



New South Wales

# Health Registration Legislation Amendment Bill 2004

## Explanatory note

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

This Bill is cognate with the *Health Legislation Amendment (Complaints) Bill 2004*.

## Overview of Bill

The object of this Bill is to amend various Acts which provide for the registration of health practitioners:

- (a) to standardise, as far as practicable, the concepts of “professional misconduct” and “unsatisfactory professional conduct” where used in those Acts so that they relate to conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the relevant health practitioner in the practice of their profession is significantly below the standard reasonably expected of such a health practitioner of an equivalent level of training or experience, and
- (b) to make a contravention of proposed section 34A (4) of the *Health Care Complaints Act 1993* by a health practitioner (relating to requirements to provide information to the Health Care Complaints Commission) a type of unsatisfactory professional conduct under those Acts, and
- (c) to make it clear that when disciplinary proceedings in relation to a complaint are taken under those Acts the complaint may at that stage relate to matters arising out of the investigation of the complaint as originally made, and

- (d) to remove any requirements that complaints under those Acts need to be verified by statutory declaration, and
- (e) as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

The Bill also amends the *Medical Practice Act 1992* and the *Nurses and Midwives Act 1991* to enable a person to be represented before the relevant Professional Standards Committees by a non-legal adviser and to ensure that members of the New South Wales Medical Board or the Nurses and Midwives Board cannot sit on the relevant Professional Standards Committees.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the Acts set out in Schedule 1.

## Schedule 1 Amendments to health registration Acts

### Amendments to the Chiropractors Act 2001

**Schedule 1.1 [1]** amends the *Chiropractors Act 2001* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of *unsatisfactory professional conduct* in that Act.

**Schedule 1.1 [2]** amends the *Chiropractors Act 2001* to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.1 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.1 [4]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.1 [5] and [6]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

### Amendments to the Dental Practice Act 2001

**Schedule 1.2 [1] and [3]** amend the *Dental Practice Act 2001* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definitions of *unsatisfactory professional conduct* in that Act.

**Schedule 1.2 [2] and [4]** amend the *Dental Practice Act 2001* to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.2 [5]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.2 [6]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.2 [7] and [8]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

### **Amendments to the Medical Practice Act 1992**

**Schedule 1.3 [1]** amends the *Medical Practice Act 1992* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of *unsatisfactory professional conduct* in that Act. **Schedule 1.3 [11]** makes consequential amendments.

**Schedule 1.3 [2]** amends the *Medical Practice Act 1992* to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.3 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.3 [4]–[7]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

**Schedule 1.3 [8]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.3 [10]** amends that Act to clarify that when the Coroner refers a transcript of evidence in proceedings because it indicates that a complaint could be made under that Act the Coroner is not to be treated as a complainant.

**Schedule 1.3 [12]** provides that members of the New South Wales Medical Board cannot sit on the Medical Tribunal.

**Schedule 1.3 [13]** provides that members of the New South Wales Medical Board cannot sit on a Professional Standards Committee.

**Schedule 1.3 [14] and [15]** enable a practitioner to be represented before a Professional Standards Committee by a non-legal adviser in certain circumstances.

**Schedule 1.3 [16]** gives protection to medical reports of the treating practitioner that are requested by a person being investigated by an Impaired Registrants Panel.

**Schedule 1.3 [17]** clarifies the provisions relating to the notification to the employer and others by the New South Wales Medical Board of an order made against or conditions imposed on a practitioner and enables the Board to dispense with the giving of such notifications in exceptional circumstances.

**Schedule 1.3 [9] and [18]** make minor law revision amendments.

### **Amendment to the Nurses Amendment Act 2003**

**Schedule 1.4** makes an amendment to the *Nurses Amendment Act 2003* consequent on the amendments to the *Nurses and Midwives Act 1991* made by Schedule 1.5.

### **Amendments to the Nurses and Midwives Act 1991**

**Schedule 1.5 [1]** makes a minor amendment by way of law revision.

**Schedule 1.5 [2]** amends the *Nurses and Midwives Act 1991* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of *unsatisfactory professional conduct* in that Act.

