

# NORTHERN TERRITORY OF AUSTRALIA

## HEALTH PRACTITIONERS ACT

As in force at 1 July 2012

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 1 July 2012. Any amendments that commence after that date are not included.

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## HEALTH PRACTITIONERS ACT

An Act to provide for the Pharmacy Premises Committee and Health Professional Review Tribunal, and for other purposes relating to health practitioners

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Health Practitioners Act*.

#### 2 Commencement

This Act comes into operation on the date, or respective dates, fixed by the Administrator by notice in the *Gazette*.

#### 3 Objectives

The objectives of this Act are as follows:

- (a) to protect and promote the health and safety of the people of the Territory;
- (b) to promote the highest standard of health care services in the Territory.

#### 4 Definitions

In this Act:

***advisory committee*** means an advisory committee established under section 18H.

***business address*** means the address of the premises at or from which a person practises a health profession.

***health care service*** means:

- (a) a service provided by a health practitioner in practising a health profession for which the health practitioner is registered; or
- (b) any other service connected with the provision of health care.

***health practitioner*** means an individual who practises a health profession.

***health profession*** means health profession as defined in section 5 of the Health Practitioner Regulation National Law.

***inquiry*** means an inquiry conducted by the Tribunal.

***inspector*** means a person appointed as an inspector under section 71.

***National Board*** means a National Health Practitioner Board established by section 31 of the Health Practitioner Regulation National Law.

***notification*** means notification as defined in section 5 of the Health Practitioner Regulation National Law.

***pharmacist*** means a person registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession (other than as a student).

***Pharmacy Committee*** means the Pharmacy Premises Committee established by section 18A(1).

***registered*** means registered under the Health Practitioner Regulation National Law to practise a health profession.

***Tribunal*** means the Health Professional Review Tribunal established by section 63(1).

## **5 Act binds Crown**

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

## **Part 2 Pharmacy Premises Committee**

### **18A Establishment**

- (1) The Pharmacy Premises Committee is established.

- (2) The Committee:
  - (a) is a body corporate with perpetual succession; and
  - (b) has a common seal; and
  - (c) is capable, in its corporate name, of acquiring, holding and disposing of real and personal property and of suing and being sued.
- (3) All courts, judges and persons acting judicially must:
  - (a) take judicial notice of the common seal affixed to a document; and
  - (b) presume the seal was properly affixed.

#### **18B          Membership**

- (1) The Pharmacy Committee consists of 4 members who are appointed by the Minister.
- (2) Of the 4 members:
  - (a) 3 must be pharmacists who are able to assist the Committee in performing its functions; and
  - (b) one must be a person who:
    - (i) is not a pharmacist; and
    - (ii) is able to represent the interests of patients and consumers of pharmacy services.
- (3) Schedule 2 has effect in relation to each member of the Committee.
- (4) Schedule 3 has effect in relation to meetings of the Committee.

#### **18C          Functions**

- (1) The Pharmacy Committee has the following functions:
  - (a) to administer Schedule 8, including, for example:
    - (i) to monitor and investigate compliance with Schedule 8; and
    - (ii) to prosecute offences against Schedule 8;
  - (b) to advise the Minister on matters relating to the administration and enforcement of Schedule 8.

- (2) In addition, the Committee has the functions imposed on it by this or another Act.

#### **18D Powers**

The Pharmacy Committee has power to do all things necessary or convenient to be done in connection with the performance of its functions.

#### **18E Policies and guidelines**

- (1) The Pharmacy Committee may approve a policy or guideline to give practical guidance to pharmacists for complying with Schedule 8.
- (2) The Committee must publicise the approved policy or guideline in the way it decides (for example, on a website).

#### **18F Delegation**

The Pharmacy Committee may, in writing, delegate to a person or advisory committee any of its powers and functions under this Act.

#### **18G Registrar**

- (1) The Minister must appoint a person to be the Registrar of the Pharmacy Committee.
- (2) The Registrar has the powers and functions conferred by or under this Act.
- (3) The Minister may appoint a person to act as Registrar during:
  - (a) a period, or all periods, when the Registrar is absent from duty or from the Territory; or
  - (b) a vacancy in the office.

#### **18H Advisory committee**

- (1) The Pharmacy Committee may establish an advisory committee to advise it in exercising its powers or performing its functions.
- (2) The advisory committee consists of persons appointed by the Committee.
- (3) A member of the Committee may be a member of the advisory committee and may be appointed chairperson of the advisory committee.
- (4) The advisory committee must keep accurate minutes of its proceedings.

- (5) The advisory committee may regulate its own proceedings.

**18J Protection from liability**

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:
- (a) a member of the Pharmacy Committee;
  - (b) a member of an advisory committee;
  - (c) a delegate of the Pharmacy Committee.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) In this section:

*exercise*, of a power, includes the purported exercise of the power.

*performance*, of a function, includes the purported performance of the function.

**18K Annual report**

The Pharmacy Committee must, before 31 December in each year, give the Minister a report on its operations for the preceding financial year.

**18L Fees**

- (1) The Minister may, by *Gazette* notice, determine fees to be paid to the Pharmacy Committee.
- (2) The Pharmacy Committee may waive the whole or part of a fee determined under subsection (1).

## **Part 3 Health Professional Review Tribunal**

**63 Establishment and constitution of Tribunal**

- (1) The Health Professional Review Tribunal is established.
- (2) The Minister must appoint as permanent members of the Tribunal:
- (a) a person who is a lawyer; and



- (b) a person who is not:
  - (i) a registered health practitioner; or
  - (ii) a lawyer.
- (3) The permanent member appointed under subsection (2)(a) is the President of the Tribunal.
- (4) For each matter for which the Tribunal has functions under this Act or the *Health Practitioner Regulation National Law (NT)* (including, for example, a matter referred to it about a registered health practitioner, or an appeal of a decision not to register a person), the Tribunal consists of:
  - (a) the 2 permanent members of the Tribunal; and
  - (b) 3 persons (the ***special members***) who are:
    - (i) registered health practitioners under the *Health Practitioner Regulation National Law (NT)* in the health profession to which the matter relates (other than as a student); and
    - (ii) appointed by the President of the Tribunal.

*Example for subsection (4)*

*For a matter referred to the Tribunal as a responsible tribunal under section 193 of the Health Practitioner Regulation National Law (NT) about a registered health practitioner in a health profession, each special member must be a registered health practitioner in that health profession.*

- (5) The President of the Tribunal may appoint a person to be a special member only if:
  - (a) the person has skills, knowledge or experience relevant to the matter; and
  - (b) the person has not been involved in a previous decision, consideration or investigation relating to the matter; and
  - (c) if the Tribunal is performing its functions under the *Health Practitioner Regulation National Law (NT)* in relation to the matter – the person is not a member of the National Board that made the notification in relation to the matter.
- (6) A person who is a member of the Tribunal is not personally liable for any act done or purported or omitted to be done by the person in good faith for this Act or another Act.

- (7) Schedule 4 has effect in relation to the powers and procedures of the Tribunal.
- (8) Schedule 5 has effect in relation to the members of the Tribunal.
- (9) Schedule 6 has effect in relation to the proceedings of the Tribunal.

## **64                      Functions and powers of Tribunal**

- (1) The Tribunal must hear each matter for which it has functions under the *Health Practitioner Regulation National Law (NT)*.

*Note for subsection (1)*

*See section 6 of the Health Practitioner Regulation (National Uniform Legislation) Act.*

- (2) The Tribunal may perform functions, and exercise powers, as provided by this Act or another Act.
- (3) Without limiting subsections (1) and (2), the Tribunal has the powers necessary to perform its functions (including, for example, powers to conduct any inquiry into a matter for which it has functions).

