

## Case studies

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### Code of conduct for nurses and Code of conduct for midwives

#### Introduction

The Nursing and Midwifery Board of Australia (NMBA) undertakes functions as set by the Health Practitioner Regulation National Law (the National Law), as in force in each state and territory. The NMBA regulates the practice of nursing and the practice of midwifery in Australia, and one of its key roles is to protect the public. The NMBA does this by developing registration standards, professional codes, guidelines and standards for practice which together establish the requirements for the professional and safe practice of nurses and midwives in Australia.

#### Case studies

The following six case studies are provided as a guide to applying the *Code of conduct for nurses (2017)* and the *Code of conduct for midwives (2017)* (the codes) in practice. The codes are not applied in isolation – they complement the registration standards, standards for practice, codes of ethics and other NMBA publications.

Underpinning the codes is the expectation that nurses and midwives will exercise their professional judgment to deliver the best possible outcomes in practice.

These case studies are provided as examples for guidance only. When a notification is made about a nurse or midwife the unique circumstances of each case are considered by the NMBA or other body making the determination.

## Case study 1 – Under-involvement/lack of care

### Summary of conduct

Mary is an enrolled nurse working in residential aged care.

Mary's colleagues had noticed that the residents in Mary's care were looking uncared for over several shifts and that wet sheets were unchanged and urine bottles not emptied. Mary was also spending a lot of time at the nurses' station while her residents were left unattended. Mary's manager raised the issues that both she and her colleagues had noticed with Mary.

### Applying the *Code of conduct for nurses*

The code 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.

Mary and her manager discussed the concerns that were raised. They considered the codes of conduct and specifically discussed applying Principle 2 and Principle 4 of the code in practice to improve her conduct at work:

- Principle 2.1 Nurses apply person-centred and evidence-based decision making for the delivery of safe and quality care.
- Principle 4.1 (h) Nurses must 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.

### Outcome

After her discussion with the manager, Mary understood that her recent conduct had fallen short of what was needed by the residents and expected by her manager and colleagues. She told her manager that she had been going through a difficult time personally and this had affected her work.

Mary and her manager agreed on a performance plan to support her to improve her practice with her residents, including regular check-ins with her manager for the next three months. Mary agreed to contact [Nurse & Midwife Support](#), the health support service, for help with her personal difficulties.

While Mary's conduct fell below the standard expected in the *Code of conduct for nurses*, and care of the residents may have been affected, it was appropriate to be addressed by her manager within her workplace.

If Mary's conduct does not improve during her performance plan or deteriorates further directly affecting patient safety, it may be necessary to notify the NMBA.

## Case study 2 – Cultural practice and respectful relationships

### Summary of conduct

Michael is a registered nurse at a health care facility.

Michael was working when an intimate examination of a patient was required. The patient was an Aboriginal woman. While Michael explained to the woman why the examination was required he did not ask the woman if she was comfortable with him doing the examination.

The woman was uncomfortable with Michael doing the examination; however, she felt that she had no choice. The woman's family made a complaint to the manager of the facility about Michael doing the examination because he had not taken her personal and/or cultural preferences into account.

### Applying the *Code of conduct for nurses*

The facility manager used the code to review Michael's conduct with him and give him direction on providing culturally safe and appropriate care.

Principle 3 of the code provides the overarching standard that nurses are expected to adopt in their practice: 'Nurses engage with people as individuals in a culturally safe and respectful way, foster open, honest and compassionate professional relationships, and adhere to their obligations about privacy and confidentiality.'

The conduct and behaviour that relate to this conduct in particular include:

- Principle 3.1b Nurses must advocate for and act to facilitate access to quality and culturally safe health services for Aboriginal and/or Torres Strait Islander peoples.
- Principle 3.2a Nurses must understand that only the person and/or their family can determine whether or not care is culturally safe and respectful.
- Principle 3.5a Nurses respect the confidentiality and privacy of people by seeking informed consent before disclosing information, including formally documenting such consent where possible.

### Outcome

While Michael believed that he was providing safe and respectful care for his patient, his conduct fell below that expected in the *Code of conduct for nurses*, particularly in that he made assumptions about what was culturally safe and respectful for his patient, without involving the patient in the decision-making about her care.

The facility manager used the *Code of conduct for nurses* as a basis to talk with Michael about what is culturally safe and appropriate care. They also discussed how Michael should have approached the situation and that cultural safety means providing care that takes into account Aboriginal and/or Torres Strait Islander person's needs and that they should be included in the decision-making of how care is provided.

The health care facility supported Michael to complete education on culturally safe health services for Aboriginal and/or Torres Strait Islander peoples.

## Case study 3 – Bullying and harassment

### Summary of conduct

Susan works as a midwife in a large public hospital and reported to her manager that she was being bullied and harassed by Anne, another midwife.

The bullying was in the form of demeaning and hurtful comments and was occurring on a daily basis. The bullying and harassment occurred in the workplace and via text messages to a personal mobile when Susan was away from the workplace.

The bullying led to Susan feeling stressed and no longer enjoying work.

### Applying the *Code of conduct for midwives*

The code clearly states that bullying and harassment are not acceptable or tolerated in the midwifery profession.

Midwives can use the *Code of conduct for midwives* as a guide to understand the professional behaviours that are expected by both the women in their care and their colleagues.

Susan consulted the *Code of conduct for midwives* and noted the information in Principle 3: Cultural practice and respectful relationships.

