People rely on the independence and trustworthiness of nurses who provide them with advice or treatment. In nursing practice, a conflict of interest arises when a nurse has financial, professional or personal interests or relationships and/or personal beliefs that may affect the care they provide or result in personal gain.

Such conflicts may mean the nurse does not prioritise the interests of a person as they should, and may be viewed as unprofessional conduct. To prevent conflicts of interest from compromising care, nurses must:

- a. act in the best interests of people when making referrals, and when providing or arranging treatment or care

- b. responsibly use their right to not provide, or participate directly in, treatments to which they have a conscientious objection. In such a situation, nurses must respectfully inform people, and relevant colleagues, of their objection and ensure the person has alternative care options
- c. proactively and openly inform relevant people if a nurse, or their immediate family, have a financial or commercial interest that could be perceived as influencing the care they provide
- d. not offer financial, material or other rewards (inducements) to encourage others to act in ways that personally benefit the nurse, nor do anything that could be perceived as providing inducements, and
- e. not allow any financial or commercial interest in any entity providing healthcare services or products to negatively affect the way people are treated.

#### **4.5 Financial arrangements and gifts**

Where fees are charged for a course of treatment, it is necessary to be honest and transparent with people. To ensure there is no perception of actual or personal gain for the nurse, nurses must:

- a. discuss with the person all fees and charges expected to result from a course of treatment, in a manner appropriate to the professional relationship, and not exploit patients' or clients' vulnerability or lack of knowledge when providing or recommending services
- b. only accept token gifts of minimal value that are freely offered, such as flowers or chocolates. If doing so, nurses must report the gift in accordance with local policy
- c. not accept, encourage or manipulate people to give, lend, or bequeath money or gifts that will benefit a nurse directly or indirectly
- d. not become financially involved with current or former people, for example through bequests, powers of attorney, loans and investment schemes, and
- e. not influence people or their families to make donations, and where people seek to make a donation refer to the local policy.

### **Principle 5: Teaching, supervising and assessing**

#### **Value**

Nurses commit to teaching, supervising and assessing students and other nurses in order to develop the nursing workforce across all contexts of practice.

#### **5.1 Teaching and supervising**

It is the responsibility of all nurses to create opportunities for nursing students and nurses under supervision to learn, as well as benefit from oversight and feedback. In their teaching and supervisor roles, nurses must:

- a. seek to develop the skills, attitudes and practices of an effective teacher and/or supervisor
- b. reflect on the ability, competence and learning needs of each student or nurse who they teach or supervise and plan teaching and supervision activities accordingly, and
- c. avoid, where possible, any potential conflicts of interest in teaching or supervision relationships that may impair objectivity or interfere with the supervised person's learning outcomes or experience. This includes, for example, not supervising somebody with whom they have a pre-existing non-professional relationship.

#### **5.2 Assessing colleagues and students**

Assessing colleagues and students is an important part of making sure that the highest standard of practice is achieved across the profession. In assessing the competence and performance of colleagues or students, nurses must:

- a. be honest, objective and constructive, and not put people at risk of harm by assessing a person as competent when they are not, and
- b. provide accurate and justifiable information promptly, and include all relevant information when giving references or writing reports about colleagues.

See also the NMBA [Supervision guidelines for nursing and midwifery](#).

## Principle 6: Research in health

### Value

Nurses recognise the vital role of research to inform quality healthcare and policy development, and support the decision-making of people who participate in research.

### 6.1 Rights and responsibilities

Nurses involved in the design, organisation, conduct or reporting of health research that involves human participants have additional ethical responsibilities. Nurses involved in research that includes human participants must:

- a. recognise and carry out the responsibilities associated with involvement in health research
- b. respect the decision-making of people to not participate and/or to withdraw from a study, ensuring their decision does not compromise their care or any nurse-person professional relationship(s), and
- c. be aware of the values and ethical considerations for Aboriginal and/or Torres Strait Islander communities when undertaking research.

See also the National Health and Medical Research Council publication: [Values and Ethics - Guidelines for Ethical Conduct in Aboriginal and Torres Strait Islander Health Research](#)

## Good health and wellbeing

### Principle 7: Promote health and wellbeing

#### Value

Nurses promote good health and wellbeing for people and their families, colleagues, the broader community and themselves and in a way that addresses health inequality.

### 7.1 Your and your colleagues' health

Nurses have a responsibility to maintain their health to practise safely and effectively. To promote health for nursing practice, nurses must:

- a. understand and enact the principles of public health interventions, such as health promotion activities and vaccination
- b. act to reduce the effect of fatigue and stress on their health, and on the ability to provide safe care
- c. encourage and support colleagues to seek help if they reasonably believe that their colleague may be ill and/or impaired in their ability to practise safely, utilising services such as [the national health support service for nurses, midwives and students](#)

- d. seek expert, independent and objective help and advice if they are ill or impaired in their ability to practise safely. Nurses must remain aware of the risks of self-diagnosis and self-treatment, and act to reduce these, and
- e. take action, including a mandatory or voluntary notification to AHPRA, if a nurse knows or reasonably suspects they or a colleague, have a health condition or impairment that could adversely affect their ability to practise safely, or put people at risk (see Principle 1: *Legal compliance*).

## 7.2 Health advocacy

There are significant disparities in the health status of various groups in the Australian community. These disparities result from social, historic, geographic, legal, physiological and other factors. Some groups who experience health disparities include Aboriginal and/or Torres Strait Islander people, those with disabilities, those who are gender or sexuality diverse, and those from social, culturally and linguistically diverse backgrounds, including asylum seekers and refugees. In advocating for community and population health, nurses must:

- a. use their expertise and influence to protect and advance the health and wellbeing of individuals as well as communities and populations
- b. understand and apply the principles of primary and public health, including health education, health promotion, disease prevention, control and health screening using the best available evidence in making practice decisions, and
- c. participate in efforts to promote the health of communities and meet their obligations with respect to disease prevention including vaccination, health screening and reporting notifiable diseases.

See also the NMBA [Position statement on nurses, midwives and vaccination](#)

## Glossary

These definitions relate to the use of terms in the *Code of conduct for nurses in Australia*.

**Bullying and harassment** is when people repeatedly and intentionally use words or actions against someone or a group of people to cause distress and risk to their wellbeing. These actions are usually done by people who have more influence or power over someone else, or who want to make someone else feel less powerful or helpless ([Australian Human Rights Commission](#) definition).

