



New South Wales

# Health Practitioner Regulation (New South Wales) Amendment (Health Professional Councils) Regulation 2012

under the

Health Practitioner Regulation National Law (NSW)

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Health Practitioner Regulation National Law (NSW)*.

JILLIAN SKINNER, MP  
Minister for Health

## Explanatory note

The object of this Regulation is to provide for the membership of the Dental Council, Medical Council, Nursing and Midwifery Council, Pharmacy Council, Physiotherapy Council and Psychology Council established by the *Health Practitioner Regulation National Law (NSW)*. This Regulation is made under the *Health Practitioner Regulation National Law (NSW)*, including sections 41E (1) (a) (i) and 247A (the general regulation-making power).

**2012 No 223**

Health Practitioner Regulation (New South Wales) Amendment (Health  
Clause 1 Professional Councils) Regulation 2012

---

**Health Practitioner Regulation (New South Wales)  
Amendment (Health Professional Councils) Regulation  
2012**

under the

Health Practitioner Regulation National Law (NSW)

**1 Name of Regulation**

This Regulation is the *Health Practitioner Regulation (New South Wales) Amendment (Health Professional Councils) Regulation 2012*.

**2 Commencement**

This Regulation commences on 1 July 2012 and is required to be published on the NSW legislation website.

---

## Schedule 1      **Amendment of Health Practitioner Regulation (New South Wales) Regulation 2010**

### [1]    **Clause 4A**

Insert after clause 4:

#### **4A    Membership of relevant Councils**

For the purposes of section 41E (1) (a) (i) of the Law, each Council that is a relevant Council consists of the members set out for that Council in Schedule 1A.

**Note.** Under section 41E (2) of the Law, the following Councils are relevant Councils:

- (a) the Dental Council of New South Wales,
- (b) the Medical Council of New South Wales,
- (c) the Nursing and Midwifery Council of New South Wales,
- (d) the Pharmacy Council of New South Wales,
- (e) the Physiotherapy Council of New South Wales,
- (f) the Psychology Council of New South Wales.

### [2]    **Schedules 1A and 1B**

Insert before Schedule 1:

## **Schedule 1A    Membership of relevant Councils**

(Clause 4A)

### **Part 1    Dental Council of New South Wales**

#### **1    Definitions**

In this Part:

*dental auxiliary* means a person:

- (a) who is registered under the Law in the dental profession, and
- (b) whose name is included in one of the following divisions of the Register of Dental Practitioners kept under the Law:
  - (i) dental therapists,
  - (ii) dental hygienists,
  - (iii) oral health therapists, and
- (c) whose principal place of practice is in the State.

## 2012 No 223

Health Practitioner Regulation (New South Wales) Amendment (Health Professional Councils) Regulation 2012

Schedule 1      Amendment of Health Practitioner Regulation (New South Wales) Regulation 2010

---

*dental prosthetist* means a person:

- (a) who is registered under the Law in the dental profession, and
- (b) whose name is included in the Dental Prosthetists Division of the Register of Dental Practitioners kept under the Law, and
- (c) whose principal place of practice is in the State.

*dentist* means a person:

- (a) who is registered under the Law in the dental profession, and
- (b) whose name is included in the Dentists Division of the Register of Dental Practitioners kept under the Law, and
- (c) whose principal place of practice is in the State.

### 2 Membership of Dental Council

- (1) The Dental Council of New South Wales consists of 12 members appointed by the Governor.
- (2) The appointed members are to be:
  - (a) 6 dentists nominated by the Minister, and
  - (b) one dentist nominated by the Minister, being a registered dentist involved in conducting approved programs of study for the dental profession, and
  - (c) one dental prosthetist nominated by the Minister, and
  - (d) one dental auxiliary nominated by the Minister, and
  - (e) 2 persons, who are not registered under the Law in the dental profession, nominated by the Minister to represent the community, and
  - (f) one Australian lawyer nominated by the Minister.