## **Part 4                      Inspectors of Pharmacy Committee**

### **71                      Appointment of inspectors**

- (1) The Pharmacy Committee may appoint a person to be an inspector.
- (2) The function of an inspector is to investigate matters that are:
  - (a) related to the Pharmacy Committee's functions; and
  - (b) referred to the inspector by the Committee.
- (3) The Pharmacy Committee must issue each inspector with an identity card that:
  - (a) is in the form approved by the Committee; and
  - (b) contains a recent photograph of the inspector, the inspector's name and the common seal of the Committee.
- (4) A person must, within 5 days of ceasing to be an inspector, return to the Pharmacy Committee the identity card issued to the person under subsection (3).

Maximum penalty:            5 penalty units.

**72 Powers of inspectors**

- (1) An inspector may, on producing his or her identity card:
  - (a) enter any premises at any time with the consent of an occupier of those premises or enter any premises where a health care service is provided if that place is open for entry; and
  - (b) exercise all or any of the powers specified in section 73 with the consent of an occupier of those premises.
- (2) If an inspector considers on reasonable grounds that there is, or is likely to be, on premises a document or thing that is, or is likely to be, relevant to an investigation and that it is not possible or reasonable in the circumstances to rely on the power in subsection (1), the inspector may apply in writing to a Justice for a warrant.
- (3) The Justice may issue a warrant if satisfied that:
  - (a) the document or thing referred to in the application is, or is likely to be, relevant to the inspector's investigation; and
  - (b) there are reasonable grounds for believing that the document or thing is, or is likely to be, on the premises referred to in the application; and
  - (c) it will not be possible or reasonable in the circumstances for the inspector to rely on the power in subsection (1).
- (4) A warrant may be made subject to any conditions the Justice considers appropriate.
- (5) A warrant issued under this section authorises the inspector named in the warrant, using any assistance that the inspector considers necessary and subject to the conditions to which it is subject, to enter and search the premises specified in the warrant and exercise any of the powers specified in section 73 that are not expressly excluded by the Justice who issued the warrant.
- (6) An inspector, when executing a warrant, must permit a person who is an occupier or person in charge of the premises to which the warrant relates to inspect the warrant.

- (7) A person must not give, agree to give or offer to an inspector a gift, reward or other inducement to do or abstain from doing anything in relation to an investigation.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

- (8) In this section:

***investigation*** means an investigation carried out by an inspector under section 71(2).

***occupier***, in relation to premises, means a person in legal occupation of the premises.

***premises*** includes a vehicle or vessel.

### **73 Specific investigative powers**

- (1) Subject to and for the purposes of section 72(1)(b) and (5), an inspector may exercise the following powers:

- (a) inspect and search the premises generally;
- (b) require the person apparently in charge of the premises to produce for inspection any document held at the premises;
- (c) inspect and take notes of or extracts from a document referred to in paragraph (b);
- (d) make a copy of a document referred to in paragraph (b);
- (e) ask questions of and require answers from persons on the premises;
- (f) take photographs;
- (g) open and inspect containers or packages that the inspector reasonably suspects are used for the purpose of, or in connection with, the provision of health care services at the premises;
- (h) examine or test any equipment held on the premises;
- (i) require a person registered or claiming to be registered to produce a certificate of registration issued under section 124 of the Health Practitioner Regulation National Law;

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- (j) if the inspector reasonably suspects that this Act has been contravened – seize and, on providing a receipt, remove anything that in the reasonable opinion of the inspector is evidence of the contravention;
  - (k) remove, on providing a receipt, any document found on the premises to the custody and control of the Pharmacy Committee for as long as the Pharmacy Committee considers necessary or expedient.
- (2) If the Pharmacy Committee is satisfied that for legitimate reasons a person needs access to a document that has been removed from premises to the custody and control of the regulatory body under subsection (1)(k), the Pharmacy Committee may:
- (a) grant the person reasonable access to the document or to a copy of the document; or
  - (b) provide the person with a copy or certified copy of the document; or
  - (c) retain a copy of the document and return the original to the premises.

## **Part 7                      Appeals**

### **99                      Right of appeal**

- (1) A party to a proceeding under Part 8, Division 12 or 13 of the Health Practitioner Regulation National Law may appeal to the Supreme Court against a decision of the Tribunal under the Division.
- (2) However, a registered health practitioner, student or other person the subject of an appellable decision under that Law may appeal against a decision under subsection (1) on a question of law only.
- (3) An appeal must be made within 14 days after notice of the Tribunal's decision is given to the affected person.

### **100                      Hearing of appeals**

- (1) At the hearing of an appeal, the Supreme Court may:
  - (a) confirm the decision of the National Board or Tribunal; or
  - (b) set aside the decision of the National Board or Tribunal; or

- (c) set aside the decision of the National Board or Tribunal and substitute any other decision that the National Board or Tribunal has jurisdiction to take as the Court specifies.
- (2) At the hearing of an appeal, the Supreme Court may make an order as to costs as it thinks fit.

## **Part 8                      Offences**

### **106              Offences of dishonesty**

- (1) A person commits an offence if:
  - (a) the person makes or gives someone a statement (whether orally or in writing); and
  - (b) the person knows the statement contains misleading information; and
  - (c) the statement is made or given in connection with an investigation being carried out by an inspector.

Maximum penalty:        100 penalty units or imprisonment for  
   6 months.

- (2) A person commits an offence if:
  - (a) the person makes or gives someone a statement (whether orally or in writing); and
  - (b) the person knows the statement contains misleading information; and
  - (c) the statement is made or given in connection with a hearing of the Tribunal.

Maximum penalty:        100 penalty units or imprisonment for  
   6 months.

- (3) In this section:

***misleading information*** means information that is misleading in a material particular or because of the omission of a material particular.

**107      Obstruction**

A person must not obstruct, hinder, threaten or intimidate a person exercising a power or performing a function conferred on the person by this Act.

Maximum penalty:      500 penalty units.

**108      Offences relating to requirements of inspector or Tribunal**

- (1) A person must not, without reasonable excuse:
- (a) fail to comply with a notice or summons issued by the Tribunal (including a notice to appear before the Tribunal); or
  - (b) fail to comply with the requirement to take an oath for a hearing of the Tribunal; or
  - (c) fail to produce a document when required to do so by an inspector or the Tribunal; or
  - (d) fail to answer questions required to be answered by an inspector or the Tribunal; or
  - (e) fail to assist an inspector in relation to an investigation being carried out by the inspector.

Maximum penalty:      50 penalty units.

- (2) A person may be directed by an inspector or the Tribunal to answer a question despite that the answer to the question may tend to incriminate the person.
- (3) The answer to a question given by a person following a direction under subsection (2) is not admissible in evidence in any other proceedings against the person other than a prosecution for perjury.

**109      Threat and intimidation**

A person must not threaten or intimidate a person who, in good faith, provides information about a health practitioner or anyone else in accordance with this Act.

Maximum penalty:      500 penalty units.

**110            Failure to comply with orders**

- (1) A person must not:
- (a) fail to leave any proceedings of the Tribunal when ordered to do so by the Tribunal; or
  - (b) fail to leave any proceedings of the Pharmacy Committee when ordered to do so by the Committee.

Maximum penalty:        50 penalty units.

- (2) A person must not, contrary to an order of the Tribunal, report or otherwise disclose:
- (a) any proceedings of the Tribunal; or
  - (b) any information in relation to the proceedings of the Tribunal.

Maximum penalty:        100 penalty units or imprisonment for 6 months.

- (3) A person must not, contrary to an order of the Pharmacy Committee, report or otherwise disclose:
- (a) any proceedings of the Pharmacy Committee; or
  - (b) any information in relation to the proceedings of the Pharmacy Committee.

Maximum penalty:        100 penalty units or imprisonment for 6 months.

**Part 9            Other matters relating to health practitioners**

**Division 1        Obligations to provide information**

**112            Protection from liability**

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in:
- (a) assisting, or providing information to, the Tribunal; or
  - (b) providing the Pharmacy Committee with information.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.



