

#### Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

The object of this Bill is to adopt the Health Practitioner Regulation National Law (the National Law) hosted by the Queensland Parliament and set out in the Schedule to the Health Practitioner Regulation National Law Act 2009 of Queensland. The National Law gives effect to the Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions, signed by the Council of Australian Governments on 26 March 2008 and establishes a national registration and accreditation scheme for:

- (a) the regulation of health practitioners, and
- (b) the registration of students undertaking:
  - (i) programs of study that provide a qualification for registration in a health profession, or
  - (ii) clinical training in a health profession.

New South Wales is not adopting Divisions 3 to 12 of Part 8 of the National Law (and related definitions) which provide for health, performance and conduct matters relating to registered health practitioners and students. New South Wales will instead be retaining a separate system to deal with complaints about registered health

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practitioners and students practising or studying in this State. Before the National Law commences it will be necessary for New South Wales, and each of the other States and Territories, to enact legislation providing for consequential amendments of other Acts and transitional and savings arrangements consequent on the adoption of the National Law. The provisions dealing with the complaints system for registered health practitioners and students practising or studying in New South Wales will be addressed in this legislation.

#### Outline of provisions

#### Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act is the Health Practitioner Regulation Act 2009.

Clause 2 provides for the commencement of the proposed Act on:

- (a) 1 July 2010, or
- (b) a later day appointed by a proclamation made before 1 July 2010.

Clause 3 provides for definitions of terms used in the proposed Act. Specifically, clause 3 (1) provides that the Health Practitioner Regulation National Law (the National Law) set out in the Schedule to the Health Practitioner Regulation National Law Act 2009 of Queensland, as applied in New South Wales, is to be known as the Health Practitioner Regulation National Law (NSW).

Clause 3 (2) provides that if a term is used in the proposed Act and in the National Law, the term has the same meaning in the proposed Act as it has in the National Law.

#### Part 2 Adoption of Health Practitioner Regulation National Law

Clause 4 provides that the National Law, as in force from time to time, applies as a law of New South Wales (clause 4 (a)).

Each jurisdiction that adopts the National Law will have an equivalent provision in its adopting Act so that the National Law will be the law of each jurisdiction and is not only the law of Queensland. The effect is that a person registered as a health practitioner under the National Law is registered nationally, rather than requiring registration in each jurisdiction, and each of the entities created by the National Law is created not only by Queensland law but the law of each jurisdiction. For example,

each National Board will be not only a Queensland body but also a body of each of the jurisdictions in which the National Law is applied. Section 7 of the National Law clarifies that the effect is the creation of one single national entity rather than separate bodies in each jurisdiction.

Clause 4 (b) provides that the National Law, as applying in New South Wales, may be referred to by the name Health Practitioner Regulation National Law (NSW).

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Clause 4 (c) provides that the National Law, as applying in New South Wales, is part of the proposed Act. This is to ensure that the text of the National Law has effect for all purposes in New South Wales as an ordinary Act of Parliament. The effect of the proposed provision is that a reference in legislation to “an Act” or “any other Act” will include the National Law as applying in New South Wales.

Clause 5 defines some generic terms used in the National Law for the purposes of the application of that Law in New South Wales. Specifically, clause 5 provides that in the Health Practitioner Regulation National Law (NSW):

(a) the term Magistrate means a Magistrate appointed under the Local Court Act 2007, and

(b) the term this jurisdiction means New South Wales.

Clause 6 provides that Divisions 3 to 12 of Part 8 of the National Law (and related definitions) are not to be adopted by New South Wales. This is because New South Wales will be retaining, with minor modifications, its existing complaints system in relation to registered health practitioners and students. These provisions will be dealt with in the consequential amendments and transitional and savings arrangements to be enacted before the National Law commences.

Clause 7 provides that a number of Acts that generally apply to New South Wales legislation do not apply to the Health Practitioner Regulation National Law (NSW) or instruments, including regulations, made under that Law. In particular, Acts dealing with the interpretation of legislation, financial matters, privacy, freedom of information, the role of the ombudsman and matters relating to the employment of public servants will not apply to the Health Practitioner Regulation National Law (NSW). Instead, provisions have been included in the National Law to deal with each of these matters, ensuring that the same law applies in relation to each jurisdiction that adopts the National Law.

Part 3 Miscellaneous

Clause 8 is the general regulation-making power.

Clause 9 provides that the Minister must review the Act as soon as possible after the period of 5 years from the date of assent to the Act to determine whether the policy objectives of the Act remain valid. A copy of the report must be tabled in each House of Parliament.

Note on Health Practitioner Regulation National Law

The Schedule to the Health Practitioner Regulation National Law Act 2009 of Queensland sets out the current provisions of the National Law which is to be part of the law of New South Wales. The National Law is applied as a law of Queensland by the Health Practitioner Regulation National Law Act 2009 of Queensland and will be applied as the law in force in other participating States or Territories or a law that corresponds to the National Law will be enacted in other participating States or Territories.