**Collective bullying** is where a person is targeted and bullied by a group of people, rather than by one person.

**Competence** is the possession of required skills, knowledge, education and capacity.

**Cultural safety** occurs when culturally respectful individual and organisational health service practices and policies, which need the absence of individual and institutional racism, result in an experience of cultural safety as determined by the person (adapted from Nursing Council of New Zealand<sup>3</sup> and CATSINaM, 2013<sup>4</sup> and 2014<sup>5</sup>).

**Delegation** is the relationship that exists when a registered nurse assigns aspects of their nursing practice to another competent person, such as an enrolled nurse, student nurse or person who is not a nurse.

**Discrimination** is the unjust treatment of one or more person based on factors such as race, religion, sex, disability or other grounds specified in anti-discrimination legislation.

**General registration** means a person whose name is entered on the Register of Nurses in the division of registered and/or enrolled nurse in the general category.

**Handover** is the process of transferring all responsibility for the care of one or more people to another health practitioner or person.

**Health literacy** is about how people understand information about health and healthcare, how they apply that information to their lives, use it to make decisions and act on it (see [Australian Commission on Safety and Quality in Health Care](#))

**Mandatory notification** is the requirement under the National Law for registered health practitioners, employers and education providers to report certain conduct (see [Guidelines for mandatory notifications](#))

**Mandatory reporting** is a state and territory legislative requirement imposed to protect at risk groups such as children and young people

**National law** means the Health Practitioner Regulation National Law that is in force in each state and territory in Australia and applies to those professions regulated under that law (see [Australian Health Practitioner Regulation Agency](#)).

**Nominated partners, family and friends** include people in consensual relationships with the person, as identified by the person receiving care.

**Nurse** refers to a registered nurse, enrolled nurse or nurse practitioner. The term is reserved in Australia, under law, for a person who has completed the prescribed training, demonstrates competence to practise, and is registered as a nurse under the National Law.

**Open disclosure** is an open and honest discussion with a person about any incident(s) that caused them harm while they were receiving healthcare. It includes an apology or expression of regret (including the

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<sup>3</sup> Nursing Council of New Zealand (2011), *Guidelines for cultural safety, the Treaty of Waitangi and Maori health in nursing education and practice*, [www.nursingcouncil.org.nz/Publications/Standards-and-guidelines-for-nurses](http://www.nursingcouncil.org.nz/Publications/Standards-and-guidelines-for-nurses).

<sup>4</sup> Congress of Aboriginal and Torres Strait Islander Nurses and Midwives (2013), *Towards a shared understanding of terms and concepts: strengthening nursing and midwifery care of Aboriginal and Torres Strait Islander peoples*, CATSINaM, Canberra.

<sup>5</sup> Congress of Aboriginal and Torres Strait Islander Nurses and Midwives (2014), *Cultural safety position statement*, CATSINaM, Canberra.



word 'sorry'), a factual explanation of what happened, an opportunity for the patient to describe their experience, and an explanation of the steps being taken to manage the event and prevent recurrence (see also [Australian Commission on Safety and Quality in Health Care](#)).

**Over-involvement** is when the nurse confuses their needs with the needs of the person in their care and crosses the boundary of a professional relationship. Behaviour may include favouritism, gifts, intimacy or inappropriate relationships with the partner or family of a person in the nurse's care.

**Person or people** refers to those individuals who have entered into a professional relationship with a nurse. These individuals will sometimes be healthcare consumers, at other times they may be colleagues or students, this will vary depending on who is the focus of practice at the time. Therefore, the words person or people include all the patients, clients, consumers, families, carers, groups and/or communities that are within the nurse's scope and context of practice. The nurse has professional relationships in healthcare related teams.

**Person-centred practice** is collaborative and respectful partnership built on mutual trust and understanding through good communication. Each person is treated as an individual with the aim of respecting people's ownership of their health information, rights and preferences while protecting their dignity and empowering choice. Person-centred practice recognises the role of family and community with respect to cultural and religious diversity.

**Practice** means any role, whether paid or not, in which the individual uses their skills and knowledge as a health practitioner in their regulated health profession.

**Professional boundaries** refers to the clear separation that should exist between professional conduct aimed at meeting the health needs of people, and behaviour which serves a nurse's own personal views, feelings and relationships that are not relevant to the professional relationship.

**Professional misconduct** includes conduct by a health practitioner that is substantially below the expected standard, and which, whether connected to practice or not, is inconsistent with being a fit and proper person to be registered in the profession.

**Professional relationship** is an ongoing interaction between two people that observes a set of established boundaries or limits deemed appropriate under governing standards. The professional nature of the relationship involves recognition of professional boundaries and issues of unequal power.

**Referral** involves a nurse sending a person to obtain an opinion or treatment from another health professional or entity. Referral usually involves the transfer (in part) of responsibility for the care of the person, usually for a defined time and for a particular purpose.

**Social media** describes the online and mobile tools that people use to share opinions, information, experiences, images, and video or audio clips. It includes websites and applications used for social networking. Common sources of social media include, but are not limited to, social networking sites such as Facebook and LinkedIn, blogs (personal, professional and those published anonymously), WOMO, True Local, microblogs such as Twitter, content-sharing websites such as YouTube and Instagram, and discussion forums and message boards.

**Substitute decision-maker** is a general term for a person who is either a legally appointed decision-maker for a person, or has been nominated to make healthcare decisions on behalf of a person whose decision-making capacity is impaired.

**Supervision** is a formal process of professional support and learning, which allows a nurse to develop knowledge and competence, assume responsibility for their own practice and enhance public protection and safety. Supervision may be *direct* or *indirect* according to the nature of context under which the practice is being supervised.

**Unprofessional conduct** includes conduct of a lesser standard that might reasonably be expected by the public or professional peers.

## Bibliography

The Australian Commission on Safety and Quality in Health Care website [www.safetyandquality.gov.au](http://www.safetyandquality.gov.au) provides relevant guidance on a range of safety and quality issues. Information of particular relevance to nurses includes:

- medication administration
- health literacy
- open disclosure and incident management
- hand hygiene, and
- healthcare rights.
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The National Aboriginal and Torres Strait Islander Health Plan 2013 – 2023 provides an evidence-based framework for a coordinated approach to improving Aboriginal and/or Torres Strait Islander health. For additional information go to [www.health.gov.au/NATSIHP](http://www.health.gov.au/NATSIHP).

The National Health and Medical Research Council website [www.nhmrc.gov.au](http://www.nhmrc.gov.au) provides relevant information on informed consent and research issues.

The Therapeutic Goods Administration website [www.tga.gov.au](http://www.tga.gov.au) provides relevant information on therapeutic goods.

