SOCE311

Session 4

Regulatory Issues

Department of Social Sciences
Session Aim

- The aim of this session is to provide an introduction to:
  - the Privacy Act, the role of the Health Services Commissioner in relation to the practice of natural medicine and privacy, various licenses and local government ordinances
  - manufacturer liability, insurance
  - employer obligations and clients
The Privacy Act, Health Services Commissioner, Licenses and Ordinances
The Privacy Act (1988)

- The Privacy Act (1988) regulates how handling of individuals’ personal information occurs, and is an Australian law.
- Any information or opinion about an identified person, or one who is reasonably identifiable, is considered personal information.
The Privacy Act (1988)

- In addition, the Privacy Act includes 13 Australian Privacy Principles, which set out the rights, standards, and obligations for how personal information is held, used, handled, and accessed.
Health Services Commissioner

- Each state and territory determines the body or bodies responsible for receiving and investigating complaints about a possible breach of the National Code of Conduct.
- In most cases, this will be the state or territory’s health complaints entity.
Health Services Commissioner

- A public servant in all states is appointed to implement and administer the legislation. Such person is appointed under a variety of titles.
- In many jurisdictions a review body is established to advise the commissioner and/or minister in relation to health service complaints.
Health Services Commissioner

- Membership of these review bodies is made up of health service providers, users, and independent people.
- In the Northern Territory, they require one member to have at least five years’ standing as a legal practitioner.
National Registration and Accreditation Scheme (NRAS)

- In 2008 the Council of Australian Governments (COAG) decided to establish a single national registration and accreditation scheme for registered health practitioners.

- On 1 July 2010 (18 October for Western Australia), the following professions became nationally regulated by a corresponding national board:
National Registration and Accreditation Scheme (NRAS)

- chiropractors
- medical practitioners
- nurses and midwives
- optometrists
- osteopaths
- pharmacists
- physiotherapists
- dental practitioners
- podiatrists
- psychologists
National Registration and Accreditation Scheme (NRAS)

- On July 2012, four additional professions joined the National Scheme
  - Aboriginal and Torres Strait Islander health practitioners
  - Chinese medicine practitioners (including acupuncturists, Chinese herbal medicine practitioners and Chinese herbal dispensers)
  - medical radiation practitioners (including diagnostic radiographers, radiation therapists and nuclear medicine technologists), and
  - occupational therapists
Australian Health Practitioner Regulation Agency (AHPRA)

- AHPRA supports the 14 national boards that are responsible for regulating the health professions.
- The primary role of the national boards is to protect the public, setting standards and policies that all registered health practitioners must meet.
- Each board has entered into an agreement with AHPRA which sets out the fees payable by health practitioners, the annual budget of the board and the services provided by AHPRA.
Australian Health Practitioner Regulation Agency (AHPRA)

- AHPRA's operations are governed by the Health Practitioner Regulation National Law, as in force in each state and territory (the National Law), which came into effect on 1 July 2010.

- This law means that for the first time in Australia, 14 health professions are regulated by nationally consistent legislation under the National Registration and Accreditation Scheme.
Professional Associations

○ The role of professional associations are to:
  • protect and advance the professions within the community
  • establish minimum standards of training for practitioners
  • safeguard the public by identifying bona-fide practitioners
Manufacturer Liability, Insurance
Manufacturer Liability

- The TGA specifies that therapeutic goods must not be imported, supplied or exported if they do not meet applicable standards.
- A number of therapeutic goods orders specify standards relating to the labelling and packaging of therapeutic goods:
  - TG069 (general labelling requirements)
  - TGO80 (child resistant packaging)
  - standard for the uniform scheduling of drugs and poisons.
New Products And The TGA

- Any new product (i.e. not currently registered) needs to be validated as:
  - a clearly established identity
  - having an established traditional use or
  - having demonstrated therapeutic value

- The TGA also undertakes listed complementary medicine compliance reviews
Types Of Insurance

