



New South Wales

Health Practitioner Regulation Amendment Bill 2017

Explanatory note

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

Overview of Bill

The *Health Practitioner Regulation (Adoption of National Law) Act 2009* adopts, with modifications, the Health Practitioner Regulation National Law set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009* of Queensland.

The object of this Bill is to make amendments consequent on the passage of the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2017* of Queensland, which makes a number of amendments to the Health Practitioner Regulation National Law, including the following:

- (a) recognising paramedicine as a registered health profession,
- (b) allowing National Boards for each health profession to be consolidated so that a single National Board may cover more than one health profession,
- (c) separating the single health profession of nursing and midwifery into 2 health professions,
- (d) enabling a National Board to obtain additional information from a health practitioner about the health practitioner's practice,
- (e) making it an offence to breach a prohibition order made in any jurisdiction,
- (f) permitting a NSW health professional Council to review conditions imposed on a practitioner's registration in another jurisdiction if the practitioner moves to NSW.

This Bill also makes a number of minor statute law revision type amendments.

Outline of provisions

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

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

Schedule 1 Amendment of Health Practitioner Regulation (Adoption of National Law) Act 2009 No 86

Schedule 1 [2] removes a new definition of *prohibition order* that is inserted into the Health Practitioner Regulation National Law (the *National Law*) by the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2017* of Queensland (the *Queensland amendment Act*). The National Law as adopted and modified in New South Wales (the *National Law (NSW)*) already contains a local definition of that term. **Schedule 1 [1]** makes a consequential amendment.

Schedule 1 [3] establishes the Paramedicine Council of New South Wales for the paramedicine health profession. **Schedule 1 [8]** includes a transitional provision to enable the Secretary of the Ministry of Health to set the amount for the complaints element of a registration fee paid by paramedics until such time as the Paramedicine Council determines that amount.

Section 127A of the National Law, which was inserted by the Queensland amendment Act, permits a review body of a jurisdiction that does not participate in the health, performance and conduct processes of the National Law (which includes New South Wales) to change or review conditions and undertakings imposed on, or given by, health practitioners under those processes. **Schedule 1 [4]** declares each Council for a health profession to be the review body in respect of health practitioners in that health profession and sets out the things that a review body may do following its inquiry into the relevant matter. **Schedule 1 [5]** makes a consequential amendment. **Schedule 1 [6]** provides for a review of decisions of the review body.

Schedule 1 [7] updates a provision that is included in New South Wales modifications to the National Law (but that is on the same terms as a provision of the National Law) to mirror changes made to that National Law provision by the Queensland amendment Act.

Schedule 2 Amendment of Health Care Complaints Act 1993 No 105

Schedule 2 [1] is consequential on the proposed amendments in Schedule 4, which defines all health practitioners registered under the National Law and omits a definition of the *Health Practitioner Regulation National Law*. The proposed amendment also simplifies and expands the definitions of *professional council* and *registration authority* and includes definitions of *registered health practitioner* and *student* that have the same meanings as in the National Law (NSW). **Schedule 2 [2] and [4]–[6]** make consequential amendments.

Schedule 2 [7] re-enacts a provision to take account of the definition of *registered health practitioner* (inserted by Schedule 2 [1]) and to clarify which bodies can order that a statement of a decision not be made publicly available or disseminated.

Schedule 2 [8] inserts a savings provision to provide for complaints made against a paramedic before the paramedic was required to be registered under the National Law.

Schedule 2 [3] corrects a reference to the National Law (NSW).

Schedule 3 Amendment of Health Services Act 1997 No 154

Schedule 3 [1] omits a Part that created an offence if a person who is not a paramedic held himself or herself out to be a paramedic. This is no longer necessary as paramedics will now be health

practitioners registered under the National Law and that Law prevents persons improperly holding themselves out to be health practitioners.

Schedule 3 [2] corrects a reference to the National Law (NSW).

Schedule 3 [3] updates a provision requiring the chief executive of a public health organisation to report professional misconduct and unsatisfactory professional conduct by a health practitioner in a health profession to the Council for the health profession. This ensures that the provision applies to all current Councils (including the Paramedicine Council of New South Wales) and the provision will also apply to any new Councils that are established without the need for further amendment. The proposed amendment also provides that the Ambulance Service of NSW is taken to be a public health organisation for the purposes of the duty to report professional misconduct and unsatisfactory professional conduct by a health practitioner such as a paramedic.

Schedule 4 Amendment of Interpretation Act 1987 No 15

The *Interpretation Act 1987* contains a number of definitions that apply to all Acts and instruments in New South Wales. These include definitions of various kinds of health practitioner. **Schedule 4 [1] and [2]** remove these definitions and instead insert a generic definition that applies in respect of all health practitioners registered under the National Law. This avoids the need to make consequential amendments in the future if further health professions are added under the National Law or if the name of a health profession is changed. **Schedule 4 [1]** also removes a definition of *Health Practitioner Regulation National Law* as this definition is only necessary for the purposes of a small number of Acts and instruments and will now be defined in those places where it is used.

Schedule 5 Consequential amendment of other Acts and instruments

Schedule 5 amends a number of Acts and instruments as a consequence of the proposed amendments in Schedules 1–4 and to make some minor statute law revision type amendments.