## Appendix 2

# Code of conduct for midwives in Australia

**Note: the presentation of this document is not indicative of the final publication style.**

## Foreword

Will be added on completion of document

Public consultation

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## Introduction

The *Code of conduct for midwives in Australia* (the code) sets out the legal requirements, professional behaviour and conduct expectations for all midwives, in all practice settings, in Australia. It describes the principles of professional behaviour that guide safe practice, and clearly outlines the conduct expected of midwives by their colleagues and the broader community.

Individual midwives have their own personal beliefs and values. However, the code outlines specific standards, which all midwives are expected to adopt in their practice. The code also gives students of midwifery an appreciation of the conduct and behaviours expected of midwives. Midwives have a professional responsibility to understand, and abide by, the code. In practice, midwives have a duty to make the interests of women, infants and families their first concern, and to practise safely and effectively.

The code is consistent with the [National Law](#). It includes seven principles of conduct, grouped into domains, each with an explanatory value statement. Each value statement is accompanied by practical guidance to demonstrate how to apply it in practice. Underpinning the code is the expectation that midwives will exercise their professional judgement to deliver the best possible outcomes in practice.

The principles of the code apply to all types of midwifery practice in all contexts. This includes any work where a midwife uses midwifery skills and knowledge, whether paid or unpaid, clinical or non-clinical. This includes work in the areas of clinical care, education, research, administration, management, advisory roles, regulation or policy development. The code also applies to all settings where a midwife may engage in these activities, including face-to-face, publications, or via online or electronic means.

## Using the code of conduct

The code will be used:

- to support individual midwives in the delivery of safe practice and fulfilling their professional roles
- as a guide for the public and consumers of health services about the standard of conduct and behaviour they should expect from midwives
- to help the NMBA protect the public, in setting and maintaining the standards set out in the code and to ensure safe and effective midwifery practice
- when evaluating the professional conduct of midwives. If professional conduct varies significantly from the values outlined in the code, midwives should be prepared to explain and justify their decisions and actions. Serious or repeated failure to abide by this code may have consequences for midwives' registration and may be considered as unsatisfactory professional performance, unprofessional conduct or professional misconduct<sup>6</sup>, and
- as a resource for activities which aim to enhance the culture of professionalism in the Australian health system. These include use, for example, in administration and policy development by health services and other institutions, as well as in midwifery education, and the orientation, induction and supervision of students.

The code is not a substitute for requirements outlined in the [National Law](#), other relevant legislation, or case law. Where there is any actual or perceived conflict between the code and any law, the law takes precedence. Midwives also need to understand, and comply with, all other NMBA standards, codes and guidelines.

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<sup>6</sup> As defined in the National Law, with the exception of NSW where the definitions of unsatisfactory professional conduct and professional misconduct are defined in the [Health Practitioner Regulation National Law](#) (NSW)

## Code of conduct for midwives in Australia: principles and values

These principles and values set out legal requirements, professional behaviour and conduct expectations for all midwives. The principles apply to all areas of practice, with an understanding that midwives will exercise professional judgement in applying them, with the goal of delivering the best possible outcomes.

(To note: **Person or people** is used to refer to those individuals who have entered into a professional relationship with a midwife. Please see the glossary for further definition).

### Practise legally

1. [Legal compliance](#)

Midwives respect and adhere to their professional obligations under the National Law, and abide by relevant laws.

### Safe and collaborative practice

2. [Person-centred practice](#)

Midwives provide safe, person-centred and evidence-based practice for the health and wellbeing of people and, in partnership with the person, promote shared decision-making and care delivery between the person, health professionals and appropriate others.

3. [Cultural practice and respectful relationships](#)

Midwives engage with people as individuals in a culturally safe and respectful way, foster open and honest professional relationships and recognise their obligations about privacy and confidentiality.

### Professional integrity

4. [Professional behaviour](#)

Midwives embody integrity, honesty, respect and compassion.

5. [Teaching, supervising and assessing](#)

Midwives commit to teaching, supervising and assessing students and other midwives, in order to develop the midwifery workforce across all contexts of practice.

6. [Research in health](#)

Midwives recognise the important role of research to inform quality healthcare and policy, and support the rights of people who participate in research.

### Good health and wellbeing

7. [Promote health and wellbeing](#)

Midwives promote good health, wellbeing and equitable access to health services for people, themselves, their colleagues, and the broader community.

## Code of conduct for midwives in Australia

## Practise legally

### Principle 1: Legal compliance

#### Value

Midwives respect and adhere to professional obligations under the [National Law](#), and abide by relevant laws<sup>7</sup>.

#### 1.1 Obligations

It is important that midwives are aware of their obligations under the [National Law](#), including reporting requirements and meeting registration standards. Midwives must

- a. abide by any reporting obligations under the National Law and other relevant legislation. Please refer to sections 129, 130, 131 and 141 of the [National Law](#) and the NMBA [Guidelines on mandatory notifications](#)
- b. inform AHPRA and their employer(s) if a legal or regulatory entity has imposed restrictions on their practice, including limitations, conditions, undertakings, suspension, cautions or reprimands, and recognise that a breach of any restriction would place the public at risk and may constitute unprofessional conduct or professional misconduct
- c. when registered, complete the required amount of CPD relevant to their context of practice. See the NMBA [Registration standard: Continuing professional development](#), [Policy: Exemptions from continuing professional development for nurses and midwives](#) and [Fact sheet: Continuing professional development](#) for these requirements
- d. ensure their practice is appropriately covered by professional indemnity insurance (see the NMBA [Registration standard: Professional indemnity insurance arrangements](#) and [Fact sheet: Professional indemnity insurance arrangements](#)), and
- e. inform AHPRA of charges, pleas and convictions relating to criminal offences (see the NMBA [Registration standard: Criminal history](#)).

#### 1.2 Lawful behaviour

Midwives practise honestly and ethically and should not engage in criminal behaviour as it may affect their practice and/or damage the reputation of the profession. Midwives must

- a. respect the midwife-person professional relationship by not taking possessions and/or property that belong to the person and/or their family
- b. not participate in any behaviour that could be considered sexual misconduct, including, but not limited to, sexual crimes as identified in the criminal codes of each state and territory
- c. comply with relevant poisons legislation, authorisation, local policy and own scope of practice, including to safely use, administer, obtain, possess, prescribe, sell, supply and store medications and other therapeutic products, and
- d. understand that unlawful behaviour may be viewed as unprofessional conduct or professional misconduct and have implications for their registration, and
- e. understand that making frivolous or vexatious complaints may be viewed as unprofessional conduct or professional misconduct and have implications for their registration.

