

## Health Registration Legislation Amendment Bill 2004

New South Wales

### Explanatory note

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

This Bill is cognate with the *Health Legislation Amendment (Complaints) Bill 2004*.

Overview of Bill

The object of this Bill is to amend various Acts which provide for the registration of health practitioners:

- (a) to standardise, as far as practicable, the concepts of “professional misconduct” and “unsatisfactory professional conduct” where used in those Acts so that they relate to conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the relevant health practitioner in the practice of their profession is significantly below the standard reasonably expected of such a health practitioner of an equivalent level of training or experience, and
- (b) to make a contravention of proposed section 34A (4) of the *Health Care Complaints Act 1993* by a health practitioner (relating to requirements to provide information to the Health Care Complaints Commission) a type of unsatisfactory professional conduct under those Acts, and
- (c) to make it clear that when disciplinary proceedings in relation to a complaint are taken under those Acts the complaint may at that stage relate to matters arising out of the investigation of the complaint as originally made, and
- (d) to remove any requirements that complaints under those Acts need to be verified by statutory declaration, and
- (e) as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

The Bill also amends the *Medical Practice Act 1992* and the *Nurses and Midwives Act 1991* to enable a person to be represented before the relevant Professional Standards Committees by a non-legal adviser and to ensure that members of the New South Wales Medical Board or the Nurses and Midwives Board cannot sit on the relevant Professional Standards Committees.

Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the Acts set out in Schedule 1.

### Schedule 1 Amendments to health registration Acts

#### Amendments to the Chiropractors Act 2001

**Schedule 1.1 [1]** amends the *Chiropractors Act 2001* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of **unsatisfactory professional conduct** in that Act.

**Schedule 1.1 [2]** amends the *Chiropractors Act 2001* to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.1 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.1 [4]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.1 [5] and [6]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

#### Amendments to the Dental Practice Act 2001

**Schedule 1.2 [1] and [3]** amend the *Dental Practice Act 2001* to make the amendment referred to above in paragraph (a) of the Overview in relation to the

definitions of **unsatisfactory professional conduct** in that Act.

**Schedule 1.2 [2] and [4]** amend the *Dental Practice Act 2001* to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.2 [5]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.2 [6]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.2 [7] and [8]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

#### **Amendments to the Medical Practice Act 1992**

**Schedule 1.3 [1]** amends the *Medical Practice Act 1992* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of **unsatisfactory professional conduct** in that Act. **Schedule 1.3 [11]** makes consequential amendments.

**Schedule 1.3 [2]** amends the *Medical Practice Act 1992* to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.3 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.3 [4]–[7]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

**Schedule 1.3 [8]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.3 [10]** amends that Act to clarify that when the Coroner refers a transcript of evidence in proceedings because it indicates that a complaint could be made under that Act the Coroner is not to be treated as a complainant.

**Schedule 1.3 [12]** provides that members of the New South Wales Medical Board cannot sit on the Medical Tribunal.

**Schedule 1.3 [13]** provides that members of the New South Wales Medical Board cannot sit on a Professional Standards Committee.

**Schedule 1.3 [14] and [15]** enable a practitioner to be represented before a Professional Standards Committee by a non-legal adviser in certain circumstances.

**Schedule 1.3 [16]** gives protection to medical reports of the treating practitioner that are requested by a person being investigated by an Impaired Registrants Panel.

**Schedule 1.3 [17]** clarifies the provisions relating to the notification to the employer and others by the New South Wales Medical Board of an order made against or conditions imposed on a practitioner and enables the Board to dispense with the giving of such notifications in exceptional circumstances.

**Schedule 1.3 [9] and [18]** make minor law revision amendments.

#### **Amendment to the Nurses Amendment Act 2003**

**Schedule 1.4** makes an amendment to the *Nurses Amendment Act 2003* consequent on the amendments to the *Nurses and Midwives Act 1991* made by Schedule 1.5.

#### **Amendments to the Nurses and Midwives Act 1991**

**Schedule 1.5 [1]** makes a minor amendment by way of law revision.

**Schedule 1.5 [2]** amends the *Nurses and Midwives Act 1991* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of **unsatisfactory professional conduct** in that Act.

**Schedule 1.5 [3]** amends the *Nurses and Midwives Act 1991* to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.5 [4]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.5 [5]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.5 [6]** provides that members of the Nurses and Midwives Board cannot sit on a Professional Standards Committee.

**Schedule 1.5 [7] and [8]** enable a nurse or midwife to be represented before a Professional Standards Committee by a non-legal adviser in certain circumstances.

**Amendments to the Optometrists Act 2002**

**Schedule 1.6 [1]** amends the *Optometrists Act 2002* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of ***unsatisfactory professional conduct*** in that Act.

**Schedule 1.6 [2]** amends that Act to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.6 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.6 [4]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.6 [5] and [6]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

**Amendments to the Osteopaths Act 2001**

**Schedule 1.7 [1]** amends the *Osteopaths Act 2001* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of ***unsatisfactory professional conduct*** in that Act.

**Schedule 1.7 [2]** amends that Act to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.7 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.7 [4]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.7 [5] and [6]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

**Amendments to the Physiotherapists Act 2001**

**Schedule 1.8 [1]** amends the *Physiotherapists Act 2001* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of ***unsatisfactory professional conduct*** in that Act.

**Schedule 1.8 [2]** amends that Act to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.8 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.8 [4]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.8 [5] and [6]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

**Amendments to the Podiatrists Act 1989**

**Schedule 1.9 [1]** amends the *Podiatrists Act 1989* to make the amendment referred to above in paragraph (b) of the Overview in relation to the definition of ***professional misconduct*** in that Act.

**Schedule 1.9 [2]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.9 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Amendments to the Podiatrists Act 2003**

**Schedule 1.10 [1]** amends the *Podiatrists Act 2003* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of ***unsatisfactory professional conduct*** in that Act.

**Schedule 1.10 [2]** amends that Act to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.10 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.10 [4]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.10 [5] and [6]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

**Amendments to the Psychologists Act 2001**

**Schedule 1.11 [1]** amends the *Psychologists Act 2001* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of ***unsatisfactory professional conduct*** in that Act.

**Schedule 1.11 [2]** amends that Act to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.11 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.11 [4]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.11 [5] and [6]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.