

Passed by both Houses



New South Wales

# Health Legislation Amendment (Unregistered Health Practitioners) Bill 2006

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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2006*



New South Wales

## **Health Legislation Amendment (Unregistered Health Practitioners) Bill 2006**

Act No , 2006

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An Act to amend various Acts to provide for the regulation of health practitioners who are not registered under a health registration Act or whose registration under such an Act has been cancelled or suspended; and for other purposes.

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*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*Chairman of Committees of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.

**2 Commencement**

This Act commences on the date of assent to this Act.

**3 Amendment of Acts**

The Acts specified in Schedules 1–3 are amended as set out in those Schedules.

**4 Repeal of Act**

This Act is repealed on the day following the date of assent to this Act.

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## Schedule 1      Amendment of Public Health Act 1991 No 10

(Section 3)

[1]    **Section 3 Definitions**

Insert after section 3 (2):

- (3)    Notes included in this Act do not form part of this Act.

[2]    **Part 2A**

Omit the Part. Insert instead:

### **Part 2A Provision and promotion of health services**

#### **Division 1      Preliminary**

##### **10AA    Definitions**

In this Part:

*health practitioner, health registration Act, health service and registration authority* have the same meanings as in the *Health Care Complaints Act 1993*.

**Note.** The *Health Care Complaints Act 1993* defines those terms as follows:

**health practitioner** means a natural person who provides a health service (whether or not the person is registered under a health registration Act).

**health registration Act** means any of the following Acts:

*Chiropractors Act 2001*

*Dental Technicians Registration Act 1975*

*Dental Practice Act 2001*

*Medical Practice Act 1992*

*Nurses and Midwives Act 1991*

*Optical Dispensers Act 1963*

*Optometrists Act 2002*

*Osteopaths Act 2001*

*Pharmacy Act 1964*

*Physiotherapists Act 2001*

*Podiatrists Act 2003*

*Psychologists Act 2001*.

**health service** includes the following services, whether provided as public or private services:

- (a) medical, hospital and nursing services,
- (b) dental services,
- (c) mental health services,
- (d) pharmaceutical services,
- (e) ambulance services,
- (f) community health services,
- (g) health education services,
- (h) welfare services necessary to implement any services referred to in paragraphs (a)–(g),
- (i) services provided by podiatrists, chiropractors, osteopaths, optometrists, physiotherapists, psychologists and optical dispensers,
- (j) services provided by dietitians, masseurs, naturopaths, acupuncturists, occupational therapists, speech therapists, audiologists, audiometrists and radiographers,
- (k) services provided in other alternative health care fields,
- (k1) forensic pathology services,
- (l) a service prescribed by the regulations as a health service for the purposes of this Act.

**registration authority** means the person who has the function, under a health registration Act, of determining an application for registration under the Act.

**medical student** has the same meaning as in the *Medical Practice Act 1992*.

**registered midwife** and **registered nurse** have the same meanings as in the *Nurses and Midwives Act 1991*.

#### **10AB Proceedings for offences under this Part**

- (1) Proceedings for an offence under this Part may be instituted by the Director-General, a registration authority, the Health Care Complaints Commission or by any other person.
- (2) Proceedings for an offence under this Part may be commenced at any time within, but not later than, 2 years after the date on which the offence is alleged to have been committed.

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## Division 2 Restricted health services

### 10AC Spinal manipulation

- (1) A person must not engage in spinal manipulation in the course of providing a health service unless the person:
  - (a) is a registered chiropractor, or a chiropractic student acting under the appropriate supervision of a registered chiropractor, or
  - (b) is a registered medical practitioner, or a medical student acting under the appropriate supervision of a registered medical practitioner, or
  - (c) is a registered osteopath, or an osteopathy student acting under the appropriate supervision of a registered osteopath, or
  - (d) is a registered physiotherapist, or a physiotherapy student acting under the appropriate supervision of a registered physiotherapist.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

- (2) For the purposes of this Division, spinal manipulation is a restricted health service.
- (3) An authorised person or inspector appointed under any of the following Acts is authorised to ascertain whether this section is being complied with:
  - (a) *Chiropractors Act 2001*,
  - (b) *Medical Practice Act 1992*,
  - (c) *Osteopaths Act 2001*,
  - (d) *Physiotherapists Act 2001*.

- (4) In this section:

***spinal manipulation*** means the rapid application of a force (whether by manual or mechanical means) to any part of a person's body that affects a joint or segment of the vertebral column.

### 10AD Prescribed electrophysical treatments

- (1) A person must not provide a prescribed electrophysical treatment in the course of providing a health service unless the person:
  - (a) is a registered chiropractor, or a chiropractic student acting under the appropriate supervision of a registered chiropractor, or

- (b) is a registered medical practitioner, or a medical student acting under the appropriate supervision of a registered medical practitioner, or
- (c) is a registered osteopath, or an osteopathy student acting under the appropriate supervision of a registered osteopath, or
- (d) is a registered physiotherapist, or a physiotherapy student acting under the appropriate supervision of a registered physiotherapist, or
- (e) is a registered podiatrist, or a podiatry student acting under the appropriate supervision of a registered podiatrist.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

- (2) For the purposes of this Division, prescribed electrophysical treatment is a restricted health service.
- (3) An inspector or authorised person appointed under any of the following Acts is authorised to ascertain whether this section is being complied with:
  - (a) *Chiropractors Act 2001*,
  - (b) *Medical Practice Act 1992*,
  - (c) *Osteopaths Act 2001*,
  - (d) *Physiotherapists Act 2001*,
  - (e) *Podiatrists Act 2003*.
- (4) In this section:  
***prescribed electrophysical treatment*** means an electrophysical treatment prescribed by the regulations for the purposes of this section.

**10AE Prescribing of contact lenses, spectacle lenses and other appliances**

- (1) A person must not prescribe an optical appliance unless the person:
  - (a) is a registered optometrist, or
  - (b) is a registered medical practitioner, or

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(c) is a member of a class of persons declared by the regulations to be authorised to prescribe an optical appliance and the person acts in compliance with any conditions or limitations prescribed by the regulations.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

(2) For the purposes of this Division, prescribing an optical appliance is a restricted health service.

(3) A person who prescribes an optical appliance for a person must on request provide the person, at no extra charge, with a copy of the prescription.

Maximum penalty: 5 penalty units.

(4) A person who does not prescribe, but dispenses, an optical appliance for a person must provide the person, at no extra charge, with a copy of the prescription relating to the appliance.

Maximum penalty: 5 penalty units.

(5) A person who prescribes contact lenses for a person is not required to comply with subsection (3) until after he or she has completed the prescription and fitting process in relation to the contact lenses.

(6) An authorised person or inspector appointed under any of the following Acts is authorised to ascertain whether this section is being complied with:

(a) *Optometrists Act 2002*,

(b) *Medical Practice Act 1992*.

(7) In this section:

***optical appliance*** means contact lenses, spectacle lenses or any other appliance designed to correct, remedy or relieve any refractive abnormality or defect of sight.

#### **10AF Restricted dental practices**

(1) A person must not carry out a restricted dental practice unless the person is:

(a) a registered dentist, or

(b) a registered medical practitioner, or

(c) a registered dental student undertaking clinical studies, or undertaking a clinical placement at a public health organisation, or



- (d) a registered dental auxiliary who is carrying out dental auxiliary activities subject to the practice oversight of a registered dentist, or
- (e) a person performing radiographic work at a public health organisation, or on the order or at the request of a registered medical practitioner or registered dentist, or
- (f) a dental prosthetist carrying out a practice of dental prosthetics, or
- (g) a dental technician carrying out technical work on the written order of a registered dentist or of a dental prosthetist.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

- (2) For the purposes of this Division, restricted dental practice is a restricted health service.
- (3) An authorised person or inspector appointed under any of the following Acts is authorised to ascertain whether this section is being complied with:
  - (a) *Dental Practice Act 2001*,
  - (b) *Dental Technicians Registration Act 1975*,
  - (c) *Medical Practice Act 1992*.

- (4) In this section:

***dental auxiliary activity*** has the same meaning as in the *Dental Practice Act 2001*.

***dental prosthetist*** has the same meaning as in the *Dental Technicians Registration Act 1975*.

***dental technician*** means any of the following:

- (a) a person registered as a dental technician under the *Dental Technicians Registration Act 1975*,
- (b) a person approved by the Dental Technicians Registration Board under section 13 (2) (f) of the *Dental Technicians Registration Act 1975*,
- (c) a person undergoing in good faith training in technical work under the supervision of a registered dentist or of a person referred to in paragraph (a),
- (d) an apprentice, within the meaning of the *Apprenticeship and Traineeship Act 2001*, employed by a person referred to in paragraph (a), or by a person employing a person referred to in paragraph (a).