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<sup>7</sup> The code does not address in detail the full range of legal and ethical obligations that apply to midwives. . Examples of legal obligations include, but are not limited to, obligations arising in Acts and Regulations relating to privacy, aged and disabled, child protection, bullying, anti-discrimination and workplace health and safety issues. Midwives should ensure they know all of their legal obligations relating to professional practice, and abide by them.



### 1.3 Mandatory reporting

Caring for the newborn and infants, and others who are vulnerable, brings additional responsibilities for midwives, including the need to abide by relevant mandatory reporting requirements. Midwives must:

- a. abide by the relevant mandatory reporting legislation about child abuse and neglect, remaining alert to the newborn and infants who may be at risk, and
- b. remain alert to those groups who may be vulnerable and at risk and act on welfare concerns where appropriate.

## Safe and collaborative practice

### Principle 2: Person-centred practice

#### Value

Midwives provide safe, person-centred, evidence-based practice for the health and wellbeing of people and, in collaboration with the person, promote shared decision-making and care delivery between the person, health professionals, and appropriate others.

### 2.1 Midwifery practice

Midwives apply person-centred and evidence-based decision-making for delivery of safe and quality care. Midwives must:

- a. practise in accordance with the standards of the profession and broader health system (see [NMBA standards, codes and guidelines and the Australian Commission on Safety and Quality in Health Care](#)).

### 2.2 Decision-making

Making decisions about healthcare is the shared responsibility of the person (who may wish to involve their nominated partners, family and friends), the midwife and other health professionals. Midwives should create and foster conditions that promote shared decision-making. To support shared decision-making, midwives must:

- a. take a person-centred approach to managing symptoms and concerns, in a manner consistent with that person's values and preferences
- b. advocate on behalf of the person where necessary, and recognise when substitute decision-makers are needed (including legal guardians or holders of power of attorney)
- c. support the right of the person to seek a second and/or subsequent opinions, or the right to refuse the treatment/care
- d. recognise collaborative practice and accept that care may be provided to the same person by different midwives, and by other members of the healthcare team, at various times
- e. recognise and work within their scope which is determined by their education, training, authorisation, competence, qualifications and experience to perform a particular aspect of practice
- f. recognise when an activity is not within their scope of practice and refer people to another health practitioner when this is in the best interests of the person receiving care
- g. take reasonable steps to ensure any person to whom a midwife delegates, refers, or hands over care has the qualifications, experience, knowledge, skills and scope of practice to provide the care needed (see also the NMBA [Decision-making framework](#)), and
- h. recognise that their context of practice can influence decision-making. This includes the type and location of practice setting, the characteristics of the person receiving care, the focus of midwifery activities, the degree to which practice is autonomous and the resources available.

### 2.3 Informed consent

Informed consent is a person's voluntary agreement to healthcare, which is made with knowledge and understanding of the potential benefits and risks involved. In supporting the right to informed consent, midwives must:

- a. Support the provision of information to the person about their clinical care in a way and/or in a language/dialect they can understand. This includes information on examinations and investigations, as well as treatments
- b. give the person adequate opportunities to ask questions, make decisions and to refuse interventions and treatments, and proceed in accordance with local policy
- c. act according to the person's capacity for decision-making and consent, including when caring for children and young people, based on their maturity and capacity to understand, and the nature of the proposed care
- d. obtain informed consent or other valid authority before carrying out an examination or investigation, provide treatment (this may not be possible in an emergency), or involving people in teaching or research, and
- e. advise people of the benefit as well as associated costs or risks if referring the person for investigations or treatments, which they may wish to clarify before proceeding. (See also [National Midwifery Guidelines for Consultation and Referral](#)).

### 2.4 Adverse events and open disclosure

When a person is harmed by healthcare (adverse events), midwives have responsibilities to be open and honest in communicating with the person, to review what happened, and to report the event in a timely manner. When something goes wrong, midwives must:

- a. recognise and reflect on what happened
- b. act immediately to rectify the problem if possible, and intervene directly if it is needed to protect the person's safety. This responsibility includes escalating concerns if needed
- c. abide by the principles of open disclosure and approaches to incident management that do not place excessive emphasis on punishment (non-punitive approaches)
- d. identify the most appropriate healthcare team member (which may be the midwife) to provide an apology and an explanation to the person and as promptly and completely as possible, about what happened, and the possible short-term and long-term consequences in accordance with local policy
- e. listen to the person, acknowledge any distress they experienced and provide support. In some cases it may be advisable to refer the person to another midwife or health professional
- f. ensure people have access to information about how to make a complaint, and that in doing so, not allow a complaint or notification to negatively affect the care they provide, and
- g. seek advice from their employer, AHPRA, their professional indemnity insurer, or other relevant bodies, if they are unsure about their obligations.

See also the [Australian Commission on Safety and Quality in Health Care's National Open Disclosure Standard](#).

### Principle 3: Cultural practice and respectful relationships

#### Value

Midwives engage with people as individuals in a culturally safe and respectful way, foster open and honest professional relationships and recognise their obligations about privacy and confidentiality.

#### 3.1 Aboriginal and/or Torres Strait Islander peoples' health

Australia has always been a culturally and linguistically diverse nation. Aboriginal and/or Torres Strait Islander people have inhabited and cared for the land as the first peoples of Australia for millennia, and their histories and cultures have uniquely shaped our nation. Understanding and acknowledging historic factors such as colonisation and its impact on Aboriginal and/or Torres Strait Islander Peoples health helps inform care. In particular, Aboriginal and/or Torres Strait Islander people bear the burden of gross social, cultural and health inequality. In supporting the health of Aboriginal and/or Torres Strait Islander people, midwives must

- a. provide care that is holistic, free of bias and exposes racism, challenges belief based upon assumption and is culturally safe and respectful for Aboriginal and/or Torres Strait Islander people
- b. act to facilitate access to quality health services for Aboriginal and/or Torres Strait Islander people, and
- c. recognise the importance of family, community, partnership and collaboration in the healthcare decision-making of Aboriginal and/or Torres Strait Islander people, for both prevention strategies and care delivery.

See the [National Aboriginal and Torres Strait Islander Health Plan 2013–2023](#).

#### 3.2 Culturally safe and respectful practice

Culturally safe and respectful practice requires having knowledge of how a midwives' own culture, values, attitudes, assumptions and beliefs influence their interactions with people and families, the community and colleagues. To ensure culturally safe and respectful practice, midwives must:

- a. understand that only the person and/or their family can determine whether or not care is culturally safe and respectful
- b. respect diverse cultures, beliefs, gender identity/sexuality and experiences of person and others, including among team members
- c. acknowledge the social, economic, cultural, historic and behavioural factors influencing health, both at the individual, community and population levels
- d. adopt practices that respect diversity, avoid bias, identify and expose racism, and challenge belief based upon assumption (for example, based on gender, disability, race, ethnicity, religion, sexuality, age or political beliefs)
- e. support an inclusive environment for the safety and security of the individual person and their family and/or significant others, and
- f. create a positive, culturally safe work environment through role modelling, and supporting the rights, dignity and safety of others, including people and colleagues.