**Schedule 1.5 [3]** amends the *Nurses and Midwives Act 1991* to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.5 [4]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.5 [5]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.5 [6]** provides that members of the Nurses and Midwives Board cannot sit on a Professional Standards Committee.

**Schedule 1.5 [7] and [8]** enable a nurse or midwife to be represented before a Professional Standards Committee by a non-legal adviser in certain circumstances.

### **Amendments to the Optometrists Act 2002**

**Schedule 1.6 [1]** amends the *Optometrists Act 2002* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of *unsatisfactory professional conduct* in that Act.

**Schedule 1.6 [2]** amends that Act to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.6 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.6 [4]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.6 [5] and [6]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

### **Amendments to the Osteopaths Act 2001**

**Schedule 1.7 [1]** amends the *Osteopaths Act 2001* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of *unsatisfactory professional conduct* in that Act.

**Schedule 1.7 [2]** amends that Act to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.7 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.7 [4]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.7 [5] and [6]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

### **Amendments to the Physiotherapists Act 2001**

**Schedule 1.8 [1]** amends the *Physiotherapists Act 2001* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of *unsatisfactory professional conduct* in that Act.

**Schedule 1.8 [2]** amends that Act to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.8 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.8 [4]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.8 [5] and [6]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

### **Amendments to the Podiatrists Act 1989**

**Schedule 1.9 [1]** amends the *Podiatrists Act 1989* to make the amendment referred to above in paragraph (b) of the Overview in relation to the definition of *professional misconduct* in that Act.

**Schedule 1.9 [2]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.9 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

### **Amendments to the Podiatrists Act 2003**

**Schedule 1.10 [1]** amends the *Podiatrists Act 2003* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of *unsatisfactory professional conduct* in that Act.

**Schedule 1.10 [2]** amends that Act to make the amendment referred to above in paragraph (b) of the Overview.

**Schedule 1.10 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.10 [4]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.10 [5] and [6]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.

### **Amendments to the Psychologists Act 2001**

**Schedule 1.11 [1]** amends the *Psychologists Act 2001* to make the amendment referred to above in paragraph (a) of the Overview in relation to the definition of *unsatisfactory professional conduct* in that Act.

**Schedule 1.11 [2]** amends that Act to make the amendment referred to above in paragraph (b) of the Overview.

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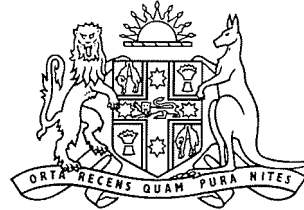
Explanatory note

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**Schedule 1.11 [3]** amends that Act to make the amendment referred to above in paragraph (c) of the Overview.

**Schedule 1.11 [4]** amends that Act to make the amendment referred to above in paragraph (d) of the Overview.

**Schedule 1.11 [5] and [6]** amend that Act as a consequence of the *Health Legislation Amendment (Complaints) Bill 2004*.



New South Wales

# Health Registration Legislation Amendment Bill 2004

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New South Wales

# Health Registration Legislation Amendment Bill 2004

No. , 2004

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## **A Bill for**

An Act to amend various Acts relating to the regulation of health professionals in relation to complaints; and for other purposes.

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|---|---|
| <b>The Legislature of New South Wales enacts:</b>                           | 1 |
| <b>1 Name of Act</b>  | 2 |
| This Act is the <i>Health Registration Legislation Amendment Act 2004</i> . | 3 |
| <b>2 Commencement</b>   | 4 |
| This Act commences on a day or days to be appointed by proclamation.        | 5 |
| <b>3 Amendments to health registration Acts</b>                             | 6 |
| Each Act specified in Schedule 1 is amended as set out in that Schedule.    | 7 |