## Part 2 Medical Council of New South Wales

### 3 Membership of Medical Council

- (1) The Medical Council of New South Wales consists of 19 members who are to be appointed by the Governor.
- (2) Of the members:
  - (a) one is to be an Australian lawyer nominated by the Minister, and

- 
- (b) 2 are to be medical practitioners nominated by the Australian Medical Association (NSW) Limited and whose principal places of practice are in the State, and
  - (c) one is to be a person nominated by the Community Relations Commission, and
  - (d) one is to be a medical practitioner nominated jointly by the Senate of the University of Sydney, the Council of the University of New South Wales and the Council of the University of Newcastle and whose principal place of practice is in the State, and
  - (e) 8 are to be medical practitioners whose principal places of practice are in the State and are nominated respectively by the following bodies:
    - (i) The Royal Australasian College of Physicians, New South Wales State Committee,
    - (ii) The Royal Australian and New Zealand College of Obstetricians and Gynaecologists, New South Wales Regional Committee,
    - (iii) Royal Australasian College of Surgeons, New South Wales State Committee,
    - (iv) The Royal Australian College of General Practitioners, New South Wales and Australian Capital Territory Faculty,
    - (v) The Royal Australasian College of Medical Administrators, New South Wales State Committee,
    - (vi) The Royal Australian and New Zealand College of Psychiatrists, New South Wales Branch,
    - (vii) The Royal College of Pathologists of Australasia,
    - (viii) The Royal Australian and New Zealand College of Radiologists, and
  - (f) 6 are to be persons nominated by the Minister, not less than 4 of whom are to be persons who, in the Minister's opinion, are conversant with the interests of patients as consumers of medical services.

#### **4 Nominations for membership**

- (1) If a body from whom a nomination is required under clause 3 does not nominate a medical practitioner within the time and in the way specified by the Minister by written notice given to the body, the Governor may instead appoint as a member a medical practitioner nominated by the Minister.

## 2012 No 223

Health Practitioner Regulation (New South Wales) Amendment (Health Professional Councils) Regulation 2012

Schedule 1 Amendment of Health Practitioner Regulation (New South Wales) Regulation 2010

---

- (2) A medical practitioner is not eligible to be nominated by the Minister under this clause instead of a practitioner nominated by a body unless the practitioner nominated by the Minister is a member of that body.

### Part 3 Nursing and Midwifery Council of New South Wales

#### 5 Definitions

In this Part:

*enrolled nurse* means a person:

- (a) who is registered under the Law in the nursing and midwifery profession, and
- (b) whose name is included in the enrolled nurses (Division 2) division of the Register of Nurses kept under the Law, and
- (c) whose principal place of practice is in the State.

*midwife* means a person:

- (a) who is registered under the Law in the nursing and midwifery profession, and
- (b) whose name is included in the Register of Midwives kept under the Law, and
- (c) whose principal place of practice is in the State.

*registered nurse* means a person:

- (a) who is registered under the Law in the nursing and midwifery profession, and
- (b) whose name is included in the registered nurses (Division 1) division of the Register of Nurses kept under the Law, and
- (c) whose principal place of practice is in the State.

#### 6 Membership of Nursing and Midwifery Council

- (1) The Nursing and Midwifery Council of New South Wales consists of 15 members appointed by the Governor.
- (2) Of the members:
  - (a) 3 are to be registered nurses nominated by the Minister, and
  - (b) one is to be a midwife nominated by the Minister; and
  - (c) 2 are to be enrolled nurses nominated by the Minister, and

- (d) 2 are to be nurses or midwives engaged in the tertiary or pre-enrolment education of nurses or midwives in this State nominated by the Minister, at least one of whom is a registered nurse, and
  - (e) one is to be a registered nurse or midwife nominated by the New South Wales Nurses' Association, and
  - (f) one is to be a registered nurse or midwife nominated by the Australian College of Nursing, and
  - (g) one is to be a registered nurse who is nominated by the Minister and who practises nursing in the area of mental health, and
  - (h) one is to be an Australian lawyer nominated by the Minister, and
  - (i) 3 are to be persons nominated by the Minister to represent the community.
- (3) If the New South Wales Nurses' Association or the Australian College of Nursing does not nominate a registered nurse or midwife within the time or in the way specified by the Minister by written notice to the Association or College, the Governor may instead appoint as a member a registered nurse or midwife nominated by the Minister.