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***practice of dental prosthetics*** has the same meaning as in section 5 (3) of the *Dental Technicians Registration Act 1975*.

***practice oversight*** means oversight by a registered dentist in accordance with guidelines approved by the Director-General from time to time.

***public health organisation*** has the same meaning as in the *Health Services Act 1997*.

***registered dental student*** means a person registered as a dentistry student or a dental auxiliary student under section 138 of the *Dental Practice Act 2001*.

***restricted dental practice*** means any of the following practices:

- (a) the performance of any operation on the human teeth or jaws or associated structures,
- (b) the correction of malpositions of the human teeth or jaws or associated structures,
- (c) the performance of radiographic work in connection with the human teeth or jaws or associated structures,
- (d) the mechanical construction or the renewal or repair of artificial dentures or restorative dental appliances,
- (e) the performance of any operation on, or the giving of any treatment or advice to, any person that is preparatory to or for the purpose of the fitting, insertion, adjusting, fixing, constructing, repairing or renewing of artificial dentures or restorative dental appliances.

***technical work*** has the same meaning as in section 5 (1) of the *Dental Technicians Registration Act 1975*.

***written order*** means an order:

- (a) in a form prescribed for the purposes of issuing directions to dental technicians under the *Dental Practice Act 2001*, or
- (b) in a form prescribed for the purposes of section 27 (b) (ii) of the *Dental Technicians Registration Act 1975*.

#### **10AG Restricted birthing practices**

- (1) A person must not engage in a restricted birthing practice unless the person is:
  - (a) a registered midwife, or
  - (b) a registered medical practitioner, or

(c) a medical student or a registered nurse acting under the appropriate supervision of a medical practitioner or of a registered midwife, or

(d) a midwifery student acting under the appropriate supervision of a registered midwife.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

(2) For the purposes of this Division, a restricted birthing practice is a restricted health service.

(3) This section does not apply to the rendering of assistance to a woman who is giving birth to a child where the assistance is rendered in an emergency.

(4) An authorised person or inspector appointed under any of the following Acts is authorised to ascertain whether this section is being complied with:

(a) *Nurses and Midwives Act 1991*,

(b) *Medical Practice Act 1992*.

(5) In this section:

***restricted birthing practice*** means the care of a pregnant woman involving the management of the 3 stages of labour and child birth.

#### **10AH Restricted foot care services**

(1) A person must not, in the course of providing a foot care service, perform any invasive procedure on the feet or toenails under anaesthesia unless the person is:

(a) a registered podiatrist, or

(b) a registered medical practitioner.

Maximum penalty: 50 penalty units.

(2) A person must not, in the course of providing a foot care service, carry out surgical debridement of hypertrophic tissue of the foot using a sharp instrument unless the person is:

(a) a registered podiatrist, or

(b) a registered medical practitioner, or

(c) a registered nurse and the debridement is carried out to the extent necessary to provide immediate relief from pain or discomfort.

Maximum penalty: 50 penalty units.

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- (3) A person must not, in the course of providing a foot care service, treat a disorder of or injury to the foot knowing that the person treated:
- (a) has a medical condition causing inadequate blood circulation to their feet, or
  - (b) has peripheral neuropathy affecting their feet,
- unless the person providing that treatment is:
- (c) a registered podiatrist, or
  - (d) a registered medical practitioner, or
  - (e) a registered nurse, or
  - (f) a registered chiropractor, or
  - (g) a registered osteopath, or
  - (h) a registered physiotherapist, or
  - (i) a pharmacist registered under the *Pharmacy Act 1964*.
- Maximum penalty: 50 penalty units.
- (4) For the purposes of this Division, a procedure or treatment referred to in subsection (1), (2) or (3) that is carried out in the circumstances set out in those subsections is a restricted health service.
- (5) An authorised person or inspector appointed under any of the following Acts is authorised to ascertain whether this section is being complied with:
- (a) *Podiatrists Act 2003*,
  - (b) *Medical Practice Act 1992*,
  - (c) *Nurses and Midwives Act 1991*.
- (6) An authorised person or inspector is not to exercise any function under subsection (5) except with the approval of the Director-General given in a particular case.

**10A1 Restricted health services—powers of authorised officers appointed under other Acts**

- (1) An authorised officer, who is authorised under this Division to ascertain whether a provision of this Division is being complied with, has and may exercise for that purpose all the functions that the authorised officer has under the officer's Act for the purpose of ascertaining whether a provision of the officer's Act is being complied with or has been contravened.

- (2) For the purposes of subsection (1):
- (a) the functions of the authorised officer under the officer's Act apply in respect of premises on which a person engages in a restricted health service in the course of providing a health service in the same way as those functions apply in respect of premises on which a person engages in professional practice under the officer's Act, and
  - (b) the functions of the authorised officer under the officer's Act apply in respect of engaging in the restricted health service in the course of providing a health service in the same way as they apply in respect of professional practice engaged in under the officer's Act, and
  - (c) the provisions of an officer's Act with respect to the functions of an inspector, authorised officer or authorised person (including any provision that creates an offence in connection with those functions) extend to the exercise of functions of the authorised officer under this section as if the functions under this section were exercised under the officer's Act.
- (3) In this section:
- authorised officer*** means an authorised person or inspector who is authorised to ascertain whether a particular section of this Division is being complied with.
- officer's Act***, in relation to an authorised officer, means the Act under which the authorised officer is appointed as an authorised person or inspector.
- restricted health service*** means a health service that is specified to be a restricted health service for the purposes of this Division.

### **Division 3 Health practitioners who are de-registered or subject to prohibition orders**

#### **10AJ Definitions**

- (1) In this Division:
- corresponding health registration legislation*** means legislation of another State or Territory that provides for the registration of health practitioners.
- de-registered health practitioner*** means a health practitioner whose registration as a health practitioner under a health registration Act or corresponding health registration legislation is cancelled or suspended as a result of disciplinary proceedings.

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***prohibition order*** means a prohibition order made under a health registration Act or under section 41A of the *Health Care Complaints Act 1993*.

- (2) For the purposes of this Division, a person's registration as a health practitioner under a health registration Act or corresponding health registration legislation is cancelled if:
- (a) any of the following happen as a result of an action, decision, determination or order of a registration board, tribunal or court under that Act or legislation:
    - (i) the person's registration is cancelled,
    - (ii) the person is de-registered,
    - (iii) the person's name is removed from, or struck off, a register or a roll,
    - (iv) the person's practising certificate is cancelled, or
  - (b) the person's name is removed from the Register of Optical Dispensers for New South Wales under section 25 of the *Optical Dispensers Act 1963*.
- (3) For the purposes of this Division, a health practitioner is subject to a prohibition order if the health practitioner is, because of the order, subject to conditions when providing health services or is prohibited from providing some or all health services.

**10AK Provision of health services by persons who are de-registered or subject to prohibition orders**

- (1) A person must not provide a health service in contravention of a prohibition order.  
Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.
- (2) A de-registered health practitioner must, before providing a health service to a person, ensure that the following persons are notified, in accordance with the regulations, that the health practitioner was registered under a particular health registration Act or corresponding health registration legislation and that the health practitioner's registration under that Act or legislation has been cancelled or suspended:
- (a) the person to whom the health practitioner intends to provide the health service or, if that person is under 16 years of age or under guardianship, a parent or guardian of the person,

- (b) if the health service is to be provided by the health practitioner as an employee, the health practitioner's employer.

Maximum penalty: 50 penalty units.

- (3) A health practitioner who is subject to a prohibition order must, before providing a health service to a person, ensure that the following persons are notified, in accordance with the regulations, that the health practitioner is subject to the order:
  - (a) the person to whom the health practitioner intends to provide the health service or, if that person is under 16 years of age or under guardianship, a parent or guardian of the person,
  - (b) if the health service is to be provided by the health practitioner as an employee, the health practitioner's employer.

Maximum penalty: 50 penalty units.

**10AL Advertising of health services if person is de-registered or subject to a prohibition order**

- (1) A person must not advertise a health service that is to be provided by a de-registered health practitioner unless the advertisement specifies that the health practitioner was registered under a particular health registration Act or corresponding health registration legislation and that the health practitioner's registration under that Act or legislation is cancelled or suspended.

Maximum penalty: 50 penalty units.

- (2) A person must not advertise a health service that is to be provided by a health practitioner who is subject to a prohibition order unless the advertisement specifies that the health practitioner is subject to the order.

Maximum penalty: 50 penalty units.

- (3) A person is not guilty of an offence under this section if he or she did not know, and could not reasonably have known, that the health practitioner was de-registered or subject to a prohibition order.