## **Division 2            Administrative and legal matters**

### **119            Convicted offenders may be prohibited from carrying on business**

- (1) The Secretary may, by notice in writing to a person convicted of an offence against this Act, prohibit the person from operating a business that provides health care services.
- (2) The prohibition may be expressed to be:
  - (a) for a fixed period (in which case the prohibition remains in force only for the fixed period); or
  - (b) for an unlimited period subject to an entitlement to apply after a specified time for the lifting of the prohibition (in which case the prohibition remains in force until it is lifted).
- (3) A prohibition may not be imposed under this section unless the Secretary is of the opinion that the person is not a fit and proper person to operate a business that provides health care services.
- (4) The Secretary is entitled to presume, in the absence of evidence to the contrary, that a person who has been convicted of an offence against this Act on 2 or more occasions in any period of 10 years is not a fit and proper person to operate a business that provides health care services.
- (5) A prohibition under this section may be limited in its operation in either or both of the following ways:
  - (a) it may be limited to specified premises, but only where the person operates a business that provides health care services at those premises and at other premises;
  - (b) it may be limited to premises within a specified area.
- (6) If a prohibition under this section is subject to an entitlement to apply after a specified time for the prohibition to be lifted, the application may be made to the Secretary after that time.
- (7) The Secretary may lift the prohibition or confirm the prohibition and set a further period after which an application for the prohibition to be lifted can be made under subsection (6).
- (8) A person must not operate a business that provides health care services in contravention of a prohibition under this section.

Maximum penalty:        500 penalty units.

- (9) If health care services are provided on premises on which a business is carried on, it must be presumed for the purposes of subsection (8), unless the contrary is established, that the business provides those health care services.
- (10) A prohibition under this section has no effect while an appeal is pending against the conviction for the offence on which the prohibition is based.
- (11) In this section:

**Secretary** means the Chief Executive Officer of the Agency responsible for the administration of this Act.

## **120 Service of documents**

- (1) A document required to be delivered to or served on the Pharmacy Committee may be delivered or served by:
  - (a) leaving it at, or sending it by post to, the Committee's address; or
  - (b) sending it by way of facsimile transmission to the Committee's facsimile number; or
  - (c) sending it by electronic mail to the Committee's address.
- (2) A document required to be delivered to or served on the Tribunal may be delivered or served by:
  - (a) leaving it at, or sending it by post to, the Tribunal's address; or
  - (b) sending it by way of facsimile transmission to the Tribunal's facsimile number; or
  - (c) sending it by electronic mail to the Tribunal's address.

## **121 Presumptions**

In any proceedings, unless evidence is given to the contrary, proof is not required of:

- (a) the constitution the Pharmacy Committee or the Tribunal; or
- (b) any resolution or decision of the Pharmacy Committee or the Tribunal; or
- (c) the appointment of any member of the Pharmacy Committee or the Tribunal; or

- (d) the presence of a quorum at any meeting of the Pharmacy Committee or the Tribunal.

## **122 Commencement of proceedings for offences**

A complaint for an offence against this Act may be commenced at any time within 3 years after the date the offence was committed or within 3 years after the date the actions constituting the offence were first discovered.

## **124 Evidence of facts found in other proceedings**

A finding of fact relating to the conduct of a health practitioner made by a court or other tribunal in any proceedings to which the health practitioner is a party, whether in the Territory or elsewhere, is evidence of the fact in any proceedings under this Act.

## **127 Offences by bodies corporate**

- (1) If a body corporate is found guilty of an offence against this Act, each person concerned in the management of the body corporate is taken also to have committed the offence and may be found guilty of the offence.
- (2) A person referred to in subsection (1) may be found guilty of an offence against this Act whether or not the body corporate is charged with or found guilty of the offence.

## **131 Regulations**

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

# **Part 11 Transitional matter for pharmacies**

## **144 Pharmacy standards**

- (1) The standards prescribed for clause 4 of Schedule 8 and in force immediately before the commencement day are taken to be standards prescribed by the Pharmacy Committee under the clause.

(2) In this section:

***commencement day*** means the day on which Part 2 of the *Health Practitioner (National Uniform Legislation) Implementation Act 2010* commences.

## **Part 12**                      **Transitional matters for implementation of Health Practitioner Regulation National Law (NT)**

### **Division 1**                      **Health Practitioner (National Uniform Legislation) Implementation Act 2010**

#### **145**                      **Definitions**

In this Part:

***commencement day*** means the day on which the implementation provisions commence.

***former Board*** means a Board that:

- (a) had been established under this Act for a category of health care practice; and
- (b) ceased to exist on the commencement day.

***implementation provisions*** means Part 2 of the *Health Practitioner (National Uniform Legislation) Implementation Act 2010*.

***National Board*** means a National Board established by the *Health Practitioner Regulation National Law (NT)*.

#### **146**                      **Pending complaints**

- (1) Subsection (2) applies if section 289 of the *Health Practitioner Regulation National Law (NT)* (the ***transitional provision***) applies in relation to a complaint being dealt with immediately before the commencement day.
- (2) For applying the transitional provision, this Act is the Act of the participating jurisdiction under which the complaint was made (the ***notification Act***) even though the provision refers to the notification Act being repealed.

- (3) Subsection (4) applies if, immediately before the commencement day, the Tribunal had not completed an inquiry into a complaint referred to it by a former Board.
- (4) The Tribunal must deal with the complaint as the responsible Tribunal under Part 8, Division 12 of the *Health Practitioner Regulation National Law (NT)*:
  - (a) as if:
    - (i) the complaint had been referred to the Tribunal under that Law by a National Board; and
    - (ii) a reference in relation to the former Board in that Law were a reference in relation to the National Board for the health profession for which the former Board had been established; and
  - (b) with any other changes that are necessary or convenient.
- (5) In this section:

***complaint*** includes a matter referred to the Tribunal by a former board under section 62(3) of this Act as in force immediately before the commencement day for an inquiry on the basis that the matter could have been grounds for a complaint.

## 147 Pending matters under Information and Ombudsman Acts

- (1) This section applies if, immediately before the commencement day:
  - (a) an application in relation to information made to a former Board under Part 3, Division 2 or 3 of the *Information Act* had not been decided; or
  - (b) an application for review of a decision made to a former Board under Part 3, Division 4 of the *Information Act* had not been decided; or
  - (c) a complaint made under Part 7 of the *Information Act* about a decision made by a former Board had not been determined; or
  - (d) a complaint made under Part 5 of the *Ombudsman Act* in relation to an administrative action taken by a former Board had not been finally dealt with under that Act.
- (2) In addition, this section applies if:
  - (a) a former Board had decided an application under Part 3, Division 2 or 3 or Part 3, Division 4 of the *Information Act*, and

- (b) on the commencement day, the applicant would have been entitled under the *Information Act* to apply for a review of the decision, or to make a complaint about the decision, if the implementation provisions had not commenced.
- (3) The *Information Act* or *Ombudsman Act* continues to apply in relation to the application, complaint or decision:
  - (a) as if:
    - (i) the implementation provisions had not commenced; and
    - (ii) a reference in relation to the former Board in the *Information Act* or *Ombudsman Act* were a reference in relation to the National Board for the health profession for which the former Board had been established; and
  - (b) with any other changes that are necessary or convenient.

#### **148 Principal place of practice**

- (1) A health practitioner's business address recorded in a register immediately before the commencement day is taken to be the health practitioner's principal place of practice under the *Health Practitioner Regulation National Law (NT)*.
- (2) Subsection (1) has effect subject to the health practitioner declaring, under the *Health Practitioner Regulation National Law (NT)*, another place to be the health practitioner's principal place of practice.