#### 3.3 Effective communication

Positive professional relationships are built on effective communication that is respectful, kind, compassionate and honest. To communicate effectively, midwives must:

- a. be aware of health literacy issues, and take health literacy into account when communicating with people

- b. make arrangements, whenever possible, to meet the specific language, cultural, and communication needs of people and their families, and be aware of how these needs affect understanding
- c. endeavour to confirm the person understands any information communicated to her
- d. clearly and accurately communicate relevant and timely information about the person to colleagues, within the bounds of relevant privacy requirements, by keeping accurate, up-to-date, factual, objective and legible health records, created in a timely fashion, and in a format that can be understood by the person, other midwives and health professionals
- e. be non-judgemental, and refrain from discussing the person in a non-professional manner or context, and
- f. not refer to people in an abusive or disparaging manner verbally or in correspondence/records, including refraining from behaviour that may constitute, or be interpreted as, bullying or harassment and/or culturally unsafe.

### 3.4 Bullying and harassment

When people repeatedly and intentionally use words or actions against someone or a group of people, it causes distress and risks their wellbeing. Midwives understand that bullying and harassment relating to their practice or workplace is not acceptable or tolerated and that where it is affecting public safety, and may have implications for their registration. Midwives must

- a. never engage in, ignore or excuse such behaviour
- b. recognise that bullying and harassment takes many forms, including behaviours such as physical and verbal abuse, racism, discrimination, violence, aggression, humiliation, pressure in decision-making, exclusion and intimidation directed towards people or colleagues
- c. understand social media is sometimes used as a mechanism to bully or harass, and that midwives should not engage in, ignore or excuse such behaviour
- d. act to eliminate bullying, harassment, collective bullying and discrimination in the workplace by reporting such behaviour, and
- e. escalate their concerns if an appropriate response does not occur.

For additional guidance see the [Australian Human Rights Commission Fact sheet](#)

### 3.5 Confidentiality and privacy

Midwives have ethical and legal obligations to protect the privacy of people. People have a right to expect that midwives will hold information about them in confidence, unless the release of information is needed by law or legally justifiable under public interest considerations or is required to facilitate emergency care. To protect privacy and confidentiality, midwives must:

- a. respect the confidentiality and privacy of the person by seeking informed consent before disclosing information, including formally documenting such consent where possible
- b. provide surroundings to enable private and confidential consultations and discussions, particularly when working with multiple people at the same time, or in a shared space
- c. abide by the NMBA [Social media policy](#) and relevant [Standards for practice](#), to ensure use of social media is consistent with the midwife's ethical and legal obligations to protect privacy
- d. access records only when professionally involved in the care of the person, and authorised to do so
- e. not transmit, share, or post any client information or images including via social media or other online platforms, even if the person is not directly named or identified, without having first gained written and informed consent. See also the NMBA [Social media policy](#) and [Guidelines for advertising regulated health services](#).

- f. recognise the person's right to access information contained in their health records, facilitate that access and promptly facilitate the transfer of health information when requested by the person in accordance with local policy, and
- g. when closing or relocating a practice, facilitating arrangements for the transfer or management of all health records in accordance with the legislation governing privacy and health records.

### 3.6 End-of-life care

Midwives may have a role in helping the community to deal with the reality of death and its consequences. In providing end-of-life care, midwives must:

- a. understand the limits of healthcare in prolonging life, and recognise when efforts to prolong life may not be in the best interest of the person
- b. accept that the person has the right to refuse treatment, or to request withdrawal of treatment, while ensuring they receives relief from distress
- c. respect diverse cultural practices and beliefs related to death and dying, and
- d. take reasonable steps to ensure support is provided to the person and their family, even when it is not possible to deliver the outcome they desire.

## Professional integrity

### Principle 4: Professional behaviour

<p><b>Value</b> Midwives embody integrity, honesty, respect and compassion.</p>
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#### 4.1 Professional boundaries

Professional boundaries allow midwives, the person and the person's nominated partners, family and friends to engage safely and effectively in professional relationships, including where care involves personal contact and/or emotional intimacy. In order to maintain professional boundaries, there is a start and end point to the professional relationship and it is integral to the midwife–person professional relationship. Professional boundaries promote person-centred practice and protect both parties. To maintain professional boundaries, midwives must:

- a. establish and maintain professional boundaries
- b. actively manage the person's expectations, and be clear about professional boundaries that must exist in professional relationships for objectivity in care and prepare the person for when the episode of care ends
- c. avoid the potential conflicts, risks, and complexities of providing care to those with whom they have a pre-existing non-professional relationship, and ensure that such relationships do not impair their clinical judgement. This is especially relevant for those living and working in small, regional or cultural communities and/or where there is long-term professional engagement
- d. recognise when over-involvement has occurred, and disclose this concern to an appropriate person, whether this is the person involved or a colleague
- e. reflect on the circumstances surrounding any occurrence of over-involvement, document and report it and engage in management to rectify or manage the situation
- f. in cases where the professional relationship has become compromised or ineffective and ongoing care is needed, facilitate arrangements for the continuing care of the person to another health practitioner, including passing on relevant clinical information (see also 3.3 Effective communication)

- g. actively address indifference, omission, disengagement/lack of care and disrespect to women that may reflect under-involvement, including escalating the issue to ensure the safety of the person if necessary
- h. avoid expressing personal beliefs to the person in ways that exploit the person's vulnerability, are likely to cause them unnecessary distress, or may negatively influence their autonomy in decision-making (see the [NMBA Standards for practice](#)), and
- i. not participate in physical assault such as striking, unauthorised restraining and/or applying unnecessary force.

#### **4.2 Advertising and professional representation**

Midwives must be honest and transparent when describing their education, qualifications, previous occupations and registration status. This includes, but is not limited to, when midwives are involved in job applications, self-promotion, publishing of documents or web content, public appearances, or advertising goods or services. To honestly represent products and regulated health services, and themselves, midwives must:

- a. comply with legal requirements about advertising outlined in the National Law (explained in the NMBA [Guidelines for advertising regulated health services](#)), as well as other relevant Australian state and territory legislation
- b. provide only accurate, honest and verifiable information about their registration, experience and qualifications, including any conditions that apply to their registration (see also Principle 1: *Legal compliance*)
- c. only use the title of midwife if they hold valid registration (see the NMBA [Fact sheet on title protections](#)), and
- d. never misrepresent, by either a false statement or an omission, their registration, experience, qualifications or position.