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## Division 4      Miscellaneous

### 10AM    Codes of conduct for unregistered health practitioners

- (1) The regulations may prescribe codes of conduct for the provision of health services by:
  - (a) health practitioners who are not required to be registered under a health registration Act (including de-registered health practitioners), and
  - (b) health practitioners who are registered under a health registration Act who provide health services that are unrelated to their registration.
- (2) Before a code of practice is prescribed under subsection (1), the Minister is to:
  - (a) give public notice of the code in a form and manner determined by the Minister, specifying where the code can be inspected and the time and manner in which submissions may be made, and
  - (b) place the draft code and an impact assessment statement for the code on public exhibition for not less than 21 days, and
  - (c) consider any submission received within 21 days (or such longer period as the Minister may determine) after the end of that exhibition period.

**Note.** Section 41A of the *Health Care Complaints Act 1993* permits the Health Care Complaints Commission to make a prohibition order in respect of a health practitioner if the Commission finds that the health practitioner has breached the code of conduct and poses a substantial risk to the health of members of the public. The Commission is also able to cause a public statement to be issued in such circumstances identifying and giving warnings about the health practitioner.

### 10AN    Advertisement or promotion of health services

A person must not advertise or otherwise promote the provision of a health service in a manner that:

- (a) is false, misleading or deceptive, or
- (b) is likely to mislead or deceive, or
- (c) creates, or is likely to create, an unjustified expectation of beneficial treatment.

Maximum penalty:

- (a) for a first offence—100 penalty units, or
- (b) for a second or subsequent offence—200 penalty units.



**[3] Section 71 Inquiries by Director-General**

Insert at the end of section 71 (1) (b):

, or

(c) any alleged offence under this Act.

**[4] Section 79 Proceedings for offences**

Insert “10AB,” after “section” where secondly occurring in section 79 (2).

**[5] Schedule 4 Savings and transitional provisions**

Insert at the end of clause 1 (2A):

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*

**[6] Schedule 4, Part 7**

Insert after Part 6:

**Part 7 Provisions consequent on enactment of  
the Health Legislation Amendment  
(Unregistered Health Practitioners)  
Act 2006**

**20 De-registered health practitioners**

Division 3 of Part 2A, as inserted by the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*, extends to a health practitioner whose registration is, immediately before that Division commences, cancelled (within the meaning of that Division) or suspended.

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## Schedule 2      Amendment of Health Care Complaints Act 1993 No 105

(Section 3)

**[1] Section 4 Definitions**

Insert in alphabetical order:

*disciplinary action* includes the making of an order or the issue of a statement under section 41A.

**[2] Section 7 What can a complaint be made about?**

Insert “(including any alleged breach by the health practitioner of Division 3 of Part 2A of the *Public Health Act 1991* or of a code of conduct prescribed under section 10AM of that Act)” after “health practitioner” in section 7 (1) (a).

**[3] Section 12 Consultation between the Commission, a registration authority and the Registrar**

Insert “(if any)” after “appropriate registration authority” in section 12 (1).

**[4] Section 18 Can a complaint be withdrawn?**

Insert at the end of section 18 (2) (d):

, or

- (e) the matter, if substantiated, would result in the health practitioner being found guilty of an offence under Division 3 of Part 2A of the *Public Health Act 1991*.

**[5] Section 23 Investigation of complaint**

Insert at the end of section 23 (1) (b) (iv):

, or

- (v) if substantiated, would result in the health practitioner being found guilty of an offence under Division 3 of Part 2A of the *Public Health Act 1991*.

**[6] Section 25 Notification of certain complaints to the Director-General**

Insert “(other than Division 3 of Part 2A and any regulations made under that Division)” after “*Public Health Act 1991*” in section 25 (1).

**[7] Section 25, note**

Insert “(other than Division 3 of Part 2A of the *Public Health Act 1991*)” after “section 25”.

**[8] Part 2, Division 5, note**

Insert “for matters relating to unregistered health practitioners and” after “powers under this Division”.

**[9] Section 39 What action is taken after an investigation?**

Insert after section 39 (1) (f):

(g) take action under section 41A.

**[10] Section 39 (3)**

Omit the subsection.

**[11] Section 40 Opportunity for persons investigated to make submissions**

Omit “(b), (c) or (d)” from section 40 (1). Insert instead “(c), (d) or (g)”.

**[12] Part 2, Division 6A**

Insert after Division 6:

**Division 6A Action against unregistered health practitioners**

**41A Prohibition orders and public statements**

- (1) The Commission may take action under this section if:
  - (a) it has complied with Division 6 with respect to an investigation of a complaint against a health practitioner, and
  - (b) it finds that the health practitioner has breached a code of conduct for unregistered health practitioners or has been convicted of a relevant offence, and
  - (c) it is of the opinion that the health practitioner poses a substantial risk to the health of members of the public.
- (2) The action that the Commission may take under this section is either or both of the following:
  - (a) make an order (a *prohibition order*) that does any one or more of the following:
    - (i) prohibits the health practitioner from providing health services or specified health services for the period specified in the order or permanently,

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- (ii) places such conditions as the Commission thinks appropriate on the provision of health services or specified health services by the health practitioner for the period specified in the order or permanently,

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

- (b) cause a public statement to be issued in a manner determined by the Commission identifying and giving warnings or information about the health practitioner and health services provided by the health practitioner.
- (3) If the Commission is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act, the Commission is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.
- (4) The Commission may revoke or revise a statement under subsection (2) (b).
- (5) In this section:
  - code of conduct for unregistered health practitioners** means a code of conduct prescribed by regulations under section 10AM of the *Public Health Act 1991*.
  - relevant offence** means:
    - (a) an offence under Part 2A of the *Public Health Act 1991*, or
    - (b) an offence under the *Fair Trading Act 1987* or the *Trade Practices Act 1974* of the Commonwealth that relates to the provision of health services.

#### **41B Commission to provide details of its decision**

- (1) If the Commission makes any of the following decisions in respect of a health practitioner under section 41A, it must provide the health practitioner with a written statement of the decision as soon as practicable after the decision is made:
  - (a) a decision that the health practitioner has breached a code of conduct for unregistered health practitioners,
  - (b) a decision to make a prohibition order in respect of the health practitioner,
  - (c) a decision to issue, revoke or revise a public statement about the health practitioner under section 41A.

- (2) The statement of a decision must:
  - (a) set out any findings on material questions of fact, and
  - (b) refer to any evidence or other material on which the findings were based, and
  - (c) give the reasons for the decision.
- (3) The Commission, subject to subsections (4) and (5):
  - (a) must provide a statement of the decision to the complainant, and
  - (b) must provide a statement of the decision to any professional body or association that the Commission considers to be relevant to the health practitioner or to the area of practice to which the complaint relates, and
  - (c) may make a statement of the decision publicly available.
- (4) The Commission may remove from a statement of a decision that is provided to a person or body, or made publicly available, under subsection (3), any material that it considers to be confidential information.
- (5) When confidential material is not included in the statement of a decision the statement should indicate that such material has been removed.
- (6) This section does not affect the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.
- (7) In this section:

**confidential information** means information that:

  - (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared, and
  - (b) relates to the personal or business affairs of a person, other than the person to whom the Commission is required to provide the written statement of the decision, and
  - (c) is information:
    - (i) that was supplied in confidence, or
    - (ii) the publication of which would reveal a trade secret, or
    - (iii) that was provided in compliance with a duty imposed by or under an Act, or
    - (iv) the provision of which by the Commission would be in breach of an Act or law.

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**41C Appeals to Administrative Decisions Tribunal**

- (1) A health practitioner may apply to the Administrative Decisions Tribunal for a review of the following decisions under section 41A:
  - (a) a decision that the health practitioner has breached a code of conduct for unregistered health practitioners,
  - (b) a decision to make a prohibition order in respect of the health practitioner,
  - (c) a decision to issue, revoke or revise a public statement about the health practitioner.
- (2) An application under this section is to be made within 28 days after the day on which the health practitioner is provided with the statement of the decision.

**41D Commission to provide registration authority with details of prohibition orders**

If the Commission makes a prohibition order under section 41A in respect of a health practitioner, it is to provide a copy of the statement of the decision in respect of that order to each registration authority.

**[13] Sections 94A–94C**

Insert after section 94:

**94A Warnings about unsafe treatments or services**

- (1) If following an investigation, the Commission is of the view that a particular treatment or health service poses a risk to public health or safety, the Commission may cause a public statement to be issued in a manner determined by the Commission identifying and giving warnings or information about the treatment or health service.
- (2) The Commission may revoke or revise a statement under subsection (1).