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|-------------------|--|----------------------------|
| <b>Schedule 1</b> | <b>Amendments to health registration Acts</b>  | 1                          |
|                   | (Section 3)  | 2                          |
| <b>1.1</b>        | <b>Chiropractors Act 2001 No 15</b>  | 3                          |
| <b>[1]</b>        | <b>Section 25 Meaning of “unsatisfactory professional conduct”</b>   | 4                          |
|                   | Omit section 25 (a). Insert instead:   | 5                          |
|                   | (a) any conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the chiropractor in the practice of chiropractic is significantly below the standard reasonably expected of a chiropractor of an equivalent level of training or experience,  | 6<br>7<br>8<br>9<br>10     |
| <b>[2]</b>        | <b>Section 25 (d1)</b>   | 11                         |
|                   | Insert after section 25 (d):   | 12                         |
|                   | (d1) a contravention by the chiropractor of section 34A (4) (Power of Commission to obtain information, records and evidence) of the <i>Health Care Complaints Act 1993</i> ,  | 13<br>14<br>15             |
| <b>[3]</b>        | <b>Section 25A</b>   | 16                         |
|                   | Insert after section 25:   | 17                         |
|                   | <b>25A References to “complaint”</b>   | 18                         |
|                   | In section 36 and Divisions 3, 4 and 5 of this Part and Divisions 1 and 2 of Part 6 (Appeals and review of disciplinary action), a reference to a complaint includes a reference to a matter arising out of the investigation of a complaint in accordance with this or any other Act. | 19<br>20<br>21<br>22<br>23 |
| <b>[4]</b>        | <b>Section 30 Form of complaint</b>  | 24                         |
|                   | Omit section 30 (2).   | 25                         |
| <b>[5]</b>        | <b>Section 32 Board to notify person against whom complaint is made</b>  | 26                         |
|                   | Omit the section.  | 27                         |
| <b>[6]</b>        | <b>Section 35 How complaints are dealt with</b>  | 28                         |
|                   | Omit “for conciliation in accordance with section 13 (2)” from section 35 (1) (b).   | 29<br>30                   |
|                   | Insert instead “to the Commission for conciliation or to be dealt with under Division 9 of Part 2”.  | 31<br>32                   |

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| <b>1.2 Dental Practice Act 2001 No 64</b>  | 1                                |
| <b>[1] Section 41 Meaning of “unsatisfactory professional conduct”—dentists</b>  | 2                                |
| Omit section 41 (1) (a). Insert instead:   | 3                                |
| (a) any conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the dentist in the practice of dentistry is significantly below the standard reasonably expected of a dentist of an equivalent level of training or experience,   | 4<br>5<br>6<br>7<br>8            |
| <b>[2] Section 41 (1) (f)</b>  | 9                                |
| Insert after section 41 (1) (e):   | 10                               |
| (f) a contravention by the dentist of section 34A (4) (Power of Commission to obtain information, records and evidence) of the <i>Health Care Complaints Act 1993</i> ,  | 11<br>12<br>13                   |
| <b>[3] Section 42 Meaning of “unsatisfactory professional conduct”—dental auxiliaries</b>  | 14<br>15                         |
| Omit section 42 (a). Insert instead:   | 16                               |
| (a) any conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the dental auxiliary in the carrying out of dental auxiliary activities is significantly below the standard reasonably expected of a dental auxiliary of an equivalent level of training or experience, | 17<br>18<br>19<br>20<br>21<br>22 |
| <b>[4] Section 42 (d1)</b>   | 23                               |
| Insert after section 42 (d):   | 24                               |
| (d1) a contravention by the dental auxiliary of section 34A (4) (Power of Commission to obtain information, records and evidence) of the <i>Health Care Complaints Act 1993</i> ,  | 25<br>26<br>27                   |
| <b>[5] Section 43</b>  | 28                               |
| Insert after section 42:   | 29                               |
| <b>43 References to “complaint”</b>  | 30                               |
| In section 54, Divisions 3, 4 and 5 of this Part and Divisions 1 and 2 of Part 7 (Appeals and review of disciplinary action), a reference to a complaint includes a reference to a matter arising out of the investigation of a complaint in accordance with this or any other Act.                              | 31<br>32<br>33<br>34<br>35       |