### **Division 2 Health Practitioner (National Uniform Legislation) Implementation Act 2012**

#### **149 Definitions**

In this Part:

***commencement day*** means the day on which the implementation provisions commence.

***former Board*** means the following Boards established under this Act as in force immediately before the commencement day:

- (a) the Aboriginal Health Workers Board of the Northern Territory;
- (b) the Occupational Therapists Board of the Northern Territory;

(c) the Radiographers Board of the Northern Territory.

**implementation provisions** means Part 2 of the *Health Practitioner (National Uniform Legislation) Implementation Act 2012*.

**National Board** means a National Board established by the *Health Practitioner Regulation National Law (NT)*.

## 150 Pending complaints

- (1) Subsection (2) applies if section 289 of the *Health Practitioner Regulation National Law (NT)* (the **transitional provision**) applies in relation to a complaint being dealt with immediately before the commencement day.
- (2) For applying the transitional provision, this Act as in force immediately before the commencement day is the Act of the participating jurisdiction under which the complaint was made (the **notification Act**) even though the provision refers to the notification Act being repealed.
- (3) Subsection (4) applies if, immediately before the commencement day, the Tribunal had not completed an inquiry into a complaint referred to it by a former Board.
- (4) The Tribunal must deal with the complaint as the responsible Tribunal under Part 8, Division 12 of the *Health Practitioner Regulation National Law (NT)*:
  - (a) as if:
    - (i) the complaint had been referred to the Tribunal under that Law by a National Board; and
    - (ii) a reference in relation to the former Board in that Law were a reference in relation to the National Board for the health profession for which the former Board had been established; and
  - (b) with any other changes that are necessary or convenient.
- (5) In this section:

**complaint** includes a matter referred to the Tribunal by a former Board under section 62(3) of this Act as in force immediately before the commencement day for an inquiry on the basis that the matter could have been grounds for a complaint.

## **151 Pending matters under Information and Ombudsman Acts**

- (1) This section applies if, immediately before the commencement day:
  - (a) an application in relation to information made to a former Board under Part 3, Division 2 or 3 of the *Information Act* had not been decided; or
  - (b) an application for review of a decision made to a former Board under Part 3, Division 4 of the *Information Act* had not been decided; or
  - (c) a complaint made under Part 7 of the *Information Act* about a decision made by a former Board had not been determined; or
  - (d) a complaint made under Part 5 of the *Ombudsman Act* in relation to an administrative action taken by a former Board had not been finally dealt with under that Act.
- (2) In addition, this section applies if:
  - (a) a former Board had decided an application under Part 3, Division 2 or 3 or Part 3, Division 4 of the *Information Act*, and
  - (b) on the commencement day, the applicant would have been entitled under the *Information Act* to apply for a review of the decision, or to make a complaint about the decision, if the implementation provisions had not commenced.
- (3) The *Information Act* or *Ombudsman Act* continues to apply in relation to the application, complaint or decision:
  - (a) as if:
    - (i) the implementation provisions had not commenced; and
    - (ii) a reference in relation to the former Board in the *Information Act* or *Ombudsman Act* were a reference in relation to the National Board for the health profession for which the former Board had been established; and
  - (b) with any other changes that are necessary or convenient.

## **152 Principal place of practice**

- (1) This section applies to a health practitioner who is registered under this Act as in force immediately before the commencement day.



- (2) The health practitioner's business address recorded in a register immediately before the commencement day is taken to be the health practitioner's principal place of practice under the *Health Practitioner Regulation National Law (NT)*.
- (3) Subsection (1) has effect subject to the health practitioner declaring, under the *Health Practitioner Regulation National Law (NT)*, another place to be the health practitioner's principal place of practice.

**153 Tribunal constituted before commencement day**

- (1) This section applies if the Tribunal is constituted under section 6 of the *Health Practitioner Regulation (National Uniform Legislation) Act* as in force before the commencement day in relation to a matter.
- (2) The Tribunal as so constituted is taken to have been constituted under section 63(4) of this Act on and after the commencement day in relation to the matter.

**Part 13 Transitional matters for Health Practitioner Regulation (National Uniform Legislation) Act 2010 and Health Practitioner (National Uniform Legislation) Implementation Act 2012**

**154 Definition**

In this Part:

***commencement day*** means the day on which Part 2 of the *Health Practitioner (National Uniform Legislation) Implementation Act 2012* commences.

**155 Transitional regulations**

- (1) A regulation may provide for a matter of a transitional nature:
  - (a) because of the enactment of the *Health Practitioner (National Uniform Legislation) Implementation Act 2012*, or
  - (b) to otherwise allow or facilitate the transition from the operation of a law of the Territory to the operation of:
    - (i) the *Health Practitioner Regulation National Law (NT)*; or

(ii) this Act.

- (2) The regulation may have retrospective operation to a day not earlier than the commencement day.
- (3) However, to the extent to which the regulation has retrospective operation, it does not operate to the disadvantage of a person (other than the Territory or a Territory authority) by:
  - (a) decreasing the person's rights; or
  - (b) imposing liabilities on the person.
- (4) The regulation must declare it is made under this section.

## **156      Expiry**

This Part, and each regulation made under section 155, expires on 30 June 2013.

## **Schedule 2 Administrative provisions about members of Pharmacy Committee**

section 18B(3)

### **1. Term of office**

- (1) A person appointed as a member of the Pharmacy Committee holds office for the period, not exceeding 3 years, as is specified by the Minister.
- (2) A member may serve any number of terms but may not serve more than 2 terms in succession unless approved by the Minister.

### **2. Vacation of office**

- (1) A member vacates office if the member:
  - (a) resigns; or
  - (b) is removed from office under subclause (2) or (3); or
  - (c) ceases to be qualified for office by virtue of subclause (4).
- (2) The Minister may remove a member from office if the member:
  - (a) is absent from 3 consecutive meetings of the regulatory body without the permission of the regulatory body; or
  - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
  - (c) is found guilty in the Territory or elsewhere of a crime or an offence punishable by imprisonment; or
  - (d) fails, without reasonable excuse, to comply with the member's obligation under Schedule 3, clause 5; or
  - (e) is found guilty of an offence against this Act.
- (3) The Minister may remove a member from office if satisfied that the member:
  - (a) has acted improperly in the performance of his or her duties as a member; or
  - (b) has disclosed confidential information provided to the member in the course of his or her duties as a member; or

- (c) is unable to competently perform his or her duties as a member.
- (4) A member who is required to be a pharmacist vacates office if he or she ceases to be registered.

### **3 Chairperson**

- (1) The Pharmacy Committee must elect one of its members who is a pharmacist to be the Chairperson of the Committee.
- (2) The Chairperson may, by notice, resign the office.
- (3) The Chairperson may resign the office but remain a member.

### **4. Validity of proceedings etc.**

- (1) An act or proceeding of the Pharmacy Committee or of a person acting under the direction of the Pharmacy Committee is not invalid by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the membership of the Pharmacy Committee.
- (2) An act or proceeding of the Pharmacy Committee or of a person acting under the direction of the Pharmacy Committee is valid even if:
  - (a) the appointment of a member of the Pharmacy Committee was defective; or
  - (b) a person appointed as a member of the Pharmacy Committee was disqualified from acting as, or incapable of being, a member.

## **Schedule 3 Meetings of Pharmacy Committee**

section 18B(4)

### **1. Convening of meetings**

A meeting of the Pharmacy Committee may be convened by the Chairperson or by the number of members that constitute a quorum of the Pharmacy Committee.

### **2. Procedure at meetings**

- (1) The quorum at a meeting of a regulatory body is 3 members of whom 2 must be pharmacists.
- (2) A duly convened meeting of the Pharmacy Committee at which a quorum is present is competent to transact any business of the Pharmacy Committee.
- (3) Questions arising at a meeting of the Pharmacy Committee must be determined by a majority of votes of the members present and voting.
- (4) In the event of an equality of votes on a question arising at a meeting of the Pharmacy Committee, the question stands adjourned until its next meeting.

