



## **Consultation Draft**

**Complementary Healthcare Council of Australia**

**Complementary Medicine Retailer's Code of Practice**

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**CONTENTS**

**1 Introduction ..... 4**

**2 Application ..... 5**

**3 Purpose and Objectives..... 5**

**4 Definitions ..... 5**

**5 Underlying Principles..... 6**

**6 Provisions of the Code..... 7**

**7 Administration ..... 10**

**8 Complaints Handling Procedures ..... 10**

**9 Sanctions..... 11**

**10 Appeals ..... 12**

**11 Monitoring ..... 12**

**12 Disclaimer ..... 13**

**13 Appendix 1 Related Documents ..... 14**

**14 Appendix 2 References..... 14**



## **1 INTRODUCTION**

### **1.1 PREAMBLE**

- 1.1.1 The Complementary Healthcare Council of Australia Inc (CHC) is a national industry body founded in 1998 following the amalgamation of the Nutritional Foods Association of Australia (NFAA) and Australian Council for Responsible Nutrition (ACRN) and incorporated under the ACT Associations Incorporation Act in October 1998.
- 1.1.2 The industry as a whole is experiencing growth by virtue of an increased awareness of consumers wishing to become and remain healthier. The CHC seeks to educate Government and the wider public of the role played by the appropriate use of complementary medicine products and health foods to improve health and prevent sickness.
- 1.1.3 As the Complementary Medicine Industry grows and matures, there is a development toward integration with mainstream healthcare as an effective preventative strategy to improve the wellbeing of the community and reduce our nation's healthcare costs. This alignment with mainstream healthcare means that pharmacy is now a major supplier of complementary medicines, and traditional health retailers must ensure they are offering consumers the best in healthcare experience.
- 1.1.4 As the members with the most day-to-day contact with consumers, the importance of the role of the retailer should not be underestimated. As such, a high level of professionalism, the necessary skills and knowledge and an ethical approach to business practices are all needed by retail members to ensure and enhance the reputation of complementary healthcare retailing.

### **1.2 VISION**

- 1.2.1 The complementary medicine industry is committed to the enhancement of the health and wellbeing of all Australians. We believe in freedom of choice and the right of consumers to factual information.

### **1.3 VALUES**

- 1.3.1 The complementary medicine industry is committed to:
- advancing public health;
  - working with the Government to ensure an appropriate regulatory framework;

- being the contact point for all stakeholders in matters relating to complementary medicines.

1.3.2 CHC members accept that the maintenance of high standards plays a paramount role in the marketing of the industry's products and will take all practical steps to ensure fair and honest dealings within the market.

## 2 APPLICATION

- 2.1 The Code applies to all retail members of the Complementary Healthcare Council of Australia.
- 2.2 Any retail non-member involved within the complementary medicine industry is also invited to accept and observe the Code because it is considered that the standards to be followed should apply to the industry as a whole if it is to maintain the confidence of all stakeholders.

## 3 PURPOSE AND OBJECTIVES OF THE CODE

- 3.1 This Code is intended to establish the basic principles and practices that deal fairly with relationships between retail members and customers, as well as relationships between retail members and other stakeholders within the complementary medicine industry.
- 3.2 In line with the CHC Vision and Values, this Code reflects the CHC retailers' health provision commitment to the enhancement of public health and wellbeing. In an increasingly competitive environment, the welfare of the customer must remain paramount.

## 4 DEFINITIONS

- 4.1 **Accredited Retail Store** – means a store at which not less than one senior individual has completed the CHC Diploma in Complementary Healthcare, regardless of other qualifications held by employees.
- 4.2 **Advertisement** in relation to a product, includes any statement, pictorial representation or design, however made, that is intended whether directly or indirectly to promote the use or supply of a product and includes a service offered in relation to a product.

- 4.3 **ARTG** means the Australian Register of Therapeutic Goods.
- 4.4 **Breach** means a failure to comply with any provision of the Code.
- 4.5 **Code** means the Complementary Healthcare Retailer's Code of Practice, as amended from time to time.
- 4.6 **CHC** means the Complementary Healthcare Council of Australia.
- 4.7 **Consumer** means a person who may receive a service or acquire a product for use in relation to their own health.
- 4.8 **Industry** means that sector of the healthcare industry that is engaged in the manufacture, import, distribution and supply of complementary medicine products.
- 4.9 **Member** means any individual or company, including its employees, that is a member of the Complementary Healthcare Council.
- 4.10 **Practitioner** means a complementary medicine healthcare professional accredited by an association listed in Schedule 1 of the *Therapeutic Goods Regulations 1990*.
- 4.11 **Regulator** means a government agency performing a statutory regulatory function.
- 4.12 **TGA** means the Therapeutic Goods Administration.