In particular:

- Principle 3.2(f) Midwives must create a positive, culturally safe work environment through role modelling, and supporting the rights, dignity and safety of others, including people and colleagues.
- Principle 3.3(e) Midwives must be non-judgmental and not refer to people in a non-professional manner verbally or in correspondence/records, including refraining from behaviour that may be interpreted as bullying or harassment and/or culturally unsafe.
- Principle 3.4 Bullying and harassment, and in particular:
  - 3.4(b) Midwives must 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.
  - 3.4(c) Midwives must 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.

### Outcome

Susan then spoke to her union representative and the health support service, *Nurse & Midwife Support*.

This guidance gave her the confidence to speak to her manager about Anne's behaviour. The manager investigated the issue in line with the hospital's bullying and harassment policy and Anne received a formal warning. Steps were taken by hospital management to ensure the behaviour could not continue.

Although the experience was stressful for Susan, it did not compromise the care she provided for women and it was appropriate for this matter to be dealt with through the hospital management.

Where the safety of the public is directly affected as a result of bullying or harassment, it may be necessary to notify the NMBA.

## Case study 4 – Professional boundaries

### Summary of conduct

Elizabeth is a registered nurse who works in a mental health service.

While caring for a new patient, Elizabeth became very close with the patient's family. After several weeks of caring for the patient, Elizabeth began a sexual relationship with the patient's husband.

The patient made a notification (complaint) to the NMBA about Elizabeth's conduct.

### Applying the *Code of conduct for nurses*

Nurses must ensure they maintain professional boundaries with anyone they enter into a professional relationship with, including the significant others of a patient.

The code gives clear guidance about professional boundaries for nurses. In particular the code states that nurses must:

- Principle 4.1(a) recognise the inherent power imbalance that exists between nurses, people in their care and significant others and establish and maintain professional boundaries.
- Principles 4.1(d) avoid sexual relationships with persons with whom they have currently or had previously entered into a professional relationship. These relationships are inappropriate in most circumstances and could be considered unprofessional conduct or professional misconduct.

### Outcome

Due to the serious nature of the conduct raised in the notification, Elizabeth was referred by the NMBA to the state tribunal. The tribunal found that Elizabeth's conduct constituted professional misconduct and did not meet the standards outlined in the *Code of conduct for nurses*.

Elizabeth was reprimanded and her registration was cancelled for two years, meaning she could no longer practise as a nurse.

## Case study 5 – Professional boundaries

### Summary of conduct

Louise is a midwife working in the community and was making her final visit to a woman who had recently given birth to her second child. Louise delivered the woman's first child five years earlier and had established a good professional relationship with the woman and her family.

During the visit, the woman indicated that she would like to continue seeing Louise on an ongoing basis to check in on the baby and the family, or just to have a coffee.

### Applying the *Code of conduct for midwives*

Professional boundaries exist between anyone the midwife enters into a professional relationship with, including the woman and her family. Adhering to professional boundaries enables the midwife to engage safely and effectively in professional relationships with the women in their care.

The code gives clear guidance on professional boundaries for midwives. In particular, the code states that midwives must:

- Principle 4.1(a) recognise the inherent power imbalance that exists between midwives, women in their care and significant others and establish and maintain professional boundaries.
- Principles 4.1(d) actively manage the woman's expectations, and be clear about professional boundaries that must exist in professional relationships for objectivity in care and prepare the woman for when the episode of care ends.

### Outcome

Louise recognised there is a start and end point to the professional relationship and that maintaining professional boundaries is integral to the midwife-woman professional relationship.

Louise recognised that it was not appropriate to extend the relationship beyond the professional one and recognised the potential to cross the professional boundary by accepting the woman's offer.

Louise thoughtfully discussed the need to maintain the professional relationship with the woman.

Louise documented the event and discussed it with her team, reflecting on how she could have better prepared the woman for the end of the professional relationship.

## Case study 6 – Confidentiality and privacy

### Summary of conduct

John is a midwife working in the same hospital where a friend's ex-wife had recently given birth.

Although John was not involved in the care of the women, he accessed information about her and her baby. Without her consent, John then provided the information to his friend.

The woman was no longer in contact with her ex-husband and later discovered he had been provided with her confidential information. The woman reported the incident to the hospital.

### Applying the *Code of conduct for midwives*

Midwives should embody integrity and, adhere to their obligations about privacy and confidentiality. Women have a right to expect that midwives will hold information about them in confidence.

The code gives clear guidance on confidentiality and privacy for midwives and professional behaviour. In particular the code states that midwives must:

- Principles 3.5(a) respect the confidentiality and privacy of the woman by seeking informed consent before disclosing information, including formally documenting such consent where possible.
- Principle 3.5(d) access records only when professionally involved in the care of the woman, and authorised to do so.

### Outcome

When John was approached about the breach of confidentiality, he was remorseful and admitted his error. He acknowledged that his conduct was unsatisfactory and fell below that expected in the *Code of conduct for midwives*, particularly in that he:

- accessed confidential records about a woman when there was no professional need to do so, and
- did not respect the privacy or confidentiality of the woman by providing confidential information about the woman to a third-party without her consent .

John's employer terminated his employment and made a notification (complaint) to the NMBA and it was investigated.

John was cautioned by the NMBA as the way he had practised was unsatisfactory. To ensure John understands his future conduct requirements, he was required to complete education on ethics and confidentiality.