## **Part 4 Pharmacy Council of New South Wales**

### **7 Membership of Pharmacy Council**

- (1) The Pharmacy Council of New South Wales consists of 10 members appointed by the Governor, of whom:
  - (a) 5 are to be local pharmacists elected by local pharmacists in accordance with the procedure set out in Schedule 1B, and
  - (b) 5 are to be appointed by the Governor in accordance with subclause (2).
- (2) The members appointed under subclause (1) (b) are to be:
  - (a) one local pharmacist nominated by the Minister, being a pharmacist who has expertise in working at a hospital pharmacy, and
  - (b) one local pharmacist nominated by the Minister, being a pharmacist involved in conducting approved programs of study for the pharmacy profession, and

## 2012 No 223

Health Practitioner Regulation (New South Wales) Amendment (Health Professional Councils) Regulation 2012

Schedule 1      Amendment of Health Practitioner Regulation (New South Wales) Regulation 2010

---

- (c) 2 persons, who are not pharmacists, nominated by the Minister to represent the community, and
  - (d) one Australian lawyer nominated by the Minister.
- (3) In this clause:  
*local pharmacist* means a pharmacist whose principal place of practice is in the State.

## Part 5      Physiotherapy Council of New South Wales

### 8      Membership of Physiotherapy Council

- (1) The Physiotherapy Council of New South Wales consists of 10 members appointed by the Governor.
- (2) The appointed members are to be:
  - (a) 4 local physiotherapists nominated by the Minister, and
  - (b) one local physiotherapist nominated by the Minister from a panel of physiotherapists nominated by the Australian Physiotherapy Association New South Wales Branch, and any other body representing physiotherapists decided by the Minister, and
  - (c) one local physiotherapist nominated by the Minister, being a physiotherapist involved in conducting approved programs of study for the physiotherapy profession, and
  - (d) 3 persons nominated by the Minister, at least 2 of whom are not physiotherapists and are nominated to represent the community, and
  - (e) one Australian lawyer nominated by the Minister.
- (3) If the panel of physiotherapists required to be nominated for the purposes of subclause (2) (b) is not nominated within the time or in the way specified by the Minister by written notice to the Association or body concerned, the Governor may instead appoint as a member a person nominated by the Minister.
- (4) In this clause:  
*local physiotherapist* means a physiotherapist whose principal place of practice is in the State.



---

## Part 6 Psychology Council of New South Wales

### 9 Membership of Psychology Council

- (1) The Psychology Council of New South Wales consists of 8 members appointed by the Governor.
- (2) The members are to be:
  - (a) 3 local psychologists nominated by the Minister from a panel of psychologists nominated by the Australian Psychological Society Limited and other bodies the Minister may decide, and
  - (b) one local psychologist nominated by the Minister, being a member of the teaching staff of an educational institution that is involved in conducting approved programs of study for the psychology profession in this State, and
  - (c) one local psychologist nominated by the Minister, and
  - (d) 2 persons, who are not psychologists, nominated by the Minister to represent the community, and
  - (e) one Australian lawyer nominated by the Minister.
- (3) If the panel of psychologists required to be nominated for the purposes of subclause (2) (a) is not nominated within the time or in the way specified by the Minister by notice to the Society or body concerned, the Governor may instead appoint as a member a person nominated by the Minister.
- (4) In this clause:

*local psychologist* means a psychologist whose principal place of practice is in the State.

## Schedule 1B Election of members of Pharmacy Council of New South Wales

(Schedule 1A, clause 7 (1) (a))

### 1 Definitions

In this Schedule:

*close of nominations*, in relation to an election, means the final time and date fixed by the returning officer for the close of nominations in the election.

*close of the poll*, in relation to an election, means the final time and date fixed by the returning officer for the close of the poll in the election.

## 2012 No 223

Health Practitioner Regulation (New South Wales) Amendment (Health Professional Councils) Regulation 2012

Schedule 1 Amendment of Health Practitioner Regulation (New South Wales) Regulation 2010

---

**Council** means the Pharmacy Council of New South Wales.

**election** means an election conducted for the purposes of clause 7 (1) (a) of Schedule 1A to elect members of the Council.