## 5 UNDERLYING PRINCIPLES

- 5.1 CHC retail members accept that this Retailer Code of Practice is applied in spirit, as well as in the letter, to ensure that high ethical standards are followed. This Code may not be construed in any way that is deemed to contradict statutory law, nor does it remove the obligation upon members to conduct their business in accordance with said law.
- 5.2 Complementary healthcare retailers primarily sell three product categories:

- therapeutic products (complementary medicines), which are regulated by the Therapeutic Goods Administration (TGA); and
- health food products, which are regulated by the States' Food Authorities.
- general goods, including cosmetics, health aids, etc

5.3 The provision of product advice to consumers is a fundamental element to the retailing of complementary medicine products and health foods.

## 6 PROVISIONS OF THE CODE

### 6.1 Education

- 6.1.1 CHC retailers will maintain, improve, and expand professional competence through continued study and education, membership, and involvement in issues related to the health of the public.
- 6.1.2 CHC retailers agree to ensure that all new staff complete the CHC's Ethics and Marketing Modules of the Education Course (to be developed) within the first six (6) months of starting employment.
- 6.1.3 CHC retailers agree to ensure that all new staff complete the CHC's Foundation and Nutrition & Herbs Modules of the Education Course within the first twelve (12) months of starting employment.
- 6.1.4 To become an accredited store, a minimum of one senior individual must have completed the CHC Diploma in Complementary Healthcare. Upon completion of the Diploma, the CHC accredited store shall ensure the individual obtains post-graduate training through continuing education, for example, by attendance at industry-based seminars.
- 6.1.5 An employee who has obtained the full CHC Diploma in Complementary Health is automatically given CHC membership under the store. If the employee leaves employment at that store they must re-apply for membership under the new store or for individual retail membership as a Healthcare Professional.

**Comment [KH1]:** These modules will be included in Membership fee

**Comment [KH2]:** Accredited stores are given a discounted membership.

### 6.2 Relationships with Customers

- 6.2.1 CHC retailers will accurately communicate the potential benefits, risks and/or consequences associated with the goods, services and programs that they provide.
- 6.2.2 CHC retailers will be truthful about their qualifications and the limitations of their education, expertise and experience in providing goods and services consistent with their respective level of professional competence.

- 6.2.3 CHC retailers will only engage in treatment, diagnosis, or prescribing if lawfully licenced to do so. If applicable, CHC retailers will maintain, improve, and expand professional competence through continued study and education, memberships, and involvement in public health issues.
- 6.2.4 CHC retailers agree to promote the adoption of healthy lifestyles through informed choice rather than by coercion or intimidation.
- 6.2.5 CHC retailers will cooperate to whatever extent they are able with the CHC to educate consumers in the safe and proper use of complementary healthcare products and health foods.
- 6.2.6 CHC retailers will ensure they comply with the provisions of all relevant CHC Codes of Practice, and will all relevant Commonwealth, State and Territory legislation, including but not limited to the *Competition and Consumer Act 2010*, *Customs Act 1901* and *Quarantine Act 1908*.

### **6.3 Relationships with Industry**

- 6.3.1 In order to maintain the industry reputation, if the retailer has concerns about any product marketing material they should raise their concerns with their supplier, or alternatively, complete a Complaint Submission Form and forward to the Standards and Compliance Officer of the CHC. ([www.chc.org.au/Advertising/Complaints](http://www.chc.org.au/Advertising/Complaints))

### **6.4 Relationships with Employees**

- 6.4.1 Employees of a CHC retailer will be encouraged to openly communicate any expectations of job-related assignments that conflict with their professional ethics.
- 6.4.2 Practitioners holding an association membership (from Schedule 1) and working on-site for a CHC retailer, must be covered by insurance relevant to the retail environment.
- 6.4.3 Employee complaints should be referred to the appropriate employment authority.

### **6.5 Complementary Medicines**

- 6.5.1 All complementary medicines sold in Australia must be listed or registered with the TGA. It is the responsibility of the retailer to work with reputable suppliers, as this will help ensure

that the products being sold have been listed or registered on the Australian Register of Therapeutic Goods (ARTG).

