

# Health Legislation Amendment Bill 2012

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Health Practitioner Regulation (Adoption of National Law) Act 2009* for the purpose of improving the administration of the Health Practitioner Regulation National Law as it applies in New South Wales and by way of statute law revision,
- (b) to amend the *Health Records and Information Privacy Act 2002* to provide for the disclosure and use of genetic information subject to certain conditions,
- (c) to amend the *Poisons and Therapeutic Goods Act 1966* to ensure that the same regulatory controls relating to certain restricted substances apply to registered podiatrists as those that apply to other registered health practitioners.

## Outline of provisions

**Clause 2** provides for the commencement of the proposed Act (except Schedule 1.2) on the date of assent to the proposed Act. Schedule 1.2 commences on a day to be appointed by proclamation.

## Schedule 1 Amendment of Acts

### Schedule 1.1 Health Practitioner Regulation (Adoption of National Law) Act 2009 No 86

**Schedule 1.1** makes amendments to the Health Practitioner Regulation National Law as set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009* of Queensland and as applied as a law of New South Wales by the *Health Practitioner Regulation (Adoption of National Law) Act 2009 (the National Law (NSW))*.

**Schedule 1.1 [1] and [3]** provide that an Impaired Registrants Panel is not an *adjudication body* for the purposes of the National Law (NSW). This is because an Impaired Registrants Panel can only make recommendations in relation to individual practitioners and may not take any action against them.

**Schedule 1.1 [2]** extends the objectives and guiding principles of the National Law (NSW) to provide that the protection of the public is to be the paramount consideration when exercising functions under a provision that is specific to New South Wales in its application.

**Schedule 1.1 [4], [6], [11] and [23]** make amendments by way of statute law revision.

**Schedule 1.1 [5], [22] and [27]** update references to the Department of Health to reflect changes to Government administrative arrangements.

**Schedule 1.1 [7]** provides that a mandatory notification of certain conduct by a registered health practitioner is taken to be a complaint against the health practitioner for the purposes of the National Law (NSW) and the *Health Care Complaints Act 1993*.

**Schedule 1.1 [8]** clarifies that counselling that a Professional Standards Committee, a health profession council (*a Council*), a health profession tribunal (*a Tribunal*) or an Impaired Registrants Panel may order or recommend a health practitioner or student to undergo includes psychological counselling.

**Schedule 1.1 [9]** amends a provision relating to the delegation of functions of a Council to a group of persons to provide that one person within that group must not be, and must never have been, a registered health practitioner or student in the same health profession for which the Council is established.

**Schedule 1.1 [10]** clarifies that an appeal that a person may make to a Tribunal regarding certain actions taken by a Council is to be dealt with by the Tribunal reconsidering the matter.

**Schedule 1.1 [12]** provides that a Council is the appropriate body to conduct a review

of certain decisions made against a health practitioner if the Chairperson of the Tribunal so decides. **Schedule 1.1 [13]** provides that certain orders of a Council may be the subject of a review under Division 8 of Part 8 of the National Law (NSW).

**Schedule 1.1 [14]** provides that a reinstatement order is an order that a person may be registered in accordance with Part 7 of the National Law (NSW) subject to an application for registration being made and approved under that Part.

**Schedule 1.1 [15]** removes the requirement for the Chairperson or Deputy Chairperson of a Tribunal to give notice of an inquiry or appeal to be conducted by the Tribunal to the Director-General of the Ministry of Health.

**Schedule 1.1 [16], [18] and [19]** amend provisions relating to the composition of a Professional Standards Committee, an Assessment Committee and a Performance Review Panel to provide that those bodies must include one person who is not, and never has been, a registered health practitioner or student in the same profession as the health practitioner who is the subject of the proceedings concerned.

**Schedule 1.1 [17]** removes the requirement for the Chairperson of a Professional Standards Committee to give notice of certain inquiries to be conducted by the Committee into complaints about health practitioners to the Director-General of the Ministry of Health.

**Schedule 1.1 [20]** enables a Council to issue evidentiary certificates that certify the registration status of a health practitioner prior to 1 July 2010. **Schedule 1.1 [21]** makes a consequential amendment.

**Schedule 1.1 [24]** enables savings and transitional regulations to be made as a consequence of the proposed Act. **Schedule 1.1 [25]** contains provisions of a savings and transitional nature.

**Schedule 1.1 [26]** clarifies that notice of an intention to enter the practice of a registered health practitioner by a performance assessor may be given by another person on behalf of the performance assessor.

**Schedule 1.2 Health Records and Information Privacy Act 2002 No 71 Schedule 1.2 [3]** enables a person's genetic information to be used for a purpose other than the primary purpose for which it was collected on the condition that it is used in accordance with guidelines issued by the Privacy Commissioner appointed under the *Privacy and Personal Information Protection Act 1998 (the Privacy*

*Commissioner)* and that it is reasonably believed to be necessary to lessen or prevent a serious threat to the life, health or safety of a genetic relative. **Schedule 1.2 [1] and [2]** make consequential amendments.

**Schedule 1.2 [4]** enables a person's genetic information to be disclosed to their genetic relatives for a purpose other than the primary purpose for which it was collected on the condition that it is disclosed in accordance with guidelines issued by the Privacy Commissioner and that it is reasonably believed to be necessary to lessen or prevent a serious threat to the life, health or safety of a genetic relative.

### **Schedule 1.3 Poisons and Therapeutic Goods Act 1966 No 31**

**Schedule 1.3** applies the same exemptions and restrictions to registered podiatrists in relation to the possession, use, supply or prescription of certain restricted substances as those applying to other registered health practitioners. Currently, podiatrists are included in certain provisions of the *Poisons and Therapeutic Goods Act 1966* along with other registered health practitioners, but have inadvertently been omitted from other provisions applying to registered health practitioners.