**Executive Officer** means the Executive Officer of the Council.

**local pharmacist** means a pharmacist whose principal place of practice is in the State.

**Register** means the Register of Pharmacists required to be kept under the Law.

**returning officer**—see clause 3.

### 2 Manner of conduct of election

For the purposes of clause 7 (1) (a) of Schedule 1A, the election of elected members of the Council is to be held and conducted in the manner set out in this Schedule.

### 3 Returning officer

- (1) The Electoral Commissioner for New South Wales appointed under the *Parliamentary Electorates and Elections Act 1912* is to be the returning officer at an election.
- (2) The Electoral Commissioner may delegate to any member of staff of the Office of the New South Wales Electoral Commission any of the returning officer's functions under this Regulation, other than this power of delegation.

### 4 Notice of election

- (1) The returning officer must, as soon as practicable after being notified in writing by the Executive Officer that an election is required to be held, cause to be published in the Gazette and in at least one daily newspaper published and circulated in New South Wales a notice that:
  - (a) states that an election is to be held, and
  - (b) invites nominations from local pharmacists to fill the vacancies for elected members of the Council, and
  - (c) advises where nomination forms may be obtained, and
  - (d) fixes the time and date of the close of nominations, and
  - (e) fixes the time and date of the close of the roll, and
  - (f) fixes the time and date of the close of the poll.
- (2) A notice referred to in subclause (1) must be published at least 60 days before the close of the poll for the election to which it relates.

- (3) The returning officer may, by a notice published in accordance with subclauses (1) and (2), fix a later time and date for the close of nominations for an election than those fixed by a previous notice published in relation to the election.

## **5 Nominations**

- (1) A nomination must be made in writing and must set out the following particulars:
- (a) the full name of the candidate nominated,
  - (b) the residential address of that candidate,
  - (c) an endorsement of that candidate's consent to his or her nomination,
  - (d) the full names, residential addresses and signatures of at least 2 nominators, being local pharmacists other than that candidate.
- (2) A candidate may withdraw his or her nomination for an election by notification in writing delivered to the returning officer at any time until the close of nominations for the election.

## **6 Candidate information sheet**

- (1) A candidate for election may, at any time before the close of nominations for the election, submit to the returning officer a statutory declaration containing information, not exceeding 100 words, intended for inclusion in a candidate information sheet referred to in subclause (2).
- (2) As soon as practicable after the close of nominations for an election, the returning officer must, if clause 7 (2) requires that a poll be taken, draw up a candidate information sheet consisting of the information in the statutory declarations, if any, submitted to the returning officer by candidates pursuant to subclause (1).
- (3) Despite subclause (2), the returning officer may, when drawing up a candidate information sheet, omit or alter so much of the information contained in a statutory declaration submitted to the returning officer pursuant to subclause (1):
- (a) as appears necessary or desirable to prevent the sheet containing information that is inappropriate for inclusion in a candidate information sheet, or
  - (b) as appears necessary or desirable to prevent the sheet containing information that is misleading in a material particular, or
  - (c) as exceeds 100 words.

## 2012 No 223

Health Practitioner Regulation (New South Wales) Amendment (Health Professional Councils) Regulation 2012

Schedule 1 Amendment of Health Practitioner Regulation (New South Wales) Regulation 2010

---

- (4) Information concerning candidates must appear on a candidate information sheet referred to in subclause (2) in the same order in which the candidates are listed on the ballot-paper relating to them.

### 7 Procedure on close of nominations

- (1) If, after the close of nominations, there is not a greater number of local pharmacists nominated than are required for election, the returning officer is to declare those local pharmacists duly elected.
- (2) If, after the close of nominations, the number of local pharmacists nominated is greater than the number required for election, a poll must be taken.