### 6.6 Practitioner-only Products

6.6.1 Practitioner-only complementary healthcare products must not be publicly accessible or **visible**, or supplied for sale over the counter without a script.

**Comment [KH3]:** Inclusion to be discussed by CHC membership.

6.6.2 Patients under the care of an off-site healthcare professional cannot be dispensed a practitioner-only product unless a current written prescription is presented, or their healthcare professional is contacted, and the product must be supplied in accordance with any instructions received by the healthcare professional. The retailer should keep a copy of the script on file.

6.6.3 If a healthcare professional is prescribing on-site, the retail outlet must have a discrete area in which a consultation can be conducted to ensure the privacy and confidentiality of the consumer and information provided.

### 6.7 Use of CHC Logo

6.7.1 Use of the CHC logo should be for approved uses only, as outlined in the *Policy and Procedures for the use of the CHC Member Logo*. Please refer to Appendix 1 Related Documents.

6.7.2 The CHC logo must not appear to endorse any individual product or brand of products.

### 6.8 In-house Compliance

6.8.1 CHC retailers agree to ensure that all staff complete the CHC's Ethics and **Marketing** Modules of the Education Course (to be developed) no less than once every three (3) years.

**Comment [KH4]:** These modules will be included in Membership fee

6.8.2 CHC retailers agree to ensure that all staff are conversant with the provisions of this Code.

## **7 ADMINISTRATION**

- 7.1 This Code is to be administered by the Retail Advisory Committee.
- 7.2 The Retail Advisory Committee (RAC) will:
- 7.2.1 provide advisory opinions on questions from CHC members regarding the interpretation of the Code.
  - 7.2.2 widely publicise the Code's existence to the industry, the general public and other relevant audiences.
  - 7.2.3 liaise with the Complaints Resolution Committee (CRC) with regard to the overview of effective operation and administration of retail complaints handling.
  - 7.2.4 collate and disseminate information on the nature and outcomes of complaints made and report to the Board and to members and non-members via the CHC website.
  - 7.2.5 conduct a regular review (biannually) of the Code to ensure it continues to reflect community, industry and regulatory standards and values.

## **8 COMPLAINTS HANDLING PROCEDURES**

- 8.1 Any CHC Member who believes another Member has violated the Complementary Healthcare Retailer's Code of Practice may notify the secretariat in writing and request the matter be investigated. The letter must clearly state that it is a formal complaint and should specify the section(s) of the Code alleged to be violated.
- 8.2 Complaints are also subject to the provisions set out in the *CHC Code of Practice for the Marketing of Complementary Medicines and Healthfood Products* and other applicable CHC Codes of Practice as determined by the Retailers Advisory Committee or CHC Board.
- 8.3 The complaint will be acknowledged by the Complaints Resolution Committee and the member/ non-member complained against will be provided with the opportunity to respond to the complaint.
- 8.4 Members found to be in breach of this Code of Practice shall be requested to advise in writing the action being taken to remedy the breach, including the time frame for compliance.

8.5 Should a complaint concern a member of the Complaints Resolution Committee that member will, for that investigation, disqualify himself or herself.

**9 SANCTIONS**

9.1 In order for this Code to achieve credibility with and compliance by signatories, and to engender stakeholder confidence in the industry, it is necessary that commercially significant sanctions be available to the CHC. Sanctions will reflect the nature, seriousness and frequency of the breach.

9.2 One or more of the following sanctions may be applied by the CHC where breaches of the Code have been established:

<p>Minor or Moderate Breach</p>	<ul style="list-style-type: none"> <li>○ Warning issued;</li> <li>○ A requirement to give an undertaking in writing to discontinue any practice which has been determined to constitute a breach of the Code;</li> <li>○ Abide by sanctions from CHC Code of Practice for Marketing of Complementary Healthcare Products and any other applicable CHC Codes of Practice, as published from time to time;</li> <li>○ Publication of the result of the committee’s deliberations on the CHC website.</li> </ul>
<p>Severe Breach</p>	<ul style="list-style-type: none"> <li>○ Abide by sanctions from CHC <i>Code of Practice for Marketing of Complementary Medicines and Healthfood Products</i> and any other applicable CHC Codes of Practice, as published from time to time;</li> <li>○ A requirement to lodge a bond of at least \$2000 for twelve months to be released provided no further similar or major offences are recorded against the company in that period;</li> <li>○ Forfeiture of a lodged bond;</li> <li>○ Suspension or exclusion from membership;</li> <li>○ Suspension or exclusion from participation in any advisory and/or policy defining body of the CHC.</li> <li>○ Publication of the result of the committee’s deliberations on the CHC website.</li> </ul>
<p>Repeat Severe Breach</p>	<ul style="list-style-type: none"> <li>○ Refer to ACCC for misleading and deceptive conduct;</li> <li>○ Abide by sanctions from CHC Code of Practice for Marketing of Complementary Medicines and Healthfood Products and any other applicable CHC Codes of Practice, as published from time to time;</li> </ul>