**94B Tribunal decisions and names of de-registered practitioners to be publicly available**

- (1) The Commission:
  - (a) must make publicly available a statement of a decision of a tribunal if the statement is provided to it under a health registration Act and is in respect of a complaint that has been proved or admitted in whole or in part, and

- (b) must make publicly available the statement of a decision of the following bodies if the statement is provided to it under a health registration Act:
  - (i) the Dental Technicians Registration Board, but only if the statement is in respect of a decision to make an order under section 19A of the *Dental Technicians Registration Act 1975*,
  - (ii) the Optical Dispensers Licensing Board, but only if the statement is in respect of a decision under section 25 of the *Optical Dispensers Act 1963* to reprimand or caution an optical dispenser or to remove the optical dispenser's name from the register or to suspend the optical dispenser's licence,
  - (iii) the Pharmacy Board of New South Wales, but only if the statement is in respect of a decision to take action against a pharmacist under section 20 of the *Pharmacy Act 1964*, and
- (c) may disseminate any other statement of a decision provided to it under a health registration Act as the Commission thinks fit,  
unless the relevant tribunal or board has ordered otherwise.
- (2) The Commission is to make publicly available information required to be provided to it under a health registration Act about a person whose registration as a health practitioner under a health registration Act is cancelled or suspended as a result of disciplinary proceedings.
- (3) For the purposes of this section, a person's registration as a health practitioner under a health registration Act is cancelled if:
  - (a) any of the following happen as a result of an action, decision, determination or order of a registration board, tribunal or court under that Act:
    - (i) the person's registration is cancelled,
    - (ii) the person is de-registered,
    - (iii) the person's name is removed from, or struck off, a register or a roll,
    - (iv) the person's practising certificate is cancelled, or
  - (b) the person's name is removed from the Register of Optical Dispensers for New South Wales under section 25 of the *Optical Dispensers Act 1963*.

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**94C Protection from liability for certain publications**

- (1) A publication in good faith under section 41A, 41B, 94A or 94B does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:  
*protected person* means:
  - (a) the Commission or the Administrative Decisions Tribunal or a member of the Commission or Tribunal, or
  - (b) a board or tribunal established under a health registration Act or a member of any such board or tribunal, or
  - (c) the proprietor, editor or publisher of a newspaper, or
  - (d) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
  - (e) an internet service provider or internet content host, or
  - (f) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or
  - (g) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

**[14] Schedule 4 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

**[15] Schedule 4, Part 5**

Insert after Part 4:

**Part 5 Provisions consequent on enactment of Health Legislation Amendment (Unregistered Health Practitioners) Act 2006**

**14 Definition**

In this Part:

*amending Act* means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.



**15 Prohibition orders**

The Commission may make a prohibition order or cause a public statement to be issued under section 41A with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that section was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that section was inserted by the amending Act.

**16 Warnings about unsafe treatments or services**

Section 94A, as inserted by the amending Act, extends to an investigation that is completed before the commencement of that section.

**17 Decisions of boards and tribunals**

Section 94B (1), as inserted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

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## Schedule 3 Amendment of other Acts

(Section 3)

### 3.1 Chiropractors Act 2001 No 15

#### [1] Section 4 Definitions

Insert in alphabetical order:

*health service* has the same meaning as in the *Health Care Complaints Act 1993*.

*prohibition order* has the same meaning as in section 53 (3A).

#### [2] Section 53 Powers of the Tribunal

Insert after section 53 (3):

(3A) If the Tribunal makes an order under subsection (2) in respect of a person and it is satisfied that the person poses a substantial risk to the health of members of the public, it may by order (a *prohibition order*) do any one or more of the following:

- (a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,
- (b) place such conditions as the Tribunal thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

(3B) If the Tribunal is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act other than this Act, the Tribunal is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

#### [3] Section 81 Right of review

Omit “an order” from section 81 (1).

Insert instead “a prohibition order in respect of the person or of an order”.

**[4] Section 83 Powers on review**

Insert after section 83 (1) (d):

- (e) by its order terminate or shorten the period of a prohibition order or alter the conditions to which the person is subject under a prohibition order (including by imposing new conditions).

**[5] Section 115 Tribunal to provide details of its decision**

Omit section 115 (4). Insert instead:

- (4) The Board:
  - (a) must make publicly available a statement of a decision provided to it under this section if the decision is in respect of a complaint that has been proved or admitted in whole or in part, and
  - (b) may disseminate any other statement of a decision as the Board thinks fit,unless the Tribunal has ordered otherwise.

**[6] Sections 121A and 121B**

Insert after section 121:

**121A Cancelled registrations to be publicly available**

- (1) The Board is to make publicly available:
  - (a) the name of each person who is subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered, and
  - (b) such other information about the person as may be prescribed by the regulations.
- (2) The Board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.
- (3) The Board is not required to make publicly available information about a person:
  - (a) who is deceased, or
  - (b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

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**121B Protection from liability for certain publications**

- (1) A publication in good faith under section 115 or 121A does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:  
*protected person* means:
  - (a) the Board or Tribunal or a member of the Board or Tribunal, or
  - (b) the proprietor, editor or publisher of a newspaper, or
  - (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
  - (d) an internet service provider or internet content host, or
  - (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or
  - (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

**[7] Schedule 7 Savings and transitional provisions**

Insert at the end of clause 2 (1):

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

**[8] Schedule 7, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of Health Legislation Amendment (Unregistered Health Practitioners) Act 2006**

**16 Definition**

In this Part:

*amending Act* means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.

**17 Prohibition orders**

The Tribunal may make a prohibition order under section 53 (3A) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by the amending Act.

**18 Decisions of the Tribunal**

Section 115 (4), as substituted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

**19 Cancelled registrations to be publicly available**

Section 121A, as inserted by the amending Act, extends to a person who was, immediately before the commencement of that section, subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered.

**3.2 Dental Practice Act 2001 No 64**

**[1] Section 4 Definitions**

Insert in alphabetical order:

*health service* has the same meaning as in the *Health Care Complaints Act 1993*.

*prohibition order* has the same meaning as in section 71 (3A).

**[2] Section 71 Powers of the Tribunal**

Insert after section 71 (3):

- (3A) If the Tribunal makes an order under subsection (2) in respect of a person and it is satisfied that the person poses a substantial risk to the health of members of the public, it may by order (a *prohibition order*) do any one or more of the following:
  - (a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,

- (b) place such conditions as the Tribunal thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

- (3B) If the Tribunal is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act other than this Act, the Tribunal is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

**[3] Section 102 Right of review**

Omit “an order” from section 102 (1).

Insert instead “a prohibition order in respect of the person or of an order”.

**[4] Section 104 Powers on review**

Insert after section 104 (1) (d):

- (e) by its order terminate or shorten the period of a prohibition order or alter the conditions to which the person is subject under a prohibition order (including by imposing new conditions).

**[5] Section 136 Tribunal to provide details of its decision**

Omit section 136 (4). Insert instead:

- (4) The Board:
  - (a) must make publicly available a statement of a decision provided to it under this section if the decision is in respect of a complaint that has been proved or admitted in whole or in part, and
  - (b) may disseminate any other statement of a decision as the Board thinks fit,

unless the Tribunal has ordered otherwise.

**[6] Sections 147A and 147B**

Insert after section 147:

**147A Cancelled registrations to be publicly available**

- (1) The Board is to make publicly available:
  - (a) the name of each person who is subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered, and
  - (b) such other information about the person as may be prescribed by the regulations.
- (2) The Board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.
- (3) The Board is not required to make publicly available information about a person:
  - (a) who is deceased, or
  - (b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

**147B Protection from liability for certain publications**

- (1) A publication in good faith under section 136 or 147A does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:

*protected person* means:

  - (a) the Board or Tribunal or a member of the Board or Tribunal, or
  - (b) the proprietor, editor or publisher of a newspaper, or
  - (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
  - (d) an internet service provider or internet content host, or
  - (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or
  - (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

**[7] Schedule 7 Savings and transitional provisions**

Insert at the end of clause 2 (1):

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

**[8] Schedule 7, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of Health Legislation Amendment (Unregistered Health Practitioners) Act 2006**

**21 Definition**

In this Part:

*amending Act* means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.

**22 Prohibition orders**

The Tribunal may make a prohibition order under section 71 (3A) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by the amending Act.

**23 Decisions of the Tribunal**

Section 136 (4), as substituted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

**24 Cancelled registrations to be publicly available**

Section 147A, as inserted by the amending Act, extends to a person who was, immediately before the commencement of that section, subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered.