#### **4.3 Legal, insurance and other assessments**

Midwives may be contracted by a third party to provide an assessment of a person who is not in their care, such as for legal, insurance or other administrative purposes. When this occurs the usual midwife-person professional relationship does not exist. In this situation, midwives must:

- a. explain to the person their professional area of practice, role, and the purpose, nature and extent of the assessment to be performed
- b. anticipate and seek to correct any misunderstandings the person may have about the nature and purpose of the assessment and report, and
- c. inform the person and/or their referring health professional of any unrecognised, serious problems that are discovered during the assessment, as a matter of duty-of-care.

#### **4.4 Conflicts of interest**

People rely on the independence and trustworthiness of midwives who provide them with advice or treatment. In midwifery practice, a conflict of interest arises when a midwife has financial, professional or personal interests or relationships and/or personal beliefs that may affect the care they provide or result in personal gain.

Such conflicts may mean the midwife does not prioritise the interests of the person as they should, and may be viewed as unprofessional conduct. To prevent conflicts of interest from compromising care, midwives must:

- a. act in the best interests of people when making referrals, and when providing or arranging treatment or care

- b. responsibly use their right to not provide, or participate directly in, treatments to which they have a conscientious objection. In such a situation, midwives must respectfully inform the person, and relevant colleagues, of their objection and ensure the person has alternative care options
- c. proactively and openly inform the person if a midwife, or the midwife's immediate family, have a financial or commercial interest that could be perceived as influencing the care the midwife provides
- d. not offer financial, material or other rewards (inducements) to encourage others to act in ways that personally benefit the midwife, nor do anything that could be perceived as providing inducements, and
- e. not allow any financial or commercial interest in any entity providing healthcare services or products to negatively affect the way the person is treated.

#### 4.5 Financial arrangements and gifts

Where fees are charged for a course of treatment, it is necessary to be honest and transparent with people. To ensure there is no perception of actual or personal gain for the midwife, midwives must

- a. discuss with the person all fees and charges expected to result from a course of treatment, in a manner appropriate to the professional relationship, and not exploit the person's vulnerability or lack of knowledge when providing or recommending services
- b. only accept token gifts of minimal value that are freely offered, such as flowers or chocolates. If doing so, midwives must report the gift in accordance with local policy
- c. not accept, encourage or manipulate the person to give, lend, or bequeath money or gifts that will benefit a midwife directly or indirectly
- d. not become financially involved with a person who has or who will be in receipt of their care, for example through bequests, powers of attorney, loans and investment schemes, and
- e. not influence the person or her family to make donations and where the person seeks to make a donation refer to the local policy

### Principle 5: Teaching, supervising and assessing

#### Value

Midwives commit to teaching, supervising and assessing students and other midwives in order to develop the midwifery workforce across all contexts of practice.

#### 5.1 Teaching and supervising

It is the responsibility of all midwives to create opportunities for midwifery students and midwives under supervision to learn, as well as benefit from oversight and feedback. In their teaching and supervisor roles, midwives must:

- a. seek to develop the skills, attitudes and practices of an effective teacher and/or supervisor
- b. reflect on the ability, competence and learning needs of each student or midwife who they teach or supervise and plan teaching and supervision activities accordingly, and
- c. avoid, where possible, any potential conflicts of interest in teaching or supervision relationships that may impair objectivity or interfere with the supervised person's learning outcomes or experience. This includes, for example, not supervising somebody with whom they have a pre-existing non-professional relationship.

#### 5.2 Assessing colleagues and students

Assessing colleagues and students is an important part of making sure that the highest standard of practice is achieved across the profession. In assessing the competence and performance of colleagues or students, midwives must:

- a. be honest, objective and constructive, and not put the person at risk of harm by assessing a person as competent when they are not, and
- b. provide accurate and justifiable information promptly, and include all relevant information when giving references or writing reports about colleagues.

See also the NMBA [Supervision guidelines for nursing and midwifery](#)

## Principle 6: Research in health

### Value

Midwives recognise the vital role of research to inform quality healthcare and policy development, and support the decision-making of people who participate in research.

### 6.1 Rights and responsibilities

Midwives involved in the design, organisation, conduct or reporting of health research that involves human participants have additional ethical responsibilities. Midwives involved in research that includes human participants must:

- a. recognise and carry out the responsibilities associated with involvement in health research
- b. respect the decision-making of people to not participate and/or withdraw from a study, ensuring their decision does not compromise their care or any midwife-person professional relationship (s), and
- c. be aware of the values and ethical considerations for Aboriginal and/or Torres Strait Islander communities when undertaking health research.

See also the National Health and Medical Research Council publication: [Values and Ethics - Guidelines for Ethical Conduct in Aboriginal and Torres Strait Islander Health Research](#)

## Good health and wellbeing

### Principle 7: Promote health and wellbeing

#### Value

Midwives promote good health and wellbeing for people and their families, colleagues, the broader community and themselves and in a way that addresses health inequality.

### 7.1 Your and your colleagues' health

Midwives have a responsibility to maintain their health to practise safely and effectively. To promote health for midwifery practice, midwives must:

- a. understand and enact the principles of public health interventions, such as health promotion activities and vaccination
- b. act to reduce the effect of fatigue and stress on their health, and on the ability to provide safe care
- c. encourage and support colleagues to seek help if they reasonably believe their colleague may be ill and/or impaired in their ability to practise safely, utilising services such as [the national health support service for nurses, midwives and students](#)



- d. seek expert, independent and objective help and advice if they are ill or impaired in their ability to practise safely. Midwives must remain aware of the risks of self-diagnosis and self-treatment, and act to reduce these, and
- e. take action, including a mandatory or voluntary notification to AHPRA, if a midwife knows or reasonably suspects that they or a colleague have a health condition or impairment that could adversely affect their ability to practise safely, or put people at risk (see also Principle 1: *Legal compliance*).

## 7.2 Health advocacy

There are significant disparities in the health status of various groups in the Australian community. These disparities result from social, historic, geographic, legal, physiological and other factors. Some groups who experience health disparities include Aboriginal and/or Torres Strait Islander people, those with disabilities, those who are gender or sexuality diverse, and those from social, culturally and linguistically diverse backgrounds, including asylum seekers and refugees. In advocating for community and population health, midwives must:

- a. use their expertise and influence to protect and advance the health and wellbeing of individuals as well as communities and populations
- b. understand and apply the principles of primary and public health, including health education, health promotion, disease prevention and control and health screening using the best available evidence in making practice decisions, and
- c. participate in efforts to promote the health of communities and meet their obligations with respect to disease prevention including vaccination, health screening and reporting notifiable diseases

See also the NMBA [Position statement on nurses, midwives and vaccination](#)

## Glossary

These definitions relate to the use of terms in the *Code of conduct for midwives in Australia*.