### **3. Who presides at meetings**

- (1) The Chairperson must preside at all meetings of the Pharmacy Committee at which the Chairperson is present.
- (2) If the Chairperson is not present at a meeting of the Pharmacy Committee, a member elected by the members present must preside at the meeting.

### **4. Minutes**

The Pharmacy Committee must keep accurate minutes of its meetings.

### **5. Disclosure of interest**

- (1) If a member has or acquires an interest (whether pecuniary or otherwise) that would conflict with the proper performance of the member's functions in relation to a matter being considered or about to be considered by the Pharmacy Committee, the member must disclose the nature of the interest at a meeting of the Pharmacy Committee.

- (2) A disclosure under subclause (1) must be recorded in the minutes and, unless the Pharmacy Committee (exclusive of the member) determines otherwise, the member must not:
  - (a) be present during any deliberations of the Pharmacy Committee in relation to the matter; or
  - (b) take part in any decision of the Pharmacy Committee in relation to the matter.

## **6. Meetings to be open to public**

- (1) Except as provided in subclause (2), a meeting of the Pharmacy Committee must be open to the public.
- (2) The Pharmacy Committee may do either or both of the following at a meeting if it considers that there are compelling grounds to do so:
  - (a) make an order excluding any person from the meeting;
  - (b) make an order prohibiting the reporting or other disclosure of all or any of the proceedings at the meeting or prohibiting the reporting or other disclosure of particular information in respect of the meeting.
- (3) Without limiting the range of grounds that may be relevant for the purposes of subclause (2), the Pharmacy Committee may exercise its power under that subclause if:
  - (a) it is dealing with privileged information or information that has been communicated to the Pharmacy Committee in confidence; or
  - (b) it is dealing with information concerning the personal affairs, finances or business arrangements of a person; or
  - (c) the disclosure of the proceedings or the information may be unfairly prejudicial to the reputation of a person.
- (4) A person wishing to attend a meeting of the Pharmacy Committee must notify the Pharmacy Committee not later than 7 days before the date of the meeting.

## **7. General procedures**

- (1) Subject to this Schedule, the procedure for convening the Pharmacy Committee and conducting its business is as determined by the Pharmacy Committee.

- (2) The Pharmacy Committee may permit members to participate in a particular meeting by telephone or by other means of communication.
- (3) A member who is permitted to participate in a meeting under subclause (2) is taken to be present at the meeting.
- (4) A regulatory body may allow a person to attend a meeting for the purpose of advising or informing it on any matter.

## **8. Confidentiality**

Subject to this Act, the Chairperson, a member or a delegate of the Pharmacy Committee must not disclose information obtained in the course of his or her duties as Chairperson, member or delegate unless the disclosure is made in the course of those duties.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

## **Schedule 4 Powers and procedures of Tribunal**

section 63(7)

### **2. Powers**

- (1) The Tribunal may, in relation to its proceedings:
  - (a) summon any person to appear before it to give evidence and produce any document specified in the summons; and
  - (b) require any person appearing before it to produce any document; and
  - (c) require any person appearing before it to give evidence on oath; and
  - (d) require any person appearing before it to answer questions; and
  - (e) proceed with and determine any proceedings despite the absence of a person who is summoned to appear; and
  - (f) proceed with and determine any proceedings in the absence of a party to the proceedings if satisfied that the party was given reasonable opportunity to appear and failed to do so; and
  - (g) adjourn the hearing of any proceedings from time to time and from place to place.
- (2) The Tribunal or the President of the Tribunal may, at any time before or during its proceedings, give directions for the expeditious and efficient hearing of the matter to which the proceedings relate.
- (4) A direction under subclause (3) must be consistent with any earlier direction given under subclause (2) in relation to the proceedings.

### **3. Requirements of summons for hearing**

- (1) This clause applies to a health practitioner who is the subject of a matter for which the Tribunal has functions.
- (1A) A summons requiring the health practitioner to attend the Tribunal's proceedings in relation to the matter must specify the following:
  - (a) particulars of the matter;
  - (b) the date, time and place at which the health practitioner is required to appear;



- (c) that the health practitioner is entitled to be represented by another person (including a legal practitioner) in relation to the proceedings;
  - (d) that the hearing of the proceedings will be open to the public unless the Tribunal orders otherwise.
- (2) The summons may contain any other information that the Tribunal considers necessary or appropriate.
- (3) The date specified in subclause (1)(d) must be not less than 14 days after the date on which the summons is served.

#### **4. Procedures**

The Tribunal:

- (a) must conduct its proceedings with as little formality and with as much expedition as a proper consideration of the matter before it permits; and
- (b) is not bound by the rules of evidence; and
- (c) may inform itself on any matter in any way it considers appropriate; and
- (d) must observe the rules of procedural fairness.

#### **5. Additional notifications**

- (1) The Tribunal may deal with one or more notifications about a health practitioner in its proceedings.
- (2) If, during any proceedings for a notification (the *first notification*) relating to a health practitioner, the Tribunal considers that another notification could have been made against the health practitioner, the Tribunal may:
  - (a) take that other notification to have been referred to the Tribunal; and
  - (b) deal with it in the same proceedings, including dealing with it after an adjournment that is, in the Tribunal's opinion, just and equitable in the circumstances.
- (3) The Tribunal may do so:
  - (a) whether instead of, or in addition to, the first notification; and
  - (b) whether or not the notification could have been made by the same entity that made the first notification.

## **6. Medical examinations**

- (1) The Tribunal may, by written notice, require the person who is the subject of a matter for which the Tribunal has functions to have one or more medical examinations at the expense of the National Board for the health profession to which the matter relates.
- (2) The Tribunal must not require a person to have a medical examination under subclause (1) unless it is reasonable to do so for the proceedings.
- (3) A notice under subclause (1) must specify:
  - (a) the name of the health practitioner who is to carry out the medical examination; and
  - (b) the date, time and place of the medical examination.
- (4) The time and place specified for a medical examination must be reasonable.
- (5) The health practitioner who carries out the medical examination must provide the Tribunal, and the person examined, with a written report of the results of the examination.
- (6) In this clause:

*medical examination* includes an examination of the physical, psychological and mental capacities of a person.

## **7. Proceedings to be open to public**

- (1) Except as provided in subclause (2), the proceedings of the Tribunal must be open to the public.
- (2) If the Tribunal is hearing any proceedings, the Tribunal may, on the application of a party to the proceedings or on its own motion, do either or both of the following if it considers that there are compelling grounds to do so:
  - (a) make an order excluding any person from the hearing;
  - (b) make an order prohibiting the reporting or other disclosure of all or any of the proceedings or prohibiting the reporting or other disclosure of particular information in respect of the proceedings.

- (3) Without limiting the range of grounds that may be relevant for the purposes of subclause (2), the Tribunal may exercise its power under that subclause if:
- (a) it is dealing with privileged information or information that has been communicated to it in confidence; or
  - (b) it is dealing with information concerning the personal affairs, finances or business arrangements of a person; or
  - (c) the disclosure of the proceedings or the information may be unfairly prejudicial to the reputation of a person.

**8. Representation**

A party to proceedings of the Tribunal is entitled:

- (a) to attend the proceedings; and
- (b) to be represented by another person (including a legal practitioner).

## Schedule 5      Membership of Tribunal

section 63(8)

### 1.      Definitions

In this Schedule:

*meeting* includes proceedings being conducted by the Tribunal.

*member* means a member of the Tribunal and includes the President of the Tribunal.

### 2.      Term of office etc.

- (1) A permanent member holds office for the period, not exceeding 3 years, as is specified by the Minister.
- (2) A permanent member may serve any number of terms but may not serve more than 3 terms in succession unless approved by the Minister.
- (3) A special member is appointed for the period during which the Tribunal is constituted for the matter to which the member's appointment relates.
- (3A) To avoid doubt, the period mentioned in subclause (3) ends when:
  - (a) the Tribunal has decided the matter for which it is constituted; and
  - (b) all proceedings of the Tribunal in relation to the matter have ended.
- (4) There is no limit to the number of times a person may be appointed as a special member.