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| <b>[6] Section 48 Form of complaint</b>   | 1                          |
| Omit section 48 (2).  | 2                          |
| <b>[7] Section 50 Board to notify person against whom complaint is made</b>   | 3                          |
| Omit the section.   | 4                          |
| <b>[8] Section 53 How complaints are dealt with</b>   | 5                          |
| Omit “for conciliation in accordance with section 13 (2)” from section 53 (1) (b).  | 6<br>7                     |
| Insert instead “to the Commission for conciliation or to be dealt with under Division 9 of Part 2”.   | 8<br>9                     |
| <b>1.3 Medical Practice Act 1992 No 94</b>  | 10                         |
| <b>[1] Section 36 Meaning of “unsatisfactory professional conduct”</b>  | 11                         |
| Omit section 36 (1) (a). Insert instead:  | 12                         |
| <b>(a) Conduct significantly below reasonable standard</b>  | 13                         |
| Any conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the practitioner in the practice of medicine is significantly below the standard reasonably expected of a practitioner of an equivalent level of training or experience. | 14<br>15<br>16<br>17<br>18 |
| <b>[2] Section 36 (1) (d1)</b>  | 19                         |
| Insert after section 36 (1) (d):  | 20                         |
| <b>(d1) Contravention of requirement under Health Care Complaints Act 1993</b>  | 21<br>22                   |
| A contravention by the practitioner of section 34A (4) (Power of Commission to obtain information, records and evidence) of the <i>Health Care Complaints Act 1993</i> .  | 23<br>24<br>25             |
| <b>[3] Section 38A</b>  | 26                         |
| Insert after section 38:  | 27                         |
| <b>38A References to “complaint”</b>  | 28                         |
| In Divisions 3 and 4 of this Part and in Divisions 1 and 2 of Part 6 (Appeals and review), a reference to a complaint includes a reference to a matter arising out of the investigation of a complaint in accordance with this or any other Act.                              | 29<br>30<br>31<br>32       |

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| <b>[4] Section 47 Board to notify person against whom complaint is made of complaint</b>   | 1<br>2         |
| Omit the section.  | 3              |
| <b>[5] Section 50 Courses of action available to Board on a complaint</b>  | 4              |
| Omit section 50 (1) (d). Insert instead:   | 5              |
| (d) the Board may refer the complaint to the Commission for conciliation or to be dealt with under Division 9 of Part 2 of the <i>Health Care Complaints Act 1993</i> ,                  | 6<br>7<br>8    |
| <b>[6] Section 51 Courses of action available to the Commission on a complaint</b>   | 9<br>10        |
| Omit “(but may not refer it to an Impaired Registrants Panel or refer the professional performance of the practitioner concerned for assessment under Part 5A)” from section 51 (1) (a). | 11<br>12<br>13 |
| <b>[7] Section 51 (1) (b)</b>  | 14             |
| Omit the paragraph. Insert instead:  | 15             |
| (b) the Commission may refer the complaint for conciliation or deal with the complaint under Division 9 of Part 2 of the <i>Health Care Complaints Act 1993</i> ,                        | 16<br>17<br>18 |
| <b>[8] Section 53 Complaint cannot be referred without statutory declaration by complainant</b>  | 19<br>20       |
| Omit the section.  | 21             |
| <b>[9] Section 66B Referral of matter to Commission</b>  | 22             |
| Insert “and if it considers it appropriate to do so” after “investigation” in section 66B (3).   | 23<br>24       |
| <b>[10] Section 71 Referral of matters by courts</b>   | 25             |
| Insert after section 71 (3):   | 26             |
| (4) The Coroner is not the complainant in relation to a complaint that is taken to have been made under subsection (3) and sections 43 (1), 44 and 45 do not apply to such a complaint.  | 27<br>28<br>29 |
| <b>[11] Sections 86D (1) (b), 86J (2) (b), 86M (1) (b) and 86N (3) (b)</b>   | 30             |
| Omit “of a significant nature” wherever occurring.   | 31             |