### 8 Closing of roll

- (1) If, by the close of nominations, the returning officer has received more than the required number of nominations, the returning officer must immediately notify the Executive Officer that a poll is to be taken and that the returning officer requires the Executive Officer to deliver to the returning officer within 7 days after the close of the roll:
- (a) a roll, certified by the chief executive officer of the National Agency as true and correct, which contains:
- (i) the name of each person whose name is entered in the Register and whose principal place of practice is in this State, and
- (ii) the address provided to the Pharmacy Board of Australia to be used by the Board in corresponding with the person in the person's application for registration under the Law, and
- (b) a label for each person whose name is entered in the Register as at the close of the roll, of a size suitable for fixing to an envelope, upon which the name and address of that person is written.
- (2) The Executive Officer is to comply with a requirement of the returning officer under subclause (1).

### 9 Conduct of ballot

- (1) Where a poll is to be taken, the returning officer must:
- (a) determine the order in which the candidates' names are to be entered on the ballot-paper in accordance with the

- 
- procedure set out in section 82A of the *Parliamentary Electorates and Elections Act 1912*, and
- (b) cause ballot-papers to be drawn up in accordance with subclause (2), and
  - (c) cause the ballot-papers to be printed, and
  - (d) cause any candidate information sheet drawn up under clause 6 relating to the candidates to be printed.
- (2) The ballot-paper must contain:
- (a) the names of the candidates, arranged in the order determined in accordance with subclause (1) (a), with a small square opposite each name, and
  - (b) if the returning officer considers that the names of 2 or more candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
  - (c) such directions, as to the manner in which a vote is to be recorded and returned to the returning officer, as are required by subclause (3), and
  - (d) such further directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.
- (3) The directions to voters must include the following:
- (a) that the voter must record a vote for at least 5 candidates by placing the numbers “1”, “2”, “3”, “4” and “5” in the squares opposite the names of the candidates in the order of the voter’s preferences for them,
  - (b) that the voter may, if the voter so wishes, vote for additional candidates by placing consecutive numbers (beginning with the number “6”) in the squares opposite the names of the additional candidates in the order of the voter’s preferences for them,
  - (c) that the ballot-paper is to be rejected by the returning officer if it contains any matter by which the voter may be identified,
  - (d) that, having completed the ballot-paper, the voter is to:
    - (i) fold the ballot-paper so that the vote cannot be seen, and
    - (ii) seal the ballot-paper, and only the ballot-paper, in the reply-paid envelope addressed to the returning officer, and
-

## 2012 No 223

Health Practitioner Regulation (New South Wales) Amendment (Health Professional Councils) Regulation 2012

Schedule 1      Amendment of Health Practitioner Regulation (New South Wales) Regulation 2010

---

- (iii) legibly print the voter's name and address on the reply-paid envelope's rear flap and sign the flap, and
    - (iv) send the reply-paid envelope to the returning officer so that the envelope is received by the returning officer before the time and date appointed for the closing of the poll,
    - (e) the time and date appointed for the closing of the poll.
- (4) The returning officer must, not later than 20 days before the date fixed for a poll, post to the address, nominated in the roll referred to in clause 8 (1), of each local pharmacist registered at the date of the close of nominations to which the poll relates:
  - (a) a ballot-paper printed in accordance with subclause (1) and initialled by the returning officer, and
  - (b) an unsealed reply-paid envelope addressed to the returning officer, and
  - (c) the candidate information sheet (if any) drawn up under clause 6.
- (5) A reply-paid envelope referred to in subclause (4) must contain, on the rear flap, spaces for the insertion of a voter's name, address and signature.
- (6) A local pharmacist who has been forwarded a ballot-paper and a reply-paid envelope under subclause (4) and who wishes to vote must complete the ballot-paper, fold the ballot-paper so that the vote cannot be seen and send or deliver to the returning officer the ballot-paper enclosed and sealed in the reply-paid envelope addressed to the returning officer.
- (7) The returning officer may, on written application made to the returning officer, and if satisfied that a ballot-paper has been lost or destroyed, supply a duplicate ballot-paper to the person to whom the lost or destroyed ballot-paper was issued.
- (8) An election is not invalid because:
  - (a) a person whose name is on the Register did not receive a ballot-paper, or
  - (b) the returning officer did not receive a ballot-paper sent to the returning officer.