### 3.      Vacation of office

- (1) A member vacates office if he or she:
  - (a) resigns; or
  - (b) is removed from office under subclause (2) or (3); or
  - (c) ceases to be qualified for office by virtue of subclause (4), (5) or (6).

- (2) The Minister may remove a member from office if the member:
  - (a) for a permanent member – is absent from a meeting of the Tribunal convened to deal with a particular matter without the permission of the other members of the Tribunal as constituted for that matter; or
  - (b) for a special member – is absent from a meeting of the Tribunal convened to deal with the matter to which the special member's appointment relates without the permission of the other members of the Tribunal as constituted for that matter; or
  - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
  - (d) is found guilty, in the Territory or elsewhere, of a crime or an offence punishable by imprisonment for longer than 12 months; or
  - (e) fails, without reasonable excuse, to comply with the member's obligations under Schedule 6, clause 7; or
  - (f) is found guilty of an offence against this Act or the Health Practitioner Regulation National Law.
- (3) The Minister may remove a member from office if satisfied that the member is unable to perform the duties of the office competently.
- (4) The permanent member appointed under section 63(2)(a) vacates office if he or she ceases to be a lawyer.
- (5) The permanent member appointed under section 63(2)(b) vacates office if he or she becomes a registered health practitioner or a lawyer.
- (6) A special member vacates office if he or she ceases to be a registered health practitioner.

#### **4.      Filling of vacancies**

- (1) If the office of a permanent member becomes vacant, the Minister may appoint a person to the vacant office for the remainder of the former member's term of office.
- (2) The person appointed to a vacant office under subclause (1) must:
  - (a) if the office is referred to in section 63(2)(a) – be a lawyer; and

- (b) if the office is referred to in section 63(2)(b) – not be a registered health practitioner or a lawyer.

**5.      Validity of proceedings etc.**

An act or proceeding of the Tribunal or of a person acting under the direction of the Tribunal is valid even if:

- (a) the appointment of a member of the Tribunal was defective; or
- (b) a person appointed as a member of the Tribunal was disqualified from acting as, or incapable of being, a member.

## **Schedule 6 Proceedings of Tribunal**

section 63(9)

### **1. Proceedings of Tribunal**

- (1) For the purposes of conducting any proceedings in relation to a matter for which the Tribunal is constituted, the President or any 2 members of the Tribunal may convene a meeting.
- (2) However, the President must preside over all proceedings of the Tribunal.

### **2. Effect of vacancies**

- (1) If a member, other than the President, constituting the Tribunal for a matter vacates his or her office before the Tribunal decides the matter, either of the following must hear and decide the matter:
  - (a) the Tribunal constituted by the remaining 4 members;
  - (b) the Tribunal constituted by the remaining 4 members and a person appointed to fill the vacant office.
- (2) If the vacancy mentioned in subclause (1) occurs after any proceedings in relation to the matter have started, the Tribunal as mentioned in subclause (1)(a) or (b) must continue the proceedings.
- (3) If 2 or more members constituting the Tribunal for a matter vacate their offices before the Tribunal decides the matter:
  - (a) any proceedings started in relation to the matter are terminated; and
  - (b) the Tribunal must be reconstituted for the matter.
- (4) Subclause (3) does not prevent the reconstituted Tribunal from taking into account any proceedings of the Tribunal as constituted before the termination in relation to the matter.
- (5) For this clause, a member vacates office if he or she has disclosed an interest under clause 7(1) and a determination under clause 7(2) has not been made in respect of the member.

**3. Voting**

- (1) Questions arising for determination by the Tribunal must be determined by a majority of votes of the members present and voting.
- (2) In the event of an equality of votes on a question arising for determination by the Tribunal, the question stands adjourned until it is next convened.
- (3) The vote of a special member is equal to the vote of a permanent member.

**5. Decisions of Tribunal**

- (1) Unless there are circumstances beyond the control of the Tribunal, a decision of the Tribunal in relation to a matter must be made within 3 months after the hearing for the matter is completed.
- (2) The decision of the Tribunal and the reasons for it must be in writing.

**6. Minutes**

The Tribunal must keep:

- (a) accurate minutes of its meetings; and
- (b) a verbatim record of each hearing it conducts.

**7. Disclosure of interest**

- (1) If a member has or acquires an interest (whether pecuniary or otherwise) that would conflict with the proper performance of the member's functions in relation to a matter being considered or about to be considered by the Tribunal, the member must disclose the nature of the interest at a meeting of the Tribunal.
- (2) A disclosure under subclause (1) must be recorded in the minutes and the member must not, unless the Tribunal (exclusive of the member) determines otherwise:
  - (a) be present during any deliberations of the Tribunal in relation to the matter; or
  - (b) take part in any decision of the Tribunal in relation to the matter.



**8. General procedures**

Subject to this Schedule and Schedule 4, the procedure for convening the Tribunal and conducting its business is as determined by the Tribunal.

## Schedule 7 Pharmacies

section 18C

### 1. Definitions

In this Schedule:

***Aboriginal health service*** means a service that provides health care primarily to Aboriginals.

***authorised pharmacy business owner*** means:

- (a) a pharmacist; or
- (b) a partnership of which all the partners are pharmacists; or
- (c) a corporation of which all shareholders and directors are pharmacists.

***authorised pharmacy service provider*** means an organisation that operates:

- (a) an Aboriginal health service; or
- (b) a pharmacy service that is part of a public hospital; or
- (c) a pharmacy service that is part of a defence force facility.

***pharmacy*** means premises or the part of premises in which a pharmacy business is carried on.

***pharmacy business*** means a business that includes the custody of drugs and medicines, the dispensing of medicines on prescription and the supply of scheduled drugs and poisons to consumers by retail.

***pharmacy department*** means premises or the part of premises in which a pharmacy service is provided.

***pharmacy service*** means a service that includes the custody of drugs and medicines, the dispensing of medicines on prescription and the supply of scheduled drugs and poisons to patients and consumers.

### 2. Ownership of pharmacy

- (1) A person must not:
  - (a) own; or

- (b) exercise any control over the conduct of;  
a pharmacy business unless the person:
- (c) is an authorised pharmacy business owner; or
- (d) has been granted an exemption under subclause (2).

Maximum penalty: If the offender is an individual – 500 penalty units.

If the offender is a body corporate –  
2 500 penalty units.

- (2) The Minister may grant an Aboriginal health service or friendly society an exemption from the application of subclause (1).
- (3) The Minister must not grant an exemption under subclause (2) unless he or she is satisfied that:
  - (a) health services or access to health services will be improved by granting the exemption; and
  - (b) granting the exemption will meet the needs of the community where the pharmacy business is situated.
- (4) Subclause (1) does not apply to a person who was the owner of a pharmacy business before 23 February 2005.
- (5) Subclause (1) does not apply to a person who is:
  - (a) the administrator of the estate of a deceased person to whom that subclause applied; or
  - (b) the administrator of a person to whom that subclause applies who is declared bankrupt; or
  - (c) the administrator of a corporation to which that subclause applies that is in administration.

### **3. Ownership of pharmacy service**

A person must not own a pharmacy service unless the person is an authorised pharmacy service provider.

Maximum penalty: If the offender is an individual – 500 penalty units.

If the offender is a body corporate –  
2 500 penalty units.

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**4.            Conduct of pharmacy business and pharmacy service**

- (1) A person must not conduct a pharmacy business from premises unless the premises comply with the standards prescribed by the Pharmacy Committee.

Maximum penalty:      If the offender is an individual – 500 penalty units.

                                    If the offender is a body corporate –  
                                    2 500 penalty units.