**Bullying and harassment** is when people repeatedly and intentionally use words or actions against someone or a group of people to cause distress and risk to their wellbeing. These actions are usually done by people who have more influence or power over someone else, or who want to make someone else feel less powerful or helpless ([Australian Human Rights Commission](#) definition).

**Collective bullying** is where a person is targeted and bullied by a group of people, rather than by one person.

**Competence** is the possession of required skills, knowledge, education and capacity.

**Cultural safety** occurs when culturally respectful individual and organisational health service practices and policies, which need the absence of individual and institutional racism, result in an experience of cultural safety as determined by the person (adapted from Midwifery Council of New Zealand<sup>8</sup> and CATSINaM, 2013<sup>9</sup> and 2014<sup>10</sup>).

**Delegation** is the relationship that exists when a midwife assigns aspects of their midwifery practice to another competent person, such a student midwife or person who is not a midwife.

**Discrimination** is the unjust treatment of one or more person based on factors such as race, religion, sex, disability or other grounds specified in anti-discrimination legislation.

**General registration** means a person whose name is entered on the Register of Midwives in the general category.

**Handover** is the process of transferring all responsibility for the care of the person to another health practitioner or person.

**Health literacy** is about how people understand information about health and healthcare, how they apply that information to their lives, use it to make decisions and act on it (see [Australian Commission on Safety and Quality in Health Care](#))

**Mandatory notification** is the requirement under the National Law for registered health practitioners, employers and education providers to report certain conduct (see [Guidelines for mandatory notifications](#))

**Mandatory reporting** is a state and territory legislative requirement imposed to protect at risk groups such as children and young people

**Midwife** is the term reserved in Australia under law for a person who has completed the prescribed training, demonstrates competence to practise, and is registered as a midwife under the National Law.

**National law** means the Health Practitioner Regulation National Law that is in force in each state and territory in Australia and applies to those professions regulated under that law (see [Australian Health Practitioner Regulation Agency](#)).

**Nominated partners, family and friends** include people in consensual relationships with the person as identified by the person.

**Open disclosure** is an open and honest discussion with the person about any incident (s) that caused her harm while she was receiving healthcare. It includes an apology or expression of regret (including the word 'sorry'), a factual explanation of what happened, an opportunity for the person to describe their

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<sup>8</sup>Midwifery Council of New Zealand (2011), *Guidelines for cultural safety, the Treaty of Waitangi and Maori health in midwifery education and practice*, [www.midwiferycouncil.org.nz/Publications/Standards-and-guidelines-for-midwives](http://www.midwiferycouncil.org.nz/Publications/Standards-and-guidelines-for-midwives).

<sup>9</sup> Congress of Aboriginal and Torres Strait Islander Midwives and Midwives (2013), *Towards a shared understanding of terms and concepts: strengthening nursing and midwifery care of Aboriginal and Torres Strait Islander peoples*, CATSINaM, Canberra.

<sup>10</sup> Congress of Aboriginal and Torres Strait Islander Nurses and Midwives (2014), *Cultural safety position statement*, CATSINaM, Canberra.

experience, and an explanation of the steps being taken to manage the event and prevent recurrence (see also [Australian Commission on Safety and Quality in Health Care](#)).

**Over-involvement** is when the midwife confuses their needs with the needs of the person in their care and crosses the boundary of a professional relationship. Behaviour may include favouritism, gifts, intimacy or inappropriate relationships with the partner or family of a person in the midwife's care.

**Person or people** refers to those individuals who have entered into a professional relationship with a midwife. These individuals will sometimes be health care consumers, at other times they may be colleagues or students, this will vary depending on who is the focus of practice at the time. Therefore, the words person or people include all the women, newborn, infants, clients, consumers, families, carers, groups and/or communities that are within the midwife's scope and context of practice. The midwife has professional relationships in health-care related teams.

**Person-centred practice** is collaborative and respectful partnership built on mutual trust and understanding through good communication. Each person is treated as an individual with the aim of respecting people's ownership of their health information, rights and preferences while protecting their dignity and empowering choice. Person-centred practice recognises the role of family and community with respect to cultural and religious diversity.

**Practice** means any role, whether paid or not, in which the individual uses their skills and knowledge as a health practitioner in their regulated health profession.

**Professional boundaries** refers to the clear separation that should exist between professional conduct aimed at meeting the health needs of the person, and behaviour which serves a midwife's own personal views, feelings and relationships that are not relevant to the professional relationship

**Professional misconduct** includes conduct by a health practitioner that is substantially below the expected standard, and which, whether connected to practice or not, is inconsistent with being a fit and proper person to be registered in the profession.

**Professional relationship** is an ongoing interaction between two people that observes a set of established boundaries or limits that is deemed appropriate under governing standards. The professional nature of the relationship involves recognition of professional boundaries and issues of unequal power.

**Referral** involves a midwife sending the person to obtain an opinion or treatment from another health professional or entity. Referral usually involves the transfer (in part) of responsibility for the care of the person, usually for a defined time and for a particular purpose.

**Social media** describes the online and mobile tools that people use to share opinions, information, experiences, images, and video or audio clips. It includes websites and applications used for social networking. Common sources of social media include, but are not limited to, social networking sites such as Facebook and LinkedIn, blogs (personal, professional and those published anonymously), WOMO, True Local, microblogs such as Twitter, content-sharing websites such as YouTube and Instagram, and discussion forums and message boards.

**Substitute decision-maker** is a general term for a person who is either a legally appointed decision-maker for the person, or has been nominated to make healthcare decisions on behalf of a person whose decision-making capacity is impaired.

**Supervision** is a formal process of professional support and learning, which allows a midwife to develop knowledge and competence, assume responsibility for their own practice and enhance public protection and safety. Supervision may be *direct* or *indirect* according to the nature of context under which the practice is being supervised.

**Unprofessional conduct** includes conduct of a lesser standard that might reasonably be expected by the public or professional peers.

## Bibliography

The Australian Commission on Safety and Quality in Health Care website [www.safetyandquality.gov.au](http://www.safetyandquality.gov.au) provides relevant guidance on a range of safety and quality issues. Information of particular relevance to midwives includes:

- medication administration
- health literacy
- open disclosure and incident management
- hand hygiene, and
- healthcare rights.

