



New South Wales

Health Practitioner Regulation (Adoption of National Law) Regulation 2022

under the

Health Practitioner Regulation (Adoption of National Law) Act 2009

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Health Practitioner Regulation (Adoption of National Law) Act 2009*.

BRAD HAZZARD, MP
Minister for Health

Explanatory note

The object of this Regulation is to apply certain amendments to the Health Practitioner Regulation National Law, set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009* of Queensland, made by the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022* of Queensland (the **Queensland Amendment Act**) as amendments to the *Health Practitioner Regulation National Law (NSW)*. Also, this Regulation—

- (a) modifies certain amendments made by the Queensland Amendment Act by amending the *Health Practitioner Regulation (Adoption of National Law) Act 2009*, Schedule 1, and
- (b) amends the *Health Practitioner Regulation (Adoption of National Law) Act 2009*, Schedule 1, for the purpose of applying an amendment to the *Health Practitioner Regulation National Law (NSW)*.

This Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely matters arising under legislation that is substantially uniform or complementary with legislation of another State.

This Regulation is made under a Henry VIII provision in the *Health Practitioner Regulation (Adoption of National Law) Act 2009*.

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Health Practitioner Regulation (Adoption of National Law) Regulation 2022*.

2 Commencement

This Regulation commences as follows—

- (a) for sections 4, other than paragraphs (a)(iii) and (b), and 5, other than section 5(1)(b) and (c) and (3), and Schedule 1[1]–[3]—on the date of assent to the Queensland Amendment Act,
- (b) for section 4(b)—on the day on which provisions of the Queensland Amendment Act specified in section 4(b) commence,
- (c) for section 5(1)(b) and Schedule 1[4]—on the day on which the Queensland Amendment Act, Chapter 3, Part 11, section 74 commences,
- (d) for section 5(1)(c) and Schedule 1[5]—on the day on which the Queensland Amendment Act, Chapter 3, Part 15, section 84 commences,
- (e) for section 5(3) and Schedule 1[6]—on the day on which the Queensland Amendment Act, Chapter 3, Part 13 commences,
- (f) otherwise—on the day on which it is published on the NSW legislation website.

3 Definitions

In this Regulation—

the Act means the *Health Practitioner Regulation (Adoption of National Law) Act 2009*.

Queensland Act means the *Health Practitioner Regulation National Law Act 2009* of Queensland.

Queensland Amendment Act means the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022* of Queensland.

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

Part 2 Application of Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022 of Queensland

Note— The following provisions of the Queensland Amendment Act, Chapter 3, are not applied as amendments to the *Health Practitioner Regulation National Law (NSW)* at this time—

- (a) Part 11, sections 71–73,
- (b) Part 18,
- (c) Parts 20–26,
- (d) Part 31, sections 121–124.

4 Application of amendments—the Act, s 4

For the Act, section 4(2), the following provisions of the Queensland Amendment Act, Chapter 3 that amend the Schedule to the Queensland Act apply as amendments to the *Health Practitioner Regulation National Law (NSW)*—

- (a) for the following provisions that commence on the date of assent to the Queensland Amendment Act—
 - (i) Part 2, sections 33 and 35,
 - (ii) Parts 3–6 and 12,
 - (iii) Parts 16 and 17,
 - (iv) Part 19,
 - (v) Part 31, sections 117(1), 118, 120, 125, 126 and 129,
- (b) for the following provisions that commence by proclamation—
 - (i) Parts 7–10,
 - (ii) Part 11, sections 69 and 70,
 - (iii) Part 14,
 - (iv) Part 15, sections 82 and 83,
 - (v) Parts 27–30,
 - (vi) Part 31, sections 117(2), 119, 127 and 128.

5 Application of modified amendments—the Act, s 4

- (1) For the Act, section 4(2) and (3), the following provisions of the Queensland Amendment Act, as modified by amendments to the Act, Schedule 1 set out in Schedule 1[2], [4] and [5] of this Regulation, apply as amendments to the *Health Practitioner Regulation National Law (NSW)*—
 - (a) Chapter 3, Part 2, section 34,
 - (b) Chapter 3, Part 11, section 74,
 - (c) Chapter 3, Part 15, section 84.
- (2) For the Act, section 4(2) and (3), the Act, Schedule 1 is amended by Schedule 1[1] and [3] of this Regulation for the purpose of applying amendments made by the Queensland Amendment Act, Chapter 3, Part 2, section 34 as amendments to the *Health Practitioner Regulation National Law (NSW)*.
- (3) For the Act, section 4(2) and (3)—
 - (a) amendments made by the Queensland Amendment Act, Chapter 3, Part 13 to the Schedule to the Queensland Act apply as amendments to the *Health Practitioner Regulation National Law (NSW)*, and
 - (b) the Act, Schedule 1 is amended by Schedule 1[6] of this Regulation for the purpose of applying the amendments.