- (2) A person must not conduct a pharmacy service from premises unless the premises comply with the standards prescribed by the Pharmacy Committee.

Maximum penalty:      If the offender is an individual – 500 penalty units.

                                    If the offender is a body corporate –  
                                    2 500 penalty units.

**5.            Pharmacy and pharmacy department to be under direct supervision of pharmacist**

- (1) The owner of a pharmacy must ensure that the pharmacy is under the direct supervision of a pharmacist at all times while it is open to the public.

Maximum penalty:      If the offender is an individual – 500 penalty units.

                                    If the offender is a body corporate –  
                                    2 500 penalty units.

- (2) The owner of pharmacy department must ensure that the pharmacy department is under the direct supervision of a pharmacist at all times while it is open to dispense drugs or medicine.

Maximum penalty:      If the offender is an individual – 500 penalty units.

                                    If the offender is a body corporate –  
                                    2 500 penalty units.

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**6.            Restriction on entry to pharmacy or pharmacy department**

- (1) A person must not enter or remain in a pharmacy unless he or she is a pharmacist or under the direct supervision of a pharmacist.

Maximum penalty:      500 penalty units.

- (2) A person must not enter or remain in a pharmacy department unless he or she is a pharmacist or under the direct supervision of a pharmacist.

Maximum penalty:      500 penalty units.

**7.            Pharmacist-in-charge**

- (1) An authorised pharmacy business owner must not open the pharmacy business to the public unless the owner has appointed a pharmacist to be the pharmacist-in-charge of the business.

Maximum penalty:      If the offender is an individual – 500 penalty units.

   If the offender is a body corporate –  
   2 500 penalty units.

- (2) An authorised pharmacy business owner must notify the Pharmacy Committee of an appointment being made under subclause (1) as soon as practicable after it is made.

Maximum penalty:      If the offender is an individual – 20 penalty units.

   If the offender is a body corporate –  
   100 penalty units.

- (3) An authorised pharmacy service provider must not open the pharmacy department from which the service is provided unless the owner has appointed a pharmacist to be the pharmacist-in-charge of the department.

Maximum penalty:      If the offender is an individual – 500 penalty units.

   If the offender is a body corporate –  
   2 500 penalty units.

- 
- (4) An authorised pharmacy service provider must notify the Pharmacy Committee of an appointment being made under subclause (3) as soon as practicable after it is made.

Maximum penalty:      If the offender is an individual – 20 penalty units.

   If the offender is a body corporate –  
100 penalty units.

- (5) A pharmacist-in-charge appointed under this clause is responsible for the conduct of the pharmacy business or pharmacy service undertaken at the pharmacy or pharmacy department for which he or she is appointed.

- (6) An appointment cannot be made under this clause if the effect is that a pharmacist would be appointed pharmacist-in-charge of more than one pharmacy or pharmacy department.

## **8. Pharmacy superintendent**

- (1) A person who owns more than one pharmacy or pharmacy department must appoint a pharmacist to be the pharmacy superintendent for those pharmacies or pharmacy departments.

Maximum penalty:      If the offender is an individual – 500 penalty units.

   If the offender is a body corporate –  
2 500 penalty units.

- (2) A person who makes an appointment under subclause (1) must notify the Pharmacy Committee of the appointment being made as soon as practicable after it is made.

Maximum penalty:      If the offender is an individual – 20 penalty units.

   If the offender is a body corporate –  
100 penalty units.

- (3) A pharmacy superintendent appointed under this clause is responsible for the conduct of the pharmacy businesses or pharmacy services undertaken at the pharmacies or pharmacy departments for which he or she is appointed.

**9.            Pharmacy key holder**

- (1) A person must not have in his or her possession the keys to a pharmacy or pharmacy department unless he or she is a pharmacy key holder for the pharmacy or pharmacy department or authorised by the pharmacy key holder.

Maximum penalty:      50 penalty units.

- (2) A pharmacy key holder for a pharmacy or pharmacy department is:
- (a) the pharmacist-in-charge of the pharmacy or pharmacy department; or
  - (b) a pharmacist nominated by the pharmacist-in-charge of the pharmacy or pharmacy department as a pharmacy key holder.

- (3) In this clause:

**keys** includes a device, code and any other mechanism to gain access to a locked pharmacy or pharmacy department.

**10.          Unauthorised use of certain titles**

- (1) A person must not use the title "pharmacy", "chemist" or "pharmaceutical chemist", or a similar title, either alone or with other words, to describe premises unless those premises are used as a pharmacy.

Maximum penalty:      25 penalty units.

- (2) Subclause (1) does not apply to an authorised pharmacy business owner who conducts a remote agency or depot and who advertises the agency or depot at the premises from which the agency or depot operates.

- (3) An advertisement referred to in subclause (2) must clearly indicate:

- (a) that the premises are only an agency or depot; and
- (b) that a full service is not available at the premises or that a pharmacist is not on duty at the premises.

- (4) A person must not use the title "pharmacy department" or "pharmacy service", or a similar title, either alone or with other words, to describe premises unless the premises are a pharmacy department.

Maximum penalty:      25 penalty units.

- (5) An offence against this clause is a regulatory offence.

**11.            Unconscionable conduct**

A person must not, either directly or indirectly, attempt to influence, coerce or otherwise cause a pharmacist to engage in conduct that contravenes this Act.

Maximum penalty:      400 penalty units.



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## ENDNOTES

### 1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
<i>Gaz</i> = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

### 2 LIST OF LEGISLATION

***Health Practitioners Act 2004 (Act No. 21, 2004)***

Assent date	16 April 2004
Commenced	s 130 and sch 8: 23 February 2005; rem: 14 May 2004 ( <i>Gaz</i> G19, 12 May 2004, p 4 and <i>Gaz</i> G8, 23 February 2005, p 2)

***Legal Profession (Consequential Amendments) Act 2007 (Act No. 7, 2007)***

Assent date	17 May 2007
Commenced	s 10: 1 July 2007 ( <i>Gaz</i> G26, 27 June 2007, p 3); rem: 17 May 2007

***Health Practitioner Regulation (National Uniform Legislation) Act 2010 (Act No. 2, 2010)***

Assent date	17 March 2010
Commenced	1 July 2010 (s 2)

***Health Practitioner (National Uniform Legislation) Implementation Act 2010 (Act No. 18, 2010)***

Assent date	20 May 2010
Commenced	1 July 2010 (s 2)

***Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)***

Assent date	18 November 2010
Commenced	1 March 2011 (s 2, s 2 <i>Oaths, Affidavits and Declarations Act 2010</i> (Act No. 39, 2010) and <i>Gaz</i> G7, 16 February 2011, p 4)

***Health Practitioner (National Uniform Legislation) Implementation Act 2012 (Act No. 17, 2012)***

Assent date	22 May 2012
Commenced	1 July 2012 (s 2)

### 3 LIST OF AMENDMENTS

lt	amd No. 18, 2010, s 23; No. 17, 2012, s 4
s 3	amd No. 18, 2010, s 23; No. 17, 2012, s 5
s 4	amd No. 18, 2010, s 4
	sub No. 17, 2012, s 6
s 6	sub No. 18, 2010, s 5
	rep No. 17, 2012, s 7
pt 2 hdg	rep No. 17, 2012, s 7
s 7	amd No. 18, 2010, s 6
	rep No. 17, 2012, s 7
ss 8 – 9	rep No. 17, 2012, s 7
ss 10 – 11	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 7
ss 12 – 18	rep No. 17, 2012, s 7
pt 2A hdg	ins No. 18, 2010, s 7
	amd No. 17, 2012, s 8
s 18A	ins No. 18, 2010, s 7
s 18B	ins No. 18, 2010, s 7
	sub No. 17, 2012, s 9
ss 18C – 18K	ins No. 18, 2010, s 7
s 18L	ins No. 17, 2012, s 10
pt 3 hdg	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 11
pt 3	
div 1 hdg	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 11
s 19	sub No. 18, 2010, s 8
	rep No. 17, 2012, s 11
pt 3	
div 2 hdg	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 11
s 20	amd No. 18, 2010, ss 9 and 23
	rep No. 17, 2012, s 11
s 21	rep No. 17, 2012, s 11
pt 3	
div 3 hdg	rep No. 17, 2012, s 11
ss 22 – 26	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 11
pt 3	
div 4 hdg	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 11
ss 27 – 28	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 11
s 29	rep No. 18, 2010, s 10
s 30	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 11
pt 3	
div 5 hdg	rep No. 17, 2012, s 11
ss 31 – 37	rep No. 17, 2012, s 11
pt 3	
div 6 hdg	rep No. 17, 2012, s 11
s 38	sub No. 18, 2010, s 11
	rep No. 17, 2012, s 11
s 39	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 11