### 10 Examination of envelopes

- (1) The returning officer must, as soon as practicable after the receipt of a reply-paid envelope purporting to contain a ballot-paper,

---

examine the envelope for the purpose of deciding whether to accept or reject the envelope.

- (2) The returning officer is to reject a reply-paid envelope purporting to contain a ballot-paper issued in respect of an election if:
- (a) the rear flap of the reply-paid envelope does not bear the legibly printed name and address of a local pharmacist to whom the returning officer supplied a ballot-paper or has not been signed, or
  - (b) the reply-paid envelope is not sealed, or
  - (c) the reply-paid envelope is not received by the returning officer at or before the time and date fixed for the close of the poll under clause 4.

#### **11 Dealing with ballot-papers**

- (1) On the day fixed for the close of the poll, the returning officer must:
- (a) open all the reply-paid envelopes received (except those envelopes rejected under clause 10 (2)) and extract the ballot-papers and, without unfolding them, place the ballot-papers in the ballot-box, and
  - (b) mix the ballot-papers and draw the ballot-papers at random, and
  - (c) unfold the ballot-papers and count, in accordance with clause 12, the votes recorded on the ballot-papers (except any ballot-papers rejected under subclause (2)).
- (2) The returning officer is to reject a ballot-paper as being informal if:
- (a) the ballot-paper contains any matter by which the voter may be identified, or
  - (b) the ballot-paper was received in a reply-paid envelope that contained more than one ballot-paper, or
  - (c) the ballot-paper is not completed in accordance with the directions printed on the ballot-paper.
- (3) Each candidate may appoint, in writing, a scrutineer to represent that candidate.
- (4) A scrutineer appointed in accordance with subclause (3) may be present during the examination, opening and counting of votes by the returning officer.

## **2012 No 223**

Health Practitioner Regulation (New South Wales) Amendment (Health Professional Councils) Regulation 2012

Schedule 1      Amendment of Health Practitioner Regulation (New South Wales) Regulation 2010

---

### **12 Method of voting and counting**

- (1) At an election a voter is:
  - (a) required to record a vote for 5 candidates, and
  - (b) permitted to record a vote for as many more candidates as the voter pleases,so as to indicate, in such manner as is required by this Schedule, the candidates for whom the voter votes and the order of the voter's preference for them.
- (2) Ballot-papers must be counted, and the candidates who are elected determined, by the returning officer according to an optional multi-preferential system in which the first, second, third, fourth and fifth preference votes (represented by the numbers "1", "2", "3", "4" and "5", respectively, marked on the ballot-paper) are regarded as primary votes.

### **13 Report of election**

When the returning officer first ascertains the result of an election, the returning officer must furnish a report, in writing, of the result to the Minister and must cause the result to be published in the Gazette and in at least one daily newspaper published or circulated in New South Wales.

### **14 Returning officer's decision final**

If the returning officer is by this Regulation permitted or required to make a decision on any matter relating to the conduct of an election under this Schedule, the decision of the returning officer on that matter is final.

### **15 Candidate dying or ceasing to be local pharmacist**

- (1) If a candidate dies or ceases to be a local pharmacist and, as a result, at any time after the close of nominations but before the close of the poll, there is not a greater number of local pharmacists nominated than are required for election, the returning officer is to declare those local pharmacists duly elected and is not to proceed with the poll.
- (2) Without limiting the operation of subclause (1), an election under this Schedule is not invalid merely because a candidate or a Council member-elect died or ceased to be a local pharmacist after the close of nominations.
- (3) Without limiting the operation of subclause (1), a vote cast in an election under this Schedule is not informal merely because the



person, for whom the vote was cast, died or ceased to be a local pharmacist after the close of nominations.

- (4) If a person elected in an election under this Schedule has, after the close of nominations but before assuming office, died or ceased to be a local pharmacist, the Minister may nominate a local pharmacist to assume office in the person's place.
- (5) The person who assumes office after being so nominated by the Minister is taken to be an elected member.
- (6) In this clause, ***Council member-elect*** means a member elected at an election who is yet to assume office.