- Before choosing an insurance policy you will need to evaluate the insurance needs of your business

- Some insurers offer insurance package policies specially tailored to cover your business needs, and there are also individual products that may be relevant to the particular nature of your business
Types Of Insurance

○ There are three broad types of business insurance
  • asset and revenue insurance
    – motor vehicle insurance, building and contents, burglary, business interruption or loss of profits, deterioration of stock
  • personal and workers insurance
    – worker’s compensation, public liability, personal accident and illness, income protection or disability
  • liability insurance
    – public liability, professional indemnity, product liability
Professional Indemnity

- Professional indemnity insurance covers your legal liability to pay compensation for personal injury to third parties or damage to their property, and financial loss arising in the provision of professional advice, treatment; and any other professional service which may be rendered in the course of the business and for which you are properly qualified.
Practitioner Liability

- A practitioner may be subject to liability where injury is caused to a client by things such as:
  - adulterated products, faulty products used in treatment, products sold unopened that have been negligently manufactured, therapeutic instruments with a design fault, and products sold with inadequate warnings or safety instructions.
- In all such cases the court would determine whether or not the practitioner can be held responsible, or whether the responsibility was that of the original manufacturer/distributor.

Public Liability

- Public liability insurance covers your general legal liability as a result of carrying on a business.

- Examples of the type of liability include:
  - defective furniture, such as a table or chair collapsing and causing injury.
  - a threadbare carpet causing someone to slip on the stairs.
Malpractice Insurance

- An occasion may arise when you are sued for malpractice. This could be as a result of an accidental injury to a client during treatment, or even an unwarranted legal suit.
- Malpractice insurance protects you from the devastating financial costs that can come as a result of such claims.
Employer Obligations And Clients
Award And Agreement-Free Wages And Conditions

- The minimum wages and conditions an employee is entitled to are set out in awards (also known as ‘modern awards’)
- Awards do not apply when a business has an enterprise agreement or other registered agreement which covers the employee/s
- Awards apply to employees depending on the industry they work in or the job that they do
Award And Agreement-Free Wages And Conditions

- Enterprise awards apply to specific businesses.
- When an employee is not covered by an award or agreement they are considered to be award and agreement free. These employees may have an employment contract.
- They are also entitled to at least the:
  - national minimum wage
  - national employment standards
National Employment Standards

- The National Employment Standards (NES) are 10 minimum employment entitlements that have to be provided to all employees.
- The national minimum wage and the NES make up the minimum entitlements for employees in Australia.
National Employment Standards

- An award, employment contract, enterprise agreement or other registered agreement can not provide for conditions that are less than the national minimum wage or the NES, nor can they exclude the NES.

- All employees in the national workplace relations system are covered by the NES regardless of the award, registered agreement or employment contract that applies.
The 10 minimum entitlements of the NES are:

- maximum weekly hours
- requests for flexible working arrangements
- parental leave and related entitlements
- annual leave
- notice of termination and redundancy pay
- personal carers leave and compassionate leave
- community service leave
- long service leave
- public holidays
- Fair Work information statement
Workplace Health And Safety

- Safework Australia is the principal national organisation driving national policy development regarding workplace health and safety and worker’s compensation.
- The Commonwealth, States and Territories are responsible for regulating and enforcing WHS legislation in their jurisdictions.
- Regulations are enforceable.
Client Records

- The eHealth record system is a national system that enables people to share their health information with their healthcare providers, while enabling the person to control who can access their eHealth record.
- An eHealth record is an electronic summary of a person’s key health information.
- Registration in the eHealth record system is entirely voluntary.
Client Records

- The objectives of the eHealth record system are to:
  - provide access to people’s health information to help overcome the fragmentation of health information
  - improve the availability and quality of health information
  - improve the co-ordination and quality of health care provided to patients by different healthcare providers
Activity

- Please refer to the subject outline for details of this session’s activities
References


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