### 3.3 Dental Technicians Registration Act 1975 No 40

#### [1] Section 5 Definitions

Insert in alphabetical order in section 5 (1):

**Commission** means the Health Care Complaints Commission constituted under the *Health Care Complaints Act 1993*.

**health registration Act** has the same meaning as in the *Health Care Complaints Act 1993*.

**health service** has the same meaning as in the *Health Care Complaints Act 1993*.

**prohibition order** has the same meaning as in section 19B.

#### [2] Section 5 (5)

Insert after section 5 (4):

(5) Notes included in this Act do not form part of this Act.

#### [3] Sections 19 (1), 19A (1) and 20A

Omit “Health Care Complaints Commission” wherever occurring.

Insert instead “Commission”.

#### [4] Section 19B

Insert after section 19A:

#### **19B Prohibition orders against dental technicians and dental prosthetists**

(1) If the board is satisfied after an inquiry under section 20, or after the investigation by the Commission under the *Health Care Complaints Act 1993* of a complaint of which the Commission is notified under section 20A, that a dental technician or a dental prosthetist poses a substantial risk to the health of members of the public, the board may by order (a **prohibition order**) do any one or more of the following:

(a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,

- (b) place such conditions as the board thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

- (2) If the board is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act other than this Act, the board is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

**[5] Sections 21 (1) (b), 30 (c) and 34A (1) and (7)**

Omit “19 or 19A” wherever occurring. Insert instead “19, 19A or 19B”.

**[6] Section 22 Notations in register**

Insert at the end of the section:

- (2) Where the board makes an order under section 19B, or the District Court confirms such an order or makes some other order in respect of an appeal made to it in respect of such an order the secretary is to make a notation of the terms of the order made by the board and, as the case may require, of the order made by the District Court:
  - (a) if the person in respect of whom the order has been made is not a dental prosthetist—in the register adjacent to the name of the person, and
  - (b) if the person in respect of whom the order has been made is a dental prosthetist—in the index adjacent to the name of the person.

**[7] Section 34A Written statements of decisions**

Omit “sections 19 and 19A” from section 34A (2).

Insert instead “section 19, 19A or 19B”.

**[8] Section 34A (7A)**

Insert after section 34A (7):

- (7A) The board:
- (a) must make publicly available a statement of a decision if the decision is in respect of a complaint about misconduct with respect to the practice of dental prosthetics that has been proved or admitted in whole or in part and ensure that any such statement is provided to the Commission, and
  - (b) may disseminate any other statement of a decision as the board thinks fit.

**[9] Sections 34B and 34C**

Insert after section 34A:

**34B Cancelled registrations to be publicly available**

- (1) The board is to make publicly available:
  - (a) the name of each person who is subject to an order of the board or the District Court that the person's name be removed from the register or that the person's dental prosthetist's practising certificate be cancelled, and
  - (b) such other information about the person as may be prescribed by the regulations.
- (2) The board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.
- (3) The board is not required to make publicly available information about a person:
  - (a) who is deceased, or
  - (b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

**34C Protection from liability for certain publications**

- (1) A publication in good faith under section 34A or 34B does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:  
*protected person* means:
  - (a) the board or a member of the board, or
  - (b) the proprietor, editor or publisher of a newspaper, or

- 
- (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
  - (d) an internet service provider or internet content host, or
  - (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or
  - (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

**[10] Section 37 and Schedule 1**

Omit the heading to Part 5. Insert instead:

**37 Savings, transitional and other provisions**

Schedule 1 has effect.

**Schedule 1 Savings, transitional and other provisions**

(Section 37)

**Part 1 Preliminary**

**1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:  
*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

## **Part 2 Provisions consequent on enactment of Health Legislation Amendment (Unregistered Health Practitioners) Act 2006**

### **2 Definition**

In this Part:

*amending Act* means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.

### **3 Prohibition orders**

The board may make a prohibition order under section 19B (1) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by the amending Act.

### **4 Decisions of the board**

Section 34A (7A), as inserted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

### **5 Cancelled registrations to be publicly available**

Section 34B, as inserted by the amending Act, extends to a person who was, immediately before the commencement of that section, subject to an order of the board or the District Court that the person's name be removed from the register or that the person's dental prosthetist's practising certificate be cancelled.

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### 3.4 Medical Practice Act 1992 No 94

#### [1] Section 64 Tribunal can suspend or deregister in certain cases

Insert after section 64 (2):

- (2A) If the Tribunal makes an order under subsection (1) in respect of a person and it is satisfied that the person poses a substantial risk to the health of members of the public, it may by order (a *prohibition order*) do any one or more of the following:
- (a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,
  - (b) place such conditions as the Tribunal thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

- (2B) If the Tribunal is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act other than this Act, the Tribunal is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

#### [2] Section 92 Right of review

Omit “an order” from section 92 (1).

Insert instead “a prohibition order in respect of the person or of an order”.

#### [3] Section 94 Powers on review

Insert after section 94 (1) (d):

- (e) by its order terminate or shorten the period of a prohibition order or alter the conditions to which the person is subject under a prohibition order (including by imposing new conditions).

**[4] Section 165 Tribunal to provide details of its decision**

Omit section 165 (4). Insert instead:

- (4) The Board:
  - (a) must make publicly available a statement of a decision provided to it under this section if the decision is in respect of a complaint that has been proved or admitted in whole or in part, and
  - (b) may disseminate any other statement of a decision as the Board thinks fit,  
unless the Tribunal has ordered otherwise.

**[5] Sections 191C and 191D**

Insert after section 191B:

**191C Cancelled registrations to be publicly available**

- (1) The Board is to make publicly available:
  - (a) the name of each person who is subject to an order of the Tribunal or the Supreme Court that the person's name be removed from the Register or that the person not be re-registered, and
  - (b) such other information about the person as may be prescribed by the regulations.
- (2) The Board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.
- (3) The Board is not required to make publicly available information about a person:
  - (a) who is deceased, or
  - (b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

**191D Protection from liability for certain publications**

- (1) A publication in good faith under section 165 or 191C does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:  
*protected person* means:
  - (a) the Board or Tribunal or a member of the Board or Tribunal, or

- (b) the proprietor, editor or publisher of a newspaper, or
- (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
- (d) an internet service provider or internet content host, or
- (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or
- (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

**[6] Schedule 5 Savings and transitional provisions**

Insert at the end of clause 2 (1):

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

**[7] Schedule 5, Part 6**

Insert after Part 5:

**Part 6 Provisions consequent on enactment of Health Legislation Amendment (Unregistered Health Practitioners) Act 2006**

**32 Definition**

In this Part:

*amending Act* means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.

**33 Prohibition orders**

The Tribunal may make a prohibition order under section 64 (2A) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by the amending Act.



**34 Decisions of the Tribunal**

Section 165 (4), as substituted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

**35 Cancelled registrations to be publicly available**

Section 191C, as inserted by the amending Act, extends to a person who was, immediately before the commencement of that section, subject to an order of the Tribunal or the Supreme Court that the person's name be removed from the Register or that the person not be re-registered.

**[8] Dictionary**

Insert in alphabetical order in clause 1:

*health registration Act* has the same meaning as in the *Health Care Complaints Act 1993*.

*prohibition order* has the same meaning as in section 64 (2A).

**3.5 Nurses and Midwives Act 1991 No 9**

**[1] Section 3 Definitions**

Insert in alphabetical order in section 3 (1):

*health service* has the same meaning as in the *Health Care Complaints Act 1993*.

*prohibition order* has the same meaning as in section 64 (5A).

**[2] Section 64 Determinations of the Tribunal**

Insert after section 64 (5):

(5A) If the Tribunal makes an order under subsection (1) (g) or (5) in respect of a person and it is satisfied that the person poses a substantial risk to the health of members of the public, it may by order (a *prohibition order*) do any one or more of the following:

- (a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,
- (b) place such conditions as the Tribunal thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

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- (5B) If the Tribunal is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act other than this Act, the Tribunal is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

**[3] Section 66 Decisions of the Tribunal**

Insert “, the Board” after “midwife concerned” in section 66 (3).

**[4] Section 66 (6A)**

Insert after section 66 (6):

- (6A) The Board:
- (a) must make publicly available a statement of a decision provided to it under this section if the decision is in respect of a complaint that has been proved or admitted in whole or in part, and
  - (b) may disseminate any other statement of a decision as the Board thinks fit,
- unless the Tribunal has ordered otherwise.

**[5] Section 68 Review of suspension or cancellation of registration or enrolment by the Tribunal**

Insert at the end of section 68 (1) (b):

or

- (c) who is the subject of a prohibition order,

**[6] Section 68 (1)**

Omit “suspension or removal”.

Insert instead “suspension, removal or prohibition order”.

**[7] Section 68 (4) (d)**

Insert at the end of section 68 (4) (c) (ii):

, or

- (d) by its order terminate or shorten the period of a prohibition order or alter the conditions to which the person is subject under a prohibition order (including by imposing new conditions).

