

12 December 2012



The Inquiry Manager
Committee on the Health Care Complaints Commission
Parliament of New South Wales
Macquarie Street
Sydney NSW 2000

Dear Mr Arditì

Inquiry into Health Care Complaints and Complaints Handling in NSW

On 19 November 2012, the Committee asked the Public Interest Advocacy Centre (PIAC) a question on notice with regard to the submission of the NSW Nurses Association. The question related to the involvement of the Health Care Complaints Commission (HCCC) in hearings regarding the re-registration applications of health practitioners after they have been deregistered.

PIAC supports the continued involvement of the HCCC in these proceedings. The deregistration of a health practitioner is the most severe option available to a tribunal if a health practitioner is found guilty of professional misconduct. A practitioner is only guilty of professional misconduct if there has been a serious departure from professional and ethical standards.

The purpose of disciplinary proceedings is to protect the public, not to punish the health practitioner. If a deregistered health practitioner applies to be reregistered, then the protection of the public is the primary focus of such proceedings. In making this decision, the particular disciplinary tribunal should be able to have access to all available information relevant to the decision whether or not to reregister a health practitioner is in the public interest.

The HCCC are co-regulators with the National Health Practitioner Boards and the NSW Health Practitioner Councils. The HCCC is the body that prosecutes health disciplinary matters in NSW and it is therefore appropriate that the HCCC is a party to applications for registration after deregistration. The HCCC has access to all the material relevant to the original disciplinary proceedings, as well as access to information about the deregistered health practitioner after the conclusion of the disciplinary proceedings. The HCCC employs dedicated and appropriately trained investigation officers to gather the necessary evidence for all the disciplinary matters before the relevant tribunals and is obliged to apply the rules of procedural fairness.

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Section 175B of the *Health Practitioner National Law* (NSW) states:

The responsible tribunal may make any order about costs it considers appropriate for the proceedings.

This provides a discretionary power to a tribunal and would allow an applicant for reregistration to provide arguments to a tribunal as to why an award of costs was not appropriate in particular circumstances.

The Committee also sought information about the New Zealand Health and Disability Advocacy Service. Information about the service can be found at: <<http://advocacy.hdc.org.nz/>>. The February 2012 PIAC Submission to the Committee provides a short outline about the service at pages 4-5.

A recent article about the service is also attached for the Committee's information (Jean Drage, 'New Zealand's National Health and Disability Advocacy Service: A successful model of advocacy' (2012) 14.1 *Health and Human Rights* <<http://www.hhrjournal.org/index.php/hhr/article/view/470/769>>).

Yours sincerely



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