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

Note— Schedule 1[2] modifies the amendment made to the Schedule to the Queensland Act, Part 1 by the Queensland Amendment Act, Chapter 3, Part 2, section 34 (the *guiding principle amendments*). Schedule 1[1] and [3] amend the Act, Schedule 1 for the purpose of applying the guiding principle amendments.

Schedule 1[4] modifies the amendment made to the Schedule to the Queensland Act, section 199 by the Queensland Amendment Act, Chapter 3, Part 11, section 74.

Schedule 1[5] modifies the amendment made to the Schedule to the Queensland Act, section 206 by the Queensland Amendment Act, Chapter 3, Part 15, section 84.

Schedule 1[6] amends the Act, Schedule 1 for the purpose of applying amendments made to the Schedule to the Queensland Act, Part 7, Division 9 by the Queensland Amendment Act, Chapter 3, Part 13.

[1] Schedule 1 Modification of Health Practitioner Regulation National Law

Omit the heading to Schedule 1[1A]. Insert instead—

[1A] Sections 3A and 3B

[2] Schedule 1[1A]

Insert before section 3A —

3A Guiding principles

- (1) The main guiding principle of the national registration and accreditation scheme is that the protection of the health and safety of the public must be the paramount consideration.
- (2) The other guiding principles of the national registration and accreditation scheme are as follows—
 - (a) the scheme is to operate in a transparent, accountable, efficient, effective and fair way;
 - (b) fees required to be paid under the scheme are to be reasonable having regard to the efficient and effective operation of the scheme;
 - (c) restrictions on the practice of a health profession are to be imposed under the scheme only if it is necessary to ensure health services are provided safely and are of an appropriate quality.

Note— This section is a substituted New South Wales provision.

[3] Schedule 1[1A]

Omit “3A Objective and guiding principle [NSW]”. Insert instead—

3B Objective and guiding principle [NSW]

[4] Schedule 1[15]

Insert after section 175(1)(a)—

- (a1) a decision by a National Board to withdraw the person’s registration;

[5] Schedule 1[15]

Omit section 176B(2). Insert instead—

- (2) If the practice information given to the National Board, or of which the Board becomes aware, is information referred to in section 132(4), definition of *practice information*, paragraph (a) and includes the names of other registered health practitioners, the Board, as soon as practicable after an event specified in subsection (1)(a) occurs, may give written notice of the decision to—

- (a) the named registered health practitioners with whom the practitioner currently shares premises and the cost of the premises; and
 - (b) the named registered health practitioners with whom the practitioner previously shared premises and the cost of the premises if the Board reasonably believes the practitioner's health, conduct or performance while the practitioner shared the premises with the registered health practitioners posed—
 - (i) a risk of harm to a person or a class of persons; or
 - (ii) a risk to public health or safety.
- (3) If the practice information given to the Board, or of which the Board becomes aware, is information referred to in section 132(4), definition of *practice information*, paragraph (b), the Board, as soon as practicable after an event specified in subsection (1)(a) occurs—
- (a) if the registered health practitioner has a current practice arrangement with an entity named in the information—must give written notice of the decision to the entity; or
 - (b) if the practitioner had a previous practice arrangement with an entity named in the information—may give written notice of the decision to the entity if the Board reasonably believes the practitioner's health, conduct or performance while the practitioner had a practice arrangement with the entity posed—
 - (i) a risk of harm to a person or a class of persons; or
 - (ii) a risk to public health or safety.
- (4) In this section—
decision means a decision of a National Board or adjudication body to take health, conduct or performance action against a registered health practitioner.

[6] Schedule 1[15]

Insert after section 176D(3)—

- (4) Subsection (3) does not apply if the person's registration in a health profession would have ended during the period of suspension.

Note— See the Health Practitioner Regulation National Law, Part 7, Division 9, Subdivision 2.