**[8] Sections 69A and 69B**

Insert after section 69:

**69A Cancelled registrations or enrolments to be publicly available**

- (1) The Board is to make publicly available:
  - (a) the name of each person who is subject to an order of the Tribunal or the Supreme Court that the person's name be removed from a Register or the Roll, and
  - (b) such other information about the person as may be prescribed by the regulations.
- (2) The Board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.
- (3) The Board is not required to make publicly available information about a person:
  - (a) who is deceased, or
  - (b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

**69B Protection from liability for certain publications**

- (1) A publication in good faith under section 66 or 69A does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:

*protected person* means:

  - (a) the Board or Tribunal or a member of the Board or Tribunal, or
  - (b) the proprietor, editor or publisher of a newspaper, or
  - (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
  - (d) an internet service provider or internet content host, or
  - (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or
  - (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

**[9] Schedule 3 Savings and transitional provisions**

Insert at the end of clause 2 (1):

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

**[10] Schedule 3, Part 5**

Insert after Part 4:

**Part 5 Provisions consequent on enactment of Health Legislation Amendment (Unregistered Health Practitioners) Act 2006**

**26 Definition**

In this Part:

*amending Act* means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.

**27 Prohibition orders**

The Tribunal may make a prohibition order under section 64 (5A) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by the amending Act.

**28 Decisions of the Tribunal**

Section 66 (6A), as inserted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

**29 Cancelled registrations to be publicly available**

Section 69A, as inserted by the amending Act, extends to a person who was, immediately before the commencement of that section, subject to an order of the Tribunal or the Supreme Court that the person's name be removed from a Register or the Roll.

### 3.6 Optical Dispensers Act 1963 No 35

#### [1] Section 2 Definitions

Insert in alphabetical order in section 2 (1):

**Commission** means the Health Care Complaints Commission constituted under the *Health Care Complaints Act 1993*.

**Health registration Act** has the same meaning as in the *Health Care Complaints Act 1993*.

**Health service** has the same meaning as in the *Health Care Complaints Act 1993*.

**Prohibition order** has the same meaning as in section 25 (5).

#### [2] Section 2 (3)

Insert after section 2 (2):

- (3) Notes included in this Act do not form part of this Act.

#### [3] Section 25 Proceedings before board against optical dispenser

Insert after section 25 (4):

- (5) The board may, after inquiry under this section, if it is satisfied that a person poses a substantial risk to the health of members of the public, by order (a **prohibition order**) do any one or more of the following:

- (a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,
- (b) place such conditions as the board thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

- (6) If the board is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act other than this Act, the board is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

---

**[4] Section 25A Notification of complaints to, and their investigation by, the Commission**

Omit “Health Care Complaints Commission” wherever occurring.

Insert instead “Commission”.

**[5] Section 26A Written statements of decisions**

Omit “or to suspend a person’s licence,” from section 26A (1).

Insert instead “, to suspend a person’s licence or to make a prohibition order in respect of a person,”.

**[6] Section 26A (7A)**

Insert after section 26A (7):

(7A) The board:

- (a) must make publicly available a statement of a decision if the decision is in respect of a complaint that has been proved or admitted in whole or in part and ensure that any such statement is provided to the Commission, and
- (b) may disseminate any other statement of a decision as the board thinks fit.

**[7] Section 27 Right of appeal**

Omit “a district court” from section 27 (1). Insert instead “the District Court”.

**[8] Section 27 (3)**

Insert “a prohibition order, a” after “An appeal against”.

**[9] Sections 33A and 33B**

Insert after section 33:

**33A Cancelled registrations to be publicly available**

- (1) The board is to make publicly available:
  - (a) the name of each person whose name is removed from the register under section 25 (1) or by order of a judge of the District Court, and
  - (b) such other information about the person as may be prescribed by the regulations.
- (2) The board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.

- (3) The board is not required to make publicly available information about a person:
  - (a) who is deceased, or
  - (b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

**33B Protection from liability for certain publications**

- (1) A publication in good faith under section 26A or 33A does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:
  - protected person* means:
    - (a) the board or a member of the board, or
    - (b) the proprietor, editor or publisher of a newspaper, or
    - (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
    - (d) an internet service provider or internet content host, or
    - (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or
    - (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

**[10] Schedule 1 Savings and transitional provisions**

Insert before clause 1:

**Part 1 Preliminary**

**[11] Schedule 1, clause 1 (1)**

Insert at the end of the subclause:

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

[12] **Schedule 1, Part 2**

Insert after clause 1:

**Part 2 Provisions consequent on enactment of  
Health Legislation Amendment  
(Unregistered Health Practitioners)  
Act 2006**

**2 Definition**

In this Part:

*amending Act* means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.

**3 Prohibition orders**

The board may make a prohibition order under section 25 (5) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by the amending Act.

**4 Decisions of the board**

Section 26 (7A), as inserted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

**5 Cancelled registrations to be publicly available**

Section 33A, as inserted by the amending Act, extends to a person whose name is removed from the register, before the commencement of that section, under section 25 (1) or by order of a judge of the District Court.

**3.7 Optometrists Act 2002 No 30**

[1] **Section 4 Definitions**

Insert in alphabetical order:

*health service* has the same meaning as in the *Health Care Complaints Act 1993*.

*prohibition order* has the same meaning as in section 57 (3A).



**[2] Section 57 Powers of the Tribunal**

Insert after section 57 (3):

- (3A) If the Tribunal makes an order under subsection (2) in respect of a person and it is satisfied that the person poses a substantial risk to the health of members of the public, it may by order (a *prohibition order*) do any one or more of the following:
- (a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,
  - (b) place such conditions as the Tribunal thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

- (3B) If the Tribunal is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act other than this Act, the Tribunal is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

**[3] Section 85 Right of review**

Omit “an order” from section 85 (1).

Insert instead “a prohibition order in respect of the person or of an order”.

**[4] Section 87 Powers on review**

Insert after section 87 (1) (d):

- (e) by its order terminate or shorten the period of a prohibition order or alter the conditions to which the person is subject under a prohibition order (including by imposing new conditions).

**[5] Section 119 Tribunal to provide details of its decision**

Omit section 119 (4). Insert instead:

- (4) The Board:
  - (a) must make publicly available a statement of a decision provided to it under this section if the decision is in respect of a complaint that has been proved or admitted in whole or in part, and

- 
- (b) may disseminate any other statement of a decision as the Board thinks fit,  
unless the Tribunal has ordered otherwise.

**[6] Sections 125A and 125B**

Insert after section 125:

**125A Cancelled registrations to be publicly available**

- (1) The Board is to make publicly available:
- (a) the name of each person who is subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered, and
  - (b) such other information about the person as may be prescribed by the regulations.
- (2) The Board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.
- (3) The Board is not required to make publicly available information about a person:
- (a) who is deceased, or
  - (b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

**125B Protection from liability for certain publications**

- (1) A publication in good faith under section 119 or 125A does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:  
*protected person* means:
- (a) the Board or Tribunal or a member of the Board or Tribunal, or
  - (b) the proprietor, editor or publisher of a newspaper, or
  - (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
  - (d) an internet service provider or internet content host, or
  - (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or

- (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

**[7] Schedule 7 Savings and transitional provisions**

Insert at the end of clause 2 (1):

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

**[8] Schedule 7, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of Health Legislation Amendment (Unregistered Health Practitioners) Act 2006**

**14 Definition**

In this Part:

*amending Act* means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.

**15 Prohibition orders**

The Tribunal may make a prohibition order under section 57 (3A) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by the amending Act.

**16 Decisions of the Tribunal**

Section 119 (4), as substituted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

---

**17 Cancelled registrations to be publicly available**

Section 125A, as inserted by the amending Act, extends to a person who was, immediately before the commencement of that section, subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered.

**3.8 Osteopaths Act 2001 No 16**

**[1] Section 4 Definitions**

Insert in alphabetical order:

*health service* has the same meaning as in the *Health Care Complaints Act 1993*.

*prohibition order* has the same meaning as in section 53 (3A).

**[2] Section 53 Powers of the Tribunal**

Insert after section 53 (3):

(3A) If the Tribunal makes an order under subsection (2) in respect of a person and it is satisfied that the person poses a substantial risk to the health of members of the public, it may by order (a *prohibition order*) do any one or more of the following:

- (a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,
- (b) place such conditions as the Tribunal thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

(3B) If the Tribunal is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act other than this Act, the Tribunal is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

**[3] Section 81 Right of review**

Omit "an order" from section 81 (1).

Insert instead "a prohibition order in respect of the person or of an order".