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s 40	amd No. 18, 2010, ss 12 and 23 rep No. 17, 2012, s 11
ss 41 – 42	amd No. 18, 2010, s 23 rep No. 17, 2012, s 11
pt 3	
div 7 hdg	amd No. 18, 2010, s 23 rep No. 17, 2012, s 11
s 43	rep No. 17, 2012, s 11
s 44	rep No. 18, 2010, s 13
s 45	amd No. 18, 2010, s 23 rep No. 17, 2012, s 11
s 46	rep No. 17, 2012, s 11
ss 47 – 48	amd No. 18, 2010, s 23 rep No. 17, 2012, s 11
s 49	rep No. 17, 2012, s 11
ss 50 – 54	amd No. 18, 2010, s 23 rep No. 17, 2012, s 11
pt 4 hdg	sub No. 17, 2012, s 12
pt 3	
div 1 hdg	rep No. 17, 2012, s 13
s 55	rep No. 17, 2012, s 13
s 56	amd No. 18, 2010, s 23 rep No. 17, 2012, s 13
ss 57 – 60	rep No. 17, 2012, s 13
s 61	amd No. 18, 2010, s 23 rep No. 17, 2012, s 13
s 62	rep No. 17, 2012, s 13
pt 3	
div 2 hdg	rep No. 17, 2012, s 14
s 63	amd No. 7, 2007, s 16; No. 2, 2010, s 10; No. 18, 2010, s 23; No. 17, 2012, s 15
s 64	amd No. 2, 2010, s 11; No. 17, 2012, s 16
pt 3	
div 3 hdg	rep No. 17, 2012, s 17
s 65	amd No. 18, 2010, s 23 rep No. 17, 2012, s 17
ss 66 – 67	rep No. 17, 2012, s 17
pt 3	
div 4 hdg	rep No. 17, 2012, s 17
s 68	amd No. 18, 2010, s 23 rep No. 17, 2012, s 17
s 69	rep No. 17, 2012, s 17
s 70	amd No. 18, 2010, s 23 rep No. 17, 2012, s 17
pt 3	
div 5 hdg	rep No. 17, 2012, s 18
pt 4 hdg	ins No. 17, 2012, s 19
s 71	amd No. 18, 2010, s 23; No. 17, 2012, ss 20 and 49
s 72	amd No. 17, 2012, s 49
s 73	amd No. 18, 2010, s 23; No. 17, 2012, ss 21 and 49
pt 5 hdg	rep No. 17, 2012, s 22
ss 74 – 82	rep No. 17, 2012, s 22
pt 6 hdg	rep No. 17, 2012, s 22
pt 6	
div 1 hdg	rep No. 17, 2012, s 22
s 83	amd No. 18, 2010, s 23 rep No. 17, 2012, s 22
s 84	rep No. 17, 2012, s 22

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pt 6	
div 2 hdg	rep No. 17, 2012, s 22
ss 85 – 87	rep No. 17, 2012, s 22
pt 6	
div 3 hdg	rep No. 17, 2012, s 22
ss 88 – 93	rep No. 17, 2012, s 22
pt 6	
div 4 hdg	rep No. 17, 2012, s 22
s 94	rep No. 17, 2012, s 22
s 95	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 22
ss 96 – 98	rep No. 17, 2012, s 22
s 99	amd No. 18, 2010, ss 14 and 23; No. 17, 2012, s 23
s 100	amd No. 17, 2012, ss 24 and 49
pt 8	
div 1 hdg	rep No. 17, 2012, s 25
s 101	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 25
s 102	rep No. 17, 2012, s 25
s 102A	ins No. 18, 2010, s 15
	rep No. 17, 2012, s 25
ss 103 – 104	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 25
s 105	rep No. 17, 2012, s 25
pt 8	
div 2 hdg	rep No. 17, 2012, s 26
s 106	amd No. 18, 2010, s 23
	sub No. 17, 2012, s 27
s 107	amd No. 17, 2012, s 49
s 108	amd No. 40, 2010, s 118; No. 17, 2012, s 28
s 109	sub No. 17, 2012, s 29
s 110	amd No. 18, 2010, s 23
	sub No. 17, 2012, s 29
s 111	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 29
pt 9 hdg	amd No. 17, 2012, s 30
s 112	amd No. 18, 2010, s 23
	sub No. 17, 2012, s 31
s 113	rep No. 17, 2012, s 31
s 114	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 31
ss 115 – 117	rep No. 17, 2012, s 31
s 118	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 31
s 119	amd No. 17, 2012, s 49
s 120	amd No. 18, 2010, s 23
	amd No. 17, 2012, ss 32 and 49
s 121	amd No. 18, 2010, s 23
	amd No. 17, 2012, ss 33 and 49
s 123	rep No. 17, 2012, s 34
ss 125 – 126	rep No. 17, 2012, s 34
s 128	amd No. 18, 2010, s 23
	rep No. 17, 2012, s 34
s 129	rep No. 17, 2012, s 34
s 130	rep No. 18, 2010, s 16
pt 9	
div 3 hdg	rep No. 17, 2012, s 34
ss 132 – 133	rep No. 17, 2012, s 34

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pt 10 hdg	ins No. 18, 2010, s 17 rep No. 17, 2012, s 34
ss 134 – 143	ins No. 18, 2010, s 17 rep No. 17, 2012, s 34
pt 11 hdg	ins No. 18, 2010, s 17
s 144	ins No. 18, 2010, s 17
pt 12 hdg	ins No. 18, 2010, s 17
pt 12 hdg	
div 1 hdg	ins No. 17, 2012, s 35
s 145	ins No. 18, 2010, s 17
s 146	ins No. 18, 2010, s 17 amd No. 17, 2012, s 36
s 147	ins No. 18, 2010, s 17 amd No. 17, 2012, s 37
s 148	ins No. 18, 2010, s 17
pt 12 hdg	
div 2 hdg	ins No. 17, 2012, s 38
ss 149 – 153	ins No. 17, 2012, s 38
pt 13 hdg	ins No. 18, 2010, s 17 sub No. 17, 2012, s 39
ss 149 – 151	ins No. 18, 2010, s 17 rep No. 17, 2012, s 39
ss 154 – 156	ins No. 17, 2012, s 39
sch 1	amd No. 18, 2010, s 18 rep No. 17, 2012, s 40
sch 2	amd No. 18, 2010, ss 19 and 23; No. 17, 2012, ss 41 and 49
sch 3	amd No. 18, 2010, ss 20 and 23; No. 17, 2012, ss 42 and 49
sch 4	amd No. 40, 2010, s 118; No. 17, 2012, s 43
sch 5	amd No. 7, 2007, s 16; No. 17, 2012, ss 44 and 49
sch 6	amd No. 17, 2012, s 45
sch 7	sub No. 18, 2010, s 21 rep No. 17, 2012, s 46
sch 8	amd No. 18, 2010, ss 22 and 23; No. 17, 2012, ss 47 and 49
sch 9 – 10	rep No. 17, 2012, s 48