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| <b>[12] Section 147 Tribunal to be constituted to deal with complaints etc</b>  | 1              |
| Omit section 147 (4). Insert instead:   | 2              |
| (4) A person is not to be appointed to sit on the Tribunal if the person is a member of the Board.  | 3<br>4         |
| <b>[13] Section 169 Membership of Committee</b>   | 5              |
| Omit section 169 (3). Insert instead:   | 6              |
| (3) A person who is a member of the Board may not be appointed to sit on a Committee.   | 7<br>8         |
| <b>[14] Section 177 Representation at inquiry</b>   | 9              |
| Insert “, except as provided by subsection (2)” after “other adviser” in section 177 (1).   | 10<br>11       |
| <b>[15] Section 177 (2) and (2A)</b>  | 12             |
| Omit section 177 (2). Insert instead:   | 13             |
| (2) An adviser (other than a barrister or solicitor) of a practitioner may represent the practitioner before the Committee at an inquiry.                                     | 14<br>15<br>16 |
| (2A) Subsection (2) does not prevent the Committee from addressing questions directly to the practitioner.  | 17<br>18       |
| <b>[16] Section 190A Medical reports</b>  | 19             |
| Insert at the end of section 190A (1) (b):  | 20             |
| , or  | 21             |
| (c) a request made by the person to his or her treating practitioner in connection with a matter being dealt with by an Impaired Registrants Panel.                           | 22<br>23<br>24 |
| <b>[17] Section 191B Notification of orders to practitioner’s employer and others</b>   | 25             |
| Insert after section 191B (3):  | 26             |
| (4) A reference in this section to the employer of a practitioner:  | 27             |
| (a) is a reference to the employer at the time of the relevant conduct of the practitioner concerned that gave rise to the order made or conditions imposed by the Board, and | 28<br>29<br>30 |
| (b) includes a reference to any subsequent employer of the practitioner that the Board considers appropriate.   | 31<br>32       |

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| (5)         | A reference in this section to a body in respect of which a practitioner is accredited:   | 1  |
|             |   | 2  |
| (a)         | is a reference to the body in respect of which the practitioner concerned was accredited at the time of the relevant conduct of the practitioner that gave rise to the order made or conditions imposed by the Board, and   | 3  |
|             |   | 4  |
|             |   | 5  |
|             |   | 6  |
| (b)         | includes a reference to any body in respect of which the practitioner is subsequently accredited that the Board considers appropriate.  | 7  |
|             |   | 8  |
|             |   | 9  |
| (6)         | The Board may, in a particular case, dispense with the giving of notice under this section if the Board considers that the exceptional circumstances of the case warrant that decision.   | 10 |
|             |   | 11 |
|             |   | 12 |
| (7)         | In this section, <i>employer</i> of a practitioner includes any person who engages the practitioner to perform work (whether or not under a contract of employment).  | 13 |
|             |   | 14 |
|             |   | 15 |
| <b>[18]</b> | <b>Schedule 3A Provisions relating to performance assessments</b>   | 16 |
|             | Insert “to” before “answer” where secondly occurring in clause 2 (6).   | 17 |
| <b>1.4</b>  | <b>Nurses Amendment Act 2003 No 45</b>  | 18 |
|             | <b>Schedule 1 Amendment of Nurses Act 1991</b>  | 19 |
|             | Omit Schedule 1 [99] and [100].   | 20 |
| <b>1.5</b>  | <b>Nurses and Midwives Act 1991 No 9</b>  | 21 |
| <b>[1]</b>  | <b>Section 3 Definitions</b>  | 22 |
|             | Omit “person” from the definition of <i>nurse practitioner</i> in section 3 (1).  | 23 |
|             | Insert instead “nurse”.   | 24 |
| <b>[2]</b>  | <b>Section 4 Meaning of “professional misconduct” and “unsatisfactory professional conduct”</b>   | 25 |
|             | Omit section 4 (2) (a). Insert instead:   | 26 |
|             |   | 27 |
| (a)         | any conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the nurse or midwife in the practice of nursing or midwifery is significantly below the standard reasonably expected of a nurse or midwife of an equivalent level of training or experience, | 28 |
|             |   | 29 |
|             |   | 30 |
|             |   | 31 |
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|             |   | 33 |