**[4] Section 83 Powers on review**

Insert after section 83 (1) (d):

- (e) by its order terminate or shorten the period of a prohibition order or alter the conditions to which the person is subject under a prohibition order (including by imposing new conditions).

**[5] Section 115 Tribunal to provide details of its decision**

Omit section 115 (4). Insert instead:

- (4) The Board:
  - (a) must make publicly available a statement of a decision provided to it under this section if the decision is in respect of a complaint that has been proved or admitted in whole or in part, and
  - (b) may disseminate any other statement of a decision as the Board thinks fit,unless the Tribunal has ordered otherwise.

**[6] Sections 121A and 121B**

Insert after section 121:

**121A Cancelled registrations to be publicly available**

- (1) The Board is to make publicly available:
  - (a) the name of each person who is subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered, and
  - (b) such other information about the person as may be prescribed by the regulations.
- (2) The Board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.
- (3) The Board is not required to make publicly available information about a person:
  - (a) who is deceased, or
  - (b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

---

**121B Protection from liability for certain publications**

- (1) A publication in good faith under section 115 or 121A does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:  
*protected person* means:
  - (a) the Board or Tribunal or a member of the Board or Tribunal, or
  - (b) the proprietor, editor or publisher of a newspaper, or
  - (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
  - (d) an internet service provider or internet content host, or
  - (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or
  - (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

**[7] Schedule 7 Savings and transitional provisions**

Insert at the end of clause 2 (1):

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

**[8] Schedule 7, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of Health Legislation Amendment (Unregistered Health Practitioners) Act 2006**

**15 Definition**

In this Part:

*amending Act* means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.

**16 Prohibition orders**

The Tribunal may make a prohibition order under section 53 (3A) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by the amending Act.

**17 Decisions of the Tribunal**

Section 115 (4), as substituted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

**18 Cancelled registrations to be publicly available**

Section 121A, as inserted by the amending Act, extends to a person who was, immediately before the commencement of that section, subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered.

**3.9 Pharmacy Act 1964 No 48**

**[1] Section 3 Definitions**

Insert in alphabetical order in section 3 (1):

*Commission* means the Health Care Complaints Commission constituted under the *Health Care Complaints Act 1993*.

*Health registration Act* has the same meaning as in the *Health Care Complaints Act 1993*.

*Health service* has the same meaning as in the *Health Care Complaints Act 1993*.

*Prohibition order* has the same meaning as in section 20 (2A).

**[2] Sections 19B (1), 19D (2), 19E (1) and 19F (b1)**

Omit "Health Care Complaints Commission" wherever occurring.

Insert instead "Commission".

---

**[3] Section 20 Consequences of misconduct etc**

Insert after section 20 (2):

- (2A) If the Board makes an order under subsection (1) (h) or (i) in respect of a person and it is satisfied that the person poses a substantial risk to the health of members of the public, it may by order (a *prohibition order*) do any one or more of the following:
- (a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,
  - (b) place such conditions as the Board thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

- (2B) If the Board is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act other than this Act, the Board is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

**[4] Section 21A Written statements of decisions**

Insert after section 21A (7):

- (7A) The Board:
- (a) must make publicly available a statement of a decision if the decision is in respect of a complaint that has been proved or admitted in whole or in part and ensure that any such statement is provided to the Commission, and
  - (b) may disseminate any other statement of a decision as the Board thinks fit.

**[5] Sections 33A and 33B**

Insert after section 33:

**33A Cancelled registrations to be publicly available**

- (1) The Board is to make publicly available:
- (a) the name of each person who is subject to an order of the Board or the District Court that the person's name be removed from the register, and



- (b) such other information about the person as may be prescribed by the regulations.
- (2) The Board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.
- (3) The Board is not required to make publicly available information about a person:
  - (a) who is deceased, or
  - (b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

**33B Protection from liability for certain publications**

- (1) A publication in good faith under section 21A or 33A does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:  
*protected person* means:
  - (a) the Board or a member of the Board, or
  - (b) the proprietor, editor or publisher of a newspaper, or
  - (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
  - (d) an internet service provider or internet content host, or
  - (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or
  - (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

**[6] Part 7, heading**

Insert before section 39:

**Part 7 Savings and transitional provisions**

**[7] Section 40 Savings and transitional regulations**

Insert at the end of section 40 (1):

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

**[8] Sections 41–43**

Insert after section 40A:

**41 Prohibition orders**

The Board may make a prohibition order under section 20 (2A) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by that Act.

**42 Decisions of the Board**

Section 21A (7A), as inserted by the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

**43 Cancelled registrations to be publicly available**

Section 33A, as inserted by the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*, extends to a person who was, immediately before the commencement of that section, subject to an order of the Board or the District Court that the person's name be removed from the register.

**3.10 Pharmacy Practice Act 2006 No 59**

**[1] Section 4 Definitions**

Insert in alphabetical order in section 4 (1):

***health service*** has the same meaning as in the *Health Care Complaints Act 1993*.

***prohibition order*** has the same meaning as in section 66 (3A).

**[2] Section 66 Powers of Tribunal**

Insert after section 66 (3):

(3A) If the Tribunal makes an order under subsection (2) in respect of a person and it is satisfied that the person poses a substantial risk to the health of members of the public, it may by order (a *prohibition order*) do any one or more of the following:

- (a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,
- (b) place such conditions as the Tribunal thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

(3B) If the Tribunal is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act other than this Act, the Tribunal is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

**[3] Section 94 Right of review**

Omit “an order” from section 94 (1).

Insert instead “a prohibition order in respect of the person or of an order”.

**[4] Section 96 Powers on review**

Insert after section 96 (1) (d):

- (e) by its order terminate or shorten the period of a prohibition order or alter the conditions to which the person is subject under a prohibition order (including by imposing new conditions).

**[5] Section 128 Tribunal to provide details of its decision**

Omit section 128 (4). Insert instead:

- (4) The Board:
  - (a) must make publicly available a statement of a decision provided to it under this section if the decision is in respect of a complaint that has been proved or admitted in whole or in part, and

- 
- (b) may disseminate any other statement of a decision as the Board thinks fit,  
unless the Tribunal has ordered otherwise.

**[6] Sections 144A and 144B**

Insert after section 144:

**144A Cancelled registrations to be publicly available**

- (1) The Board is to make publicly available:
- (a) the name of each person who is subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered, and
  - (b) such other information about the person as may be prescribed by the regulations.
- (2) The Board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.
- (3) The Board is not required to make publicly available information about a person:
- (a) who is deceased, or
  - (b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

**144B Protection from liability for certain publications**

- (1) A publication in good faith under section 128 or 144A does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:  
*protected person* means:
- (a) the Board or Tribunal or a member of the Board or Tribunal, or
  - (b) the proprietor, editor or publisher of a newspaper, or
  - (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
  - (d) an internet service provider or internet content host, or
  - (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or

- (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

**[7] Schedule 7 Amendment of other Acts and instruments**

Omit “person registered as a pharmacist under the *Pharmacy Practice Act 2006*” from Schedule 7.17.

Insert instead “a registered pharmacist”.

**[8] Schedule 8 Savings and transitional provisions**

Insert at the end of clause 2 (1):

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

**[9] Schedule 8, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of Health Legislation Amendment (Unregistered Health Practitioners) Act 2006**

**21 Definition**

In this Part:

*amending Act* means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.

**22 Prohibition orders**

The Tribunal may make a prohibition order under section 66 (3A) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by the amending Act.

---

**23 Decisions of the Tribunal**

Section 128 (4), as substituted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

**24 Cancelled registrations to be publicly available**

Section 144A, as inserted by the amending Act, extends to a person who was, immediately before the commencement of that section, subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered.

**3.11 Physiotherapists Act 2001 No 67**

**[1] Section 4 Definitions**

Insert in alphabetical order:

*health service* has the same meaning as in the *Health Care Complaints Act 1993*.

*prohibition order* has the same meaning as in section 54 (3A).

**[2] Section 54 Powers of the Tribunal**

Insert after section 54 (3):

(3A) If the Tribunal makes an order under subsection (2) in respect of a person and it is satisfied that the person poses a substantial risk to the health of members of the public, it may by order (a *prohibition order*) do any one or more of the following:

- (a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,
- (b) place such conditions as the Tribunal thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

(3B) If the Tribunal is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act other than this Act, the Tribunal is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

**[3] Section 82 Right of review**

Omit “an order” from section 82 (1).

Insert instead “a prohibition order in respect of the person or of an order”.

**[4] Section 84 Powers on review**

Insert after section 84 (1) (d):

- (e) by its order terminate or shorten the period of a prohibition order or alter the conditions to which the person is subject under a prohibition order (including by imposing new conditions).

