



**Statement of Public Interest**  
**Legislative Council: Standing Order 143**

**Health Practitioner Legislation Amendment Bill 2024**

**Statement 1: Need: Why is the policy needed based on factual evidence and stakeholder input?**

The Health Practitioner Legislation Amendment Bill (Bill) makes a range of minor, non-controversial amendments to the *Health Care Complaints Act 1993* and the Health Practitioner Regulation National Law (NSW) in advance of a broader review of Part 8 of the Health Practitioner Regulation National Law (NSW). The amendments are necessary to improve and streamline the complaints process, clarify how the legislation is intended to operate and update outdated terminology.

The Bill has been prepared in consultation with key stakeholders.

**Statement 2: Objectives: What is the policy's objective couched in terms of the public interest?**

The objective of the Bill is to make minor, non-controversial changes to the *Health Care Complaints Act 1993* and the Health Practitioner Regulation National Law (NSW) in advance of a broader review of Part 8 of the Health Practitioner Regulation National Law (NSW). The Bill will address concerns raised by key stakeholders regarding the complaints process under these two pieces of legislation, and will make other minor, clarifying amendments.

The objectives of the amendments to the *Health Care Complaints Act 1993* are to:

- correct an inconsistency in terminology to allow Health Professional Councils (Councils) to take immediate action in relation to a registered health practitioner or student while the Health Care Complaints Commission (Commission) is dealing with a complaint relating to that health practitioner or student
- allow the Commission to accept withdrawal of a complaint by oral notice to the Commission, if appropriate
- provide that the Commission may obtain expert reports at any stage of dealing with a complaint, and that those reports must not be used in proceedings under the Health Care Complaints Act or Health Practitioner Regulation National Law (NSW) except with the consent of the expert, complainant and practitioner
- clarify that the Director of Proceedings has the power to vary, withdraw or discontinue the prosecution of a complaint
- allow the Commission to disclose information obtained under the Health Care Complaints Act to overseas bodies that regulate health service providers, where this is in the public interest
- make other minor, consequential and clarifying amendments.

The objectives of the amendments to the Health Practitioner Regulation National Law (NSW) are to:

- clarify that, if the NSW Civil and Administrative Tribunal (Tribunal) decides it would have suspended a practitioner whose registration has lapsed had they been registered, that person may not apply for registration during the period the Tribunal would have suspended them
- require Councils to provide written reasons if they decide, or review a decision, to suspend or impose conditions on a practitioner's registration for the protection of the health or safety of the public, or if it is in the public interest to do so

- ensure these written reasons are not admissible in civil or criminal proceedings other than proceedings under the National Law, or an inquest or inquiry under the Coroners Act 2009
- allow an Impaired Registrants Panel to reconsider the recommendations it makes to a Council at the Council's request, and in consultation with the practitioner or student
- enable an assessor to obtain information and records about a practitioner's professional practice
- allow the Minister to remove a member of a Council from office if their principal place of practice ceases to be in NSW
- permit the Tribunal or a Professional Standards Committee to receive and admit as evidence the decisions and findings of a Council or Performance Review Panel in proceedings under the National Law
- allow the Tribunal or a Professional Standards Committee to use evidence of previous judgments, findings and decisions to help establish any complaint about a registered health practitioner.

**Statement 3: Options: What alternative policies and mechanisms were considered in advance of the bill?**

The changes in the Bill can only be achieved through legislative amendment.

**Statement 4: Analysis: What were the pros/cons and benefits/costs of each option considered?**

If these minor, non-contentious amendments to the *Health Care Complaints Act 1993* and Health Practitioner Regulation National Law (NSW) are not made, the complaints processes under this legislation would remain as is until the review of Part 8 of the Health Practitioner Regulation National Law (NSW) is finalised. It is expected that any legislative amendments resulting from this review may not be introduced for another 12 – 24 months.

The amendments addressed in the Bill are minor, non-contentious and intended to improve and streamline the complaints processes under the *Health Care Complaints Act 1993* and Health Practitioner Regulation National Law (NSW). They are also supported by key stakeholders. Delaying the amendments for another 12 – 24 months is considered unnecessary.

**Statement 5: Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

All of the provisions of the Bill will commence on assent. NSW Health, the Health Care Complaints Commission and the Health Professional Councils Authority will generally be responsible for administering the changes.

**Statement 6: Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

The following key stakeholders were consulted during the development of the proposals: The Health Care Complaints Commission, the Health Professional Councils Authority, the Medical Services Committee, the Australian Medical Association (NSW Branch), the NSW Nurses and Midwives' Association, the Australian Dental Association, the Health Services Union, the Department of Communities and Justice, and the Information and Privacy Commission.