	○ Publication of the result of the committee's deliberations on the CHC website.

## 10 APPEALS

- 10.1 A member who has been found to have breached this Code, or a complainant who has had a complaint dismissed, shall have the right to appeal against the findings or any sanctions imposed.
- 10.2 The Appellant must lodge notice of intention to appeal in writing with the Appeals Secretary within twenty one (21) working days of receiving advice of the CRC decision and/or sanctions. The Appellant then has a further ten (10) working days in which to lodge material in support of an Appeal with six (6) copies (one (1) for each member of the AAC and one (1) for the Appeals Secretary).
- 10.3 An Advertising Appeals Committee (AAC) is to be established by the CHC Board as per the provisions within the *CHC Code of Practice for the Marketing of Complementary Medicines and Healthfood Products*.
- 10.4 The findings of the AAC are final and binding on the parties. The Appeals Secretary must provide the outcome of the deliberations of the AAC to each party, no later than ten (10) working days after the AAC reaches its decision.

## 11 MONITORING

- 11.1 To support compliance with the CHC Complementary Medicine Retailer's Code of Practice, the Retail Advisory Committee will determine selected actions/issues each calendar year for monitoring. CHC Members will be informed of this proactive monitoring by way of a CHC newsletter, publication on the website, notification to the media, and/or letters to members and/or non-members in the industry.
- 11.2 The aims of monitoring include:
  - 11.2.1 To encourage compliance with this Code;
  - 11.2.2 To provide an on-going mechanism for identification of compliance issues;
  - 11.2.3 To provide an on-going mechanism for identification of changes in health retailing which may indicate the potential need for amendments to this Code;

- 11.2.4 To provide and publish statistical data on the rate of compliance.
- 11.3 If, following a review of the retail outlet, the Retail Advisory Committee considers there has been a failure to comply with this Code, the Member in question will be contacted in writing by the Secretariat, supplied with the relevant portion of the Minutes, and asked to provide a response within 20 days (20) of receipt of the request.
- 11.4 The Retail Advisory Committee will consider the response and provide, if necessary, any further advice or comment to the Member or refer this matter on to the Board.
- 11.5 The Retail Advisory Committee will issue an annual report of statistical data in relation to the monitoring of retail members and non-members.

## **12 Disclaimer**

- 12.1 This Code is not intended to provide nor shall it be construed as legal advice.
- 12.2 Where there is any conflict or inconsistency between the provisions of this Code of Practice and any Commonwealth, State or Territory legislation or instrument, that legislation or instrument will take precedence over this Guideline.
- 12.3 The rules of conduct and the standards of good practice encouraged by this Code of Practice, are both fair and reasonable and are otherwise necessary for the Code to achieve its objectives.

### 13 APPENDIX 1 RELATED DOCUMENTS

- 13.1 Complementary Healthcare Council's *Code of Ethics* (under development 2012)
- 13.2 Complementary Healthcare Council's *Code of Practice for the Marketing of Complementary Medicines and Healthfood Products*.
- 13.3 Complementary Healthcare Council's *Policy and Procedures for the Use of the CHC Member Logo*.

### 14 APPENDIX 2 REFERENCES

- 14.1 Australian Competition & Consumer Commission (ACCC) *Guidelines for Developing Effective Voluntary Industry Codes of Conduct*, February 2005  
<http://www.accc.gov.au/content/index.phtml/itemId/658186>
- 14.2 *Therapeutic Goods Advertising Code 2007*  
<http://www.tgacc.com.au/codeList.cfm>
- 14.3 *Australian Regulatory Guidelines for Complementary Medicines*  
<http://www.tga.gov.au/docs/html/argcm.htm>