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| <b>[3] Section 4 (2) (d1)</b>  | 1  |
| Insert after section 4 (2) (d):  | 2  |
| (d1) a contravention by the nurse or midwife of section 34A (4)        | 3  |
| (Power of Commission to obtain information, records and                | 4  |
| evidence) of the <i>Health Care Complaints Act 1993</i> ,              | 5  |
| <b>[4] Section 4C</b>  | 6  |
| Insert after section 4B:   | 7  |
| <b>4C References to “complaint”</b>                                    | 8  |
| In Part 5 (except section 44 and Divisions 4 and 5), a reference to    | 9  |
| a complaint includes a reference to a matter arising out of the        | 10 |
| investigation of a complaint in accordance with this or any other      | 11 |
| Act.   | 12 |
| <b>[5] Section 44 Complaints</b>                                       | 13 |
| Omit section 44 (3) (c).   | 14 |
| <b>[6] Section 51 Constitution of Committees</b>                       | 15 |
| Omit section 51 (3). Insert instead:                                   | 16 |
| (3) A person who is a member of the Board may not be appointed to      | 17 |
| sit on a Committee.  | 18 |
| <b>[7] Section 53 Representation before a Committee</b>                | 19 |
| Insert “(1A) or” after “subsection” in section 53 (1).                 | 20 |
| <b>[8] Section 53 (1A) and (1B)</b>                                    | 21 |
| Insert after section 53 (1):   | 22 |
| (1A) An adviser (other than a barrister or solicitor) of a nurse or    | 23 |
| midwife may represent the nurse or midwife before the                  | 24 |
| Committee at an inquiry.   | 25 |
| (1B) Subsection (1A) does not prevent the Committee from addressing    | 26 |
| questions directly to the nurse or midwife.                            | 27 |
| <b>1.6 Optometrists Act 2002 No 30</b>                                 | 28 |
| <b>[1] Section 29 Meaning of “unsatisfactory professional conduct”</b> | 29 |
| Omit section 29 (1) (a). Insert instead:                               | 30 |
| (a) any conduct that demonstrates that the knowledge, skill or         | 31 |
| judgment possessed, or care exercised, by the optometrist              | 32 |

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|---|--|----------------------------|
|   | in the practice of optometry is significantly below the standard reasonably expected of an optometrist of an equivalent level of training or experience,   | 1<br>2<br>3                |
| <b>[2] Section 29 (1) (g)</b>   |  | 4                          |
|   | Insert after section 29 (1) (f):   | 5                          |
|   | (g) a contravention by the optometrist of section 34A (4) (Power of Commission to obtain information, records and evidence) of the <i>Health Care Complaints Act 1993</i> ,  | 6<br>7<br>8                |
| <b>[3] Section 29A</b>  |  | 9                          |
|   | Insert after section 29:   | 10                         |
| <b>29A References to “complaint”</b>  |  | 11                         |
|   | In section 40 and Divisions 3, 4 and 5 of this Part and Divisions 1 and 2 of Part 6 (Appeals and review of disciplinary action), a reference to a complaint includes a reference to a matter arising out of the investigation of a complaint in accordance with this or any other Act. | 12<br>13<br>14<br>15<br>16 |
| <b>[4] Section 34 Form of complaint</b>                                     |  | 17                         |
|   | Omit section 34 (2).   | 18                         |
| <b>[5] Section 36 Board to notify person against whom complaint is made</b> |  | 19                         |
|   | Omit the section.  | 20                         |
| <b>[6] Section 39 How complaints are dealt with</b>                         |  | 21                         |
|   | Omit “for conciliation in accordance with section 13 (2)” from section 39 (1) (b).   | 22<br>23                   |
|   | Insert instead “to the Commission for conciliation or to be dealt with under Division 9 of Part 2”.  | 24<br>25                   |
| <b>1.7 Osteopaths Act 2001 No 16</b>  |  | 26                         |
| <b>[1] Section 25 Meaning of “unsatisfactory professional conduct”</b>      |  | 27                         |
|   | Omit section 25 (a). Insert instead:   | 28                         |
|   | (a) any conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the osteopath in the practice of osteopathy is significantly below the standard reasonably expected of an osteopath of an equivalent level of training or experience,         | 29<br>30<br>31<br>32<br>33 |