**[5] Section 116 Tribunal to provide details of its decision**

Omit section 116 (4). Insert instead:

- (4) The Board:
  - (a) must make publicly available a statement of a decision provided to it under this section if the decision is in respect of a complaint that has been proved or admitted in whole or in part, and
  - (b) may disseminate any other statement of a decision as the Board thinks fit,unless the Tribunal has ordered otherwise.

**[6] Sections 122A and 122B**

Insert after section 122:

**122A Cancelled registrations to be publicly available**

- (1) The Board is to make publicly available:
  - (a) the name of each person who is subject to an order of the Tribunal or the Supreme Court that the person’s registration be cancelled or that the person not be re-registered, and
  - (b) such other information about the person as may be prescribed by the regulations.
- (2) The Board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.
- (3) The Board is not required to make publicly available information about a person:
  - (a) who is deceased, or

- 
- (b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

**122B Protection from liability for certain publications**

- (1) A publication in good faith under section 116 or 122A does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:  
*protected person* means:
- (a) the Board or Tribunal or a member of the Board or Tribunal, or
  - (b) the proprietor, editor or publisher of a newspaper, or
  - (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
  - (d) an internet service provider or internet content host, or
  - (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or
  - (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

**[7] Schedule 7 Savings and transitional provisions**

Insert at the end of clause 2 (1):

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

**[8] Schedule 7, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of Health Legislation Amendment (Unregistered Health Practitioners) Act 2006**

**16 Definition**

In this Part:

*amending Act* means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.



**17 Prohibition orders**

The Tribunal may make a prohibition order under section 54 (3A) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by the amending Act.

**18 Decisions of the Tribunal**

Section 116 (4), as substituted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

**19 Cancelled registrations to be publicly available**

Section 122A, as inserted by the amending Act, extends to a person who was, immediately before the commencement of that section, subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered.

**3.12 Podiatrists Act 2003 No 69**

**[1] Section 4 Definitions**

Insert in alphabetical order:

*health service* has the same meaning as in the *Health Care Complaints Act 1993*.

*prohibition order* has the same meaning as in section 53 (3A).

**[2] Section 53 Powers of the Tribunal**

Insert after section 53 (3):

- (3A) If the Tribunal makes an order under subsection (2) in respect of a person and it is satisfied that the person poses a substantial risk to the health of members of the public, it may by order (a *prohibition order*) do any one or more of the following:
  - (a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,

- (b) place such conditions as the Tribunal thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

- (3B) If the Tribunal is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act other than this Act, the Tribunal is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

**[3] Section 81 Right of review**

Omit “an order” from section 81 (1).

Insert instead “a prohibition order in respect of the person or of an order”.

**[4] Section 83 Powers on review**

Insert after section 83 (1) (d):

- (e) by its order terminate or shorten the period of a prohibition order or alter the conditions to which the person is subject under a prohibition order (including by imposing new conditions).

**[5] Section 115 Tribunal to provide details of its decision**

Omit section 115 (4). Insert instead:

- (4) The Board:
  - (a) must make publicly available a statement of a decision provided to it under this section if the decision is in respect of a complaint that has been proved or admitted in whole or in part, and
  - (b) may disseminate any other statement of a decision as the Board thinks fit,

unless the Tribunal has ordered otherwise.

**[6] Sections 121A and 121B**

Insert after section 121:

**121A Cancelled registrations to be publicly available**

- (1) The Board is to make publicly available:
  - (a) the name of each person who is subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered, and
  - (b) such other information about the person as may be prescribed by the regulations.
- (2) The Board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.
- (3) The Board is not required to make publicly available information about a person:
  - (a) who is deceased, or
  - (b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

**121B Protection from liability for certain publications**

- (1) A publication in good faith under section 115 or 121A does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:

*protected person* means:

  - (a) the Board or Tribunal or a member of the Board or Tribunal, or
  - (b) the proprietor, editor or publisher of a newspaper, or
  - (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
  - (d) an internet service provider or internet content host, or
  - (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or
  - (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

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**[7] Schedule 7 Savings and transitional provisions**

Insert at the end of clause 2 (1):

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

**[8] Schedule 7, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of Health Legislation Amendment (Unregistered Health Practitioners) Act 2006**

**16 Definition**

In this Part:

*amending Act* means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.

**17 Prohibition orders**

The Tribunal may make a prohibition order under section 53 (3A) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by the amending Act.

**18 Decisions of the Tribunal**

Section 115 (4), as substituted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

**19 Cancelled registrations to be publicly available**

Section 121A, as inserted by the amending Act, extends to a person who was, immediately before the commencement of that section, subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered.

### 3.13 Psychologists Act 2001 No 69

#### [1] Section 4 Definitions

Insert in alphabetical order:

*health service* has the same meaning as in the *Health Care Complaints Act 1993*.

*prohibition order* has the same meaning as in section 53 (3A).

#### [2] Section 53 Powers of the Tribunal

Insert after section 53 (3):

(3A) If the Tribunal makes an order under subsection (2) in respect of a person and it is satisfied that the person poses a substantial risk to the health of members of the public, it may by order (a *prohibition order*) do any one or more of the following:

(a) prohibit the person from providing health services or specified health services for the period specified in the order or permanently,

(b) place such conditions as the Tribunal thinks appropriate on the provision of health services or specified health services by the person for the period specified in the order or permanently.

**Note.** Section 10AK (1) of the *Public Health Act 1991* provides that it is an offence for a person to provide a health service in contravention of a prohibition order.

(3B) If the Tribunal is aware that a person in respect of whom it is proposing to make a prohibition order is registered under a health registration Act other than this Act, the Tribunal is, before making the prohibition order, to notify the board constituted under that other Act of the proposed order and give that board an opportunity to make a submission.

#### [3] Section 81 Right of review

Omit “an order” from section 81 (1).

Insert instead “a prohibition order in respect of the person or of an order”.

#### [4] Section 83 Powers on review

Insert after section 83 (1) (d):

(e) by its order terminate or shorten the period of a prohibition order or alter the conditions to which the person is subject under a prohibition order (including by imposing new conditions).

**[5] Section 115 Tribunal to provide details of its decision**

Omit section 115 (4). Insert instead:

- (4) The Board:
  - (a) must make publicly available a statement of a decision provided to it under this section if the decision is in respect of a complaint that has been proved or admitted in whole or in part, and
  - (b) may disseminate any other statement of a decision as the Board thinks fit,  
unless the Tribunal has ordered otherwise.

**[6] Sections 121A and 121B**

Insert after section 121:

**121A Cancelled registrations to be publicly available**

- (1) The Board is to make publicly available:
  - (a) the name of each person who is subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered, and
  - (b) such other information about the person as may be prescribed by the regulations.
- (2) The Board is to ensure that the information required to be made publicly available under subsection (1) is provided to the Commission.
- (3) The Board is not required to make publicly available information about a person:
  - (a) who is deceased, or
  - (b) who belongs to a class of persons prescribed by the regulations for the purposes of this section.

**121B Protection from liability for certain publications**

- (1) A publication in good faith under section 115 or 121A does not subject a protected person to any liability (including liability in defamation).
- (2) In this section:  
*protected person* means:
  - (a) the Board or Tribunal or a member of the Board or Tribunal, or

- (b) the proprietor, editor or publisher of a newspaper, or
- (c) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show, or
- (d) an internet service provider or internet content host, or
- (e) a member of staff of or a person acting at the direction of any person or entity referred to in this definition, or
- (f) any person, or person belonging to a class of persons, prescribed by the regulations for the purposes of this section.

**[7] Schedule 7 Savings and transitional provisions**

Insert at the end of clause 2 (1):

*Health Legislation Amendment (Unregistered Health Practitioners) Act 2006* (but only to the extent that it amends this Act)

**[8] Schedule 7, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of Health Legislation Amendment (Unregistered Health Practitioners) Act 2006**

**14 Definition**

In this Part:

*amending Act* means the *Health Legislation Amendment (Unregistered Health Practitioners) Act 2006*.

**15 Prohibition orders**

The Tribunal may make a prohibition order under section 53 (3A) with respect to either or both of the following:

- (a) conduct or any other matter or thing that occurred before, or partly before and partly after, that subsection was inserted by the amending Act,
- (b) a complaint that has been made but not fully dealt with before that subsection was inserted by the amending Act.

**16 Decisions of the Tribunal**

Section 115 (4), as substituted by the amending Act, applies only in respect of a statement of a decision that is given after the commencement of that subsection.

**17 Cancelled registrations to be publicly available**

Section 121A, as inserted by the amending Act, extends to a person who was, immediately before the commencement of that section, subject to an order of the Tribunal or the Supreme Court that the person's registration be cancelled or that the person not be re-registered.