The National Aboriginal and Torres Strait Islander Health Plan 2013–2023 provides an evidence-based framework for a coordinated approach to improving Aboriginal and/or Torres Strait Islander people's health. For additional information go to [www.health.gov.au/NATSIHP](http://www.health.gov.au/NATSIHP).

The National Health and Medical Research Council website [www.nhmrc.gov.au](http://www.nhmrc.gov.au) provides relevant information on informed consent and research issues.

The Therapeutic Goods Administration website [www.tga.gov.au](http://www.tga.gov.au) provides relevant information on therapeutic goods.

## Appendix 3

### Board's statement of assessment against AHPRA *Procedures for development of registration standards, codes and guidelines* and COAG *Principles for best practice regulation*

The Australian Health Practitioner Regulation Agency (AHPRA) has *Procedures for the development of registration standards, codes and guidelines* which are available at [www.ahpra.gov.au](http://www.ahpra.gov.au)

These procedures have been developed by AHPRA in accordance with section 25 of the *Health Practitioner Regulation National Law* as in force in each state and territory (the National Law) which requires AHPRA to establish procedures for the purpose of ensuring that the National Registration and Accreditation Scheme operates in accordance with good regulatory practice.

Below is the Nursing and Midwifery Board of Australia's (NMBA) assessment of their proposal for a revised *Code of conduct for nurses in Australia* and revised *Code of conduct for midwives in Australia* against the three elements outlined in the AHPRA procedures.

#### 1. The proposal takes into account the National Registration and Accreditation Scheme (National Scheme's) objectives and guiding principles set out in section 3 of the National Law

##### Board assessment

The NMBA considers that the public consultation revised *Code of conduct for nurses in Australia* and the public consultation revised *Code of conduct for midwives in Australia* (the Codes) meet the objectives and guiding principles of the National Law.

The public consultation revised Codes will provide for the protection of the public by supporting nurses and midwives in the delivery of safe practice and fulfilling their professional roles, by clearly outlining the conduct expected of nurses and midwives by their colleagues and the broader community. They provide a resource for activities which aim to enhance the culture of professionalism in the Australian health system. These include use, for example, in general administration and policy development by health services and other institutions, as well as in education, and the orientation, induction and supervision of nurses, midwives and students of nursing and midwifery.

The public consultation revised Codes also support the National Scheme to operate in a transparent, accountable, efficient, effective and fair way.

#### 2. The consultation requirements of the National Law are met

##### Board assessment

The National Law requires wide-ranging consultation on proposed standards, codes and guidelines. The National Law also requires a Board to consult other boards on matters of shared interest.

The NMBA has worked and consulted extensively with the professions and stakeholders in the development of the public consultation revised Codes. This includes high-level input and direction from key stakeholder working groups - one each for nursing and midwifery. The input addressed areas of content, presentation, terminology and cultural consideration; used qualitative findings from the thematic analysis of national wide focus group sessions for nurses, midwives and consumers, and

used a specialist review group for a literacy, plain English and cultural appropriateness review of the Codes. The preliminary consultation phase benefited from the expertise and comments from key stakeholders.

There will be broad public exposure of NMBA proposal and the opportunity for public comment during the public consultation process. This process includes the publication of the consultation paper on the NMBA website. The NMBA will also draw this paper to the attention of key stakeholders during the public consultation.

The NMBA has also consulted the other boards in the National Scheme on the approach and progress of the current review of the current codes of conduct, as a matter of shared interest.

### 3. The proposal takes into account the COAG Principles for Best Practice Regulation

#### Board assessment

In developing the draft Codes of conduct for consultation, the NMBA has taken into account the Council of Australian Governments (COAG) *Principles for Best Practice Regulation*.

The NMBA makes the following assessment specific to each of the COAG principles expressed in the AHPRA procedures.

#### COAG Principles

##### A. Whether the proposal is the best option for achieving the proposal's stated purpose and protection of the public

#### Board assessment

The NMBA considers that the proposal is the best option for achieving the stated purpose and has taken care not to propose unnecessary regulatory burdens that would create unjustified costs for the profession or the community.

The public consultation revised Codes provide the legal requirements, professional behaviour and conduct expectations for all nurses and midwives registered to practise, in all settings, in Australia. The public consultation revised Codes reduce ambiguity around professional behaviours and guides safe practice in today's contemporary practice settings, with practical guidance to demonstrate how to apply the public consultation revised Codes in practice.

The public consultation revised Codes are based on the best available evidence and aligned with international best practice, ensuring the public consultation revised Codes are current and relevant to the contemporary role and scope of nursing practice and midwifery practice.

The public consultation revised Codes provide nurses and midwives with a reference point from which to reflect on the conduct of themselves and others and enhances the protection of the public.

##### B. Whether the proposal results in an unnecessary restriction of competition among health practitioners

#### Board assessment

The NMBA has considered whether the public consultation revised Codes could result in an unnecessary restriction of competition among health practitioners. The public consultation revised Codes are unlikely to change the current levels of competition among nurses and midwives.

##### C. Whether the proposal results in an unnecessary restriction of consumer choice

#### Board assessment

The NMBA considers that consumer choice will not be affected by the public consultation revised Codes. The public consultation revised Codes continue to support consumer choice by providing transparent information on the principles and values of behaviour required of nurses and midwives.

**D. Whether the overall costs of the proposal to members of the public and/or registrants and/or governments are reasonable in relation to the benefits to be achieved**

**Board assessment**

The NMBA does not anticipate that the public consultation revised Codes will change the overall costs to the public, registrants or governments.

The public consultation revised Codes do not change the current regulatory burden from the currently approved Codes.

**E. Whether the requirements are clearly stated using 'plain language' to reduce uncertainty, enable the public to understand the requirements, and enable understanding and compliance by registrants**

**Board assessment**

The NMBA considers the public consultation revised Codes plain English writing will enable nurses, midwives and all users, to understand the requirements of the public consultation revised Codes.

The public consultation revised Codes reduce duplication and verbosity and have been reviewed by an expert in literacy and plain English, as part of a specialist review. The directive style language of the public consultation revised Codes reduces ambiguity, making it clear to all document users of the types of behaviour that constitutes good conduct and what types of behaviours do not.

**F. Whether the Board has procedures in place to ensure that the proposed registration standard, code or guideline remains relevant and effective over time**

**Board assessment**

The NMBA will review the Codes at least every five years, including an assessment against the objectives and guiding principles in the National Law and the COAG principles for best practice regulation.

However, the NMBA may choose to review the Codes earlier if necessary, to ensure the Codes continued relevance and workability.