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| <b>[2] Section 25 (d1)</b>   | 1                                |
| Insert after section 25 (d):   | 2                                |
| (d1) a contravention by the osteopath of section 34A (4) (Power of Commission to obtain information, records and evidence) of the <i>Health Care Complaints Act 1993</i> ,   | 3<br>4<br>5                      |
| <b>[3] Section 25A</b>   | 6                                |
| Insert after section 25:   | 7                                |
| <b>25A References to “complaint”</b>   | 8                                |
| In section 36 and Divisions 3, 4 and 5 of this Part and Divisions 1 and 2 of Part 6 (Appeals and review of disciplinary action), a reference to a complaint includes a reference to a matter arising out of the investigation of a complaint in accordance with this or any other Act.       | 9<br>10<br>11<br>12<br>13        |
| <b>[4] Section 30 Form of complaint</b>  | 14                               |
| Omit section 30 (2).   | 15                               |
| <b>[5] Section 32 Board to notify person against whom complaint is made</b>  | 16                               |
| Omit the section.  | 17                               |
| <b>[6] Section 35 How complaints are dealt with</b>  | 18                               |
| Omit “for conciliation in accordance with section 13 (2)” from section 35 (1) (b).   | 19<br>20                         |
| Insert instead “to the Commission for conciliation or to be dealt with under Division 9 of Part 2”.  | 21<br>22                         |
| <b>1.8 Physiotherapists Act 2001 No 67</b>   | 23                               |
| <b>[1] Section 26 Meaning of “unsatisfactory professional conduct”</b>   | 24                               |
| Omit section 26 (a). Insert instead:   | 25                               |
| (a) any conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the physiotherapist in the practice of physiotherapy is significantly below the standard reasonably expected of a physiotherapist of an equivalent level of training or experience, | 26<br>27<br>28<br>29<br>30<br>31 |

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| <b>[2] Section 26 (d1)</b>  | 1  |
| Insert after section 26 (d):  | 2  |
| (d1) a contravention by the physiotherapist of section 34A (4)                    | 3  |
| (Power of Commission to obtain information, records and                           | 4  |
| evidence) of the <i>Health Care Complaints Act 1993</i> ,                         | 5  |
| <b>[3] Section 26A</b>  | 6  |
| Insert after section 26:  | 7  |
| <b>26A References to “complaint”</b>  | 8  |
| In section 37 and Divisions 3, 4 and 5 of this Part and Divisions                 | 9  |
| 1 and 2 of Part 6 (Appeals and review of disciplinary action), a                  | 10 |
| reference to a complaint includes a reference to a matter arising                 | 11 |
| out of the investigation of a complaint in accordance with this or                | 12 |
| any other Act.  | 13 |
| <b>[4] Section 31 Form of complaint</b>   | 14 |
| Omit section 31 (2).  | 15 |
| <b>[5] Section 33 Board to notify person against whom complaint is made</b>       | 16 |
| Omit the section.   | 17 |
| <b>[6] Section 36 How complaints are dealt with</b>                               | 18 |
| Omit “for conciliation in accordance with section 13 (2)” from section 36 (1)     | 19 |
| (b).  | 20 |
| Insert instead “to the Commission for conciliation or to be dealt with under      | 21 |
| Division 9 of Part 2”.  | 22 |
| <b>1.9 Podiatrists Act 1989 No 23</b>   | 23 |
| <b>[1] Section 3 Definitions</b>  | 24 |
| Insert after paragraph (c) of the definition of <i>professional misconduct</i> in | 25 |
| section 3 (1):  | 26 |
| (c1) a registered podiatrist’s contravention of section 34A (4)                   | 27 |
| (Power of Commission to obtain information, records and                           | 28 |
| evidence) of the <i>Health Care Complaints Act 1993</i> , and                     | 29 |
| <b>[2] Section 14 Complaints</b>  | 30 |
| Omit section 14 (2) (c).  | 31 |

