

Module	CLINICAL CARE AND ALLIED HEALTH SERVICES
Jurisdictions	CTH, NSW, VIC, SA, TAS, WA, NT, QLD, ACT
Legal Expert	Meridian Lawyers https://www.meridianlawyers.com.au/ https://www.linkedin.com/company/meridian-lawyers/?originalSubdomain=au

Module Scope

Does your organisation employ or engage registered health professionals who provide health services outside of a hospital setting?

Is your organisation responsible for the sale, supply, use or possession of scheduled substances (eg prescription medicines and pharmacy-only medicines)?

Does your organisation claim benefits under the Medicare Benefits Scheme (MBS), Pharmaceutical Benefits Scheme (PBS) or Child Dental Benefits Schedule (CDBS)?

Module Application

The CLINICAL CARE AND ALLIED HEALTH SERVICES module informs the Australian clinical care and allied health services entity or organisation of their legislated legal obligations. The module also demonstrates effective practical advice and assistance to the health services entity to implement procedures and processes that will ensure compliance and regulatory accountability throughout all levels of the entity.

The clinical care and allied health services organisation, health professionals, employees and authorised individuals are all expected to be familiar with the broad landscape of legal obligations to which they are subject as well as more specific obligations relevant to the particular sector they are operating in and relevant state, territory and commonwealth laws. The CLINICAL CARE AND ALLIED HEALTH SERVICES module should be subscribed by all Australian clinical care and allied health services providers, health services professionals, facility employees and all authorised individuals. The aim of the module is to equip the subscriber with knowledge of their obligations and the skills they require to establish relevant systems and processes to ensure compliance throughout their organisation with regard to;

- › Licensing;
- › Operational requirements;
- › Provision of services; and
- › Eligibility for insurance and medicare benefits.

Australian registered health professionals are governed by a single national registration and accreditation scheme throughout Australia – the Health Practitioner Regulation National Law (the National Law). The National Law gives power to the national boards to set the registration standards that practitioners must meet in order to register. The following professions are nationally regulated by their specific national board;

- › Chiropractors;
- › Dental practitioners;
- › Medical practitioners;
- › Nurses and midwives;
- › Optometrists;
- › Osteopaths;
- › Pharmacists;
- › Physiotherapists;
- › Podiatrists;
- › Psychologists;
- › Aboriginal and Torres Strait Islander health practitioners;
- › Chinese medicine practitioners;
- › Medical radiation practitioners;
- › Occupational therapists; and
- › Paramedics.

The broad scope of the CLINICAL CARE AND ALLIED HEALTH SERVICES module is to provide the clinical care and allied health service providers with answers to these questions;

- › What are our legal obligations?
- › From where are our legal obligations derived?
- › How can we ensure that we are complying with our legal obligations? and
- › What are the consequences if we are not complying with our legal obligations?

The CLINICAL CARE AND ALLIED HEALTH SERVICES module covers all legislated legal obligations of clinical care and allied health service providers and demonstrates practical assistance and guidance to ensure that these obligations are complied with through the implementation and maintenance of best practice processes throughout the organisation. The module also covers the role of the regulator as well as exemptions to the obligations, if applicable, and how they may or may not apply in particular circumstances.

The module fulfils this objective by comprehensively covering three areas;

- › Legislation;
- › Obligations; and
- › Consequences.

1. The legislative and regulatory landscape from which the primary legal obligations are derived;

- *Health Insurance Act 1973 & Regulations 2018* (Cth);
- *Competition and Consumer Act 2010* (Cth);
- *Privacy Act 1988* (Cth);
- *Private Health Insurance Act 2007* (Cth);
- *Electronic Transactions Act 1999 & Regulations 2000* (Cth);
- *National Disability Insurance Scheme 2013* (Cth); and
- *Therapeutic Goods Act 1989 & Regulations 1990* (Cth).

Additionally, the module also refers to commonwealth, state and territory legislation covering obligations related to;

- Dentistry;
- Pathology;
- Optometry;
- Radiation;
- Collection centres;
- Disability;
- Insurance;
- Private health insurance and private hospitals;
- Drugs, poisons and controlled substances;
- Medicines;
- Health records;
- Human rights;
- Advertising;
- Mental health;
- Public health; and
- Complaints.

2. The specific areas where legal and regulatory obligations apply to the clinical care and allied health service providers;

- Licensing of health services premises;
 - Private day procedure centres;
 - Hospital declarations;
 - Mental health facilities; and
 - Radiation licensing.
- Drug management;
 - Licensing;
 - Storage;
 - Prescribing;
 - Records; and
 - Emergency supply.
- Infection control and prevention;
 - Programs;
 - Risk management;
 - Employee health screening;
 - Training programs;

- Surveillance programs; and
 - Facilities design.
- Advertising health services;
 - Misleading;
 - Restrictions;
 - Baiting;
 - Therapeutic goods and services; and
 - Medicines and medical devices.
- Fees and charges;
 - Medicare and prescriber numbers;
 - Billing agent;
 - Claiming payments; and
 - Child dental benefits.
- Pathology services.
- National disability insurance scheme.
- Code of conduct for registered health practitioners;
 - Providing good care;
 - Communication, disclosure and consent;
 - Service co-ordination;
 - Contributing to public health;
 - Risk management;
 - Professional behaviour and performance;
 - Practitioner health; and
 - Supervision and research.
- Dentistry, optometry, orthoptics, occupational therapy, physiotherapy, osteopathy, podiatry, psychology, speech pathology, nutrition and dietetics;
- Operating unregistered allied health services;
 - Code of conduct;
 - Safety and ethics;
 - Consent;
 - Mandatory reporting;
 - Financial responsibility and insurance; and
 - Record keeping and privacy.
- Health and wellness coaching;
 - Registration; and
 - Code of conduct.
- Medical deputising (home visiting doctor services);
 - Out-of-hours primary medical care;
 - Application and accreditation processes;
 - AMDS program;
 - Eligibility criteria for service providers and medical practitioners;
 - Standards;
 - Termination;
 - Triage protocol;
 - Scope of care; and
 - Restrictions on direct marketing.
- Triage nurses;
 - Qualifications, registration and endorsement;
 - Code of conduct and code of ethics;
 - Standards;
 - National board notifications;
 - Prescribing drugs; and

- Emergency mental health.
- Privacy and information management;
 - Use and disclosure;
 - Quality and security; and
 - Accessing and amending.
- Complaints and investigations;
 - Process;
 - Conciliation;
 - Resolution;
 - Prohibition;
 - Escalation; and
 - Information notices.
- Investigation and enforcement;
 - Notifications;
 - Immediate action;
 - National board investigations, enforcements and referrals; and
 - Impairment assessments and health panels.

3. Significant consequences can apply to clinical care and allied health service providers and health service professionals found to have breached or not complied with their legal obligations. These consequences vary considerably depending on the nature and extent of the breach or failure. The CLINICAL CARE AND ALLIED HEALTH SERVICES module covers specific consequences in detail. They can include monetary penalties, disciplinary measures and even terms of imprisonment for individuals found to have committed serious criminal offences.

The CLINICAL CARE AND ALLIED HEALTH SERVICES module does not cover the rights or entitlements of entities or individuals who have suffered damages or losses due to breaches of obligations by clinical care and allied health service providers and health service professionals. The module does not cover the process that an entity or an individual would follow to report or seek compensation for the breach or their loss.

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