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| <b>[3] Section 16 Consequence of misconduct or other wrongdoing</b>  | 1                          |
| Insert after section 16 (3):   | 2                          |
| (4) In this section, <i>complaint</i> includes a matter arising out of the investigation of a complaint in accordance with this or any other Act.  | 3<br>4<br>5                |
| <b>1.10 Podiatrists Act 2003 No 69</b>   | 6                          |
| <b>[1] Section 25 Meaning of “unsatisfactory professional conduct”</b>   | 7                          |
| Omit section 25 (a). Insert instead:   | 8                          |
| (a) any conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the podiatrist in the practice of podiatry is significantly below the standard reasonably expected of a podiatrist of an equivalent level of training or experience,          | 9<br>10<br>11<br>12<br>13  |
| <b>[2] Section 25 (d1)</b>   | 14                         |
| Insert after section 25 (d):   | 15                         |
| (d1) a contravention by the podiatrist of section 34A (4) (Power of Commission to obtain information, records and evidence) of the <i>Health Care Complaints Act 1993</i> ,  | 16<br>17<br>18             |
| <b>[3] Section 25A</b>   | 19                         |
| Insert after section 25:   | 20                         |
| <b>25A References to “complaint”</b>   | 21                         |
| In section 36 and Divisions 3, 4 and 5 of this Part and Divisions 1 and 2 of Part 6 (Appeals and review of disciplinary action), a reference to a complaint includes a reference to a matter arising out of the investigation of a complaint in accordance with this or any other Act. | 22<br>23<br>24<br>25<br>26 |
| <b>[4] Section 30 Form of complaint</b>  | 27                         |
| Omit section 30 (2).   | 28                         |
| <b>[5] Section 32 Board to notify person against whom complaint is made</b>  | 29                         |
| Omit the section.  | 30                         |

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| <b>[6] Section 35 How complaints are dealt with</b>  | 1  |
| Omit “for conciliation in accordance with section 13 (2)” from section 35 (1) (b).   | 2  |
| Insert instead “to the Commission for conciliation or to be dealt with under Division 9 of Part 2”.  | 3  |
|  | 4  |
|  | 5  |
| <b>1.11 Psychologists Act 2001 No 69</b>   | 6  |
| <b>[1] Section 25 Meaning of “unsatisfactory professional conduct”</b>   | 7  |
| Omit section 25 (a). Insert instead:   | 8  |
| (a) any conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the psychologist in the practice of psychology is significantly below the standard reasonably expected of a psychologist of an equivalent level of training or experience,    | 9  |
|  | 10 |
|  | 11 |
|  | 12 |
|  | 13 |
| <b>[2] Section 25 (d1)</b>   | 14 |
| Insert after section 25 (d):   | 15 |
| (d1) a contravention by the psychologist of section 34A (4) (Power of Commission to obtain information, records and evidence) of the <i>Health Care Complaints Act 1993</i> ,  | 16 |
|  | 17 |
|  | 18 |
| <b>[3] Section 25A</b>   | 19 |
| Insert after section 25:   | 20 |
| <b>25A References to “complaint”</b>   | 21 |
| In section 36 and Divisions 3, 4 and 5 of this Part and Divisions 1 and 2 of Part 6 (Appeals and review of disciplinary action), a reference to a complaint includes a reference to a matter arising out of the investigation of a complaint in accordance with this or any other Act. | 22 |
|  | 23 |
|  | 24 |
|  | 25 |
|  | 26 |
| <b>[4] Section 30 Form of complaint</b>  | 27 |
| Omit section 30 (2).   | 28 |
| <b>[5] Section 32 Board to notify person against whom complaint is made</b>  | 29 |
| Omit the section.  | 30 |

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|---|--------|
| <b>[6] Section 35 How complaints are dealt with</b>   | 1      |
| Omit “for conciliation in accordance with section 13 (2)” from section 35 (1) (b).                  | 2<br>3 |
| Insert instead “to the Commission for conciliation or to be dealt with under Division 9 of Part 2”. | 4<br>5 |