



*Health Practitioner Regulation
National Law Amendment Law 2017*
Frequently asked questions

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The frequently asked questions (FAQs) that follow relate to the draft *Health Practitioner Regulation National Law Amendment Law 2017* (referred to as the draft Bill). The FAQs can also be read in conjunction with the Summary of the *Health Practitioner Regulation National Law Amendment Law 2017*.

What is the background to the amendments to the National Law?

In 2014, the Australian Health Workforce Ministerial Council (the Ministerial Council) appointed Mr Kim Snowball to conduct an independent review of the National Registration and Accreditation Scheme (the National Scheme). The independent review involved an extensive public consultation process.

The final report of the independent review made a range of recommendations for amendments to the *Health Practitioner Regulation National Law* (the National Law) to improve the operation of the National Scheme and strengthen the complaints management process to better protect the public. Details of the Ministerial Council's response to the final report is published on the COAG Health Council website¹.

The implementation of the Ministerial Council's response to the independent review is occurring in two stages.

The first stage is the draft Bill which includes amendments which were subject to public consultation as part of the independent review. The amendments in the draft Bill have been developed by all States and Territories and the Commonwealth.

It is expected that a second stage of amendments will be progressed in a separate Bill, with broad stakeholder consultation to be undertaken separately on any further proposals for reform. It is anticipated that stakeholder consultation may be undertaken later in 2017.

What are the main changes being made to the National Law?

The draft Bill includes the following key reforms:

- National regulation of paramedics
- Improvements in governance arrangements for the National Scheme, including:
 - a new power for the Ministerial Council to change the structure of National Boards by regulation
 - recognition of nursing and midwifery as separate professions
 - enabling community members to be appointed as chairpersons of National Boards
- Strengthening notifications management and disciplinary and enforcement powers to:
 - improve their effectiveness and administration
 - better protect the public
- Technical and miscellaneous amendments to improve the efficiency and effectiveness of the National Law
- Norfolk Island health practitioners, who nominate their principal place of practice as Norfolk Island, will be deemed under the National Law to be a NSW practitioner.

1. COAG Health Council meeting as the Australian Health Workforce Ministerial Council Communique, 7 August 2015, <http://www.coaghealthcouncil.gov.au/Portals/0/The%20Independent%20Review%20of%20the%20National%20Registration%20and%20Accreditation%20Scheme%20for%20Health%20Professions.pdf>

What does the power to change the structure of National Boards mean?

This amendment will provide flexibility for the Ministerial Council to combine (or separate) National Boards if needed to allow the National Scheme to remain responsive to changing health workforce needs and/or effectively manage changes in the governance, membership, cost effectiveness and efficiency of the Boards.

Are there any current proposals to change the structure of National Boards?

No. There are no current proposals to change the structure of National Boards.

Will stakeholders be consulted prior to any future changes to the structure of National Boards?

Yes. The Ministerial Council has made a public commitment² that if in the future Health Ministers are considering whether to exercise the power to consolidate any National Boards then consultation would be required with stakeholders who are affected before any changes could be progressed.

Why are nursing and midwifery changing to separate professions under the National Law?

The Nursing and Midwifery Board of Australia regulates nurses and midwives. While the majority of practitioners who are registered midwives are also registered nurses (i.e. approximately 30,000 with dual registration), there is a growing number of midwives who are qualified to practice as a midwife only (approximately 3,000).

The Independent Review of the National Registration and Accreditation Scheme recommended that the National Law be amended to reflect that nursing and midwifery are separate professions.

What does this change mean to the nursing and midwifery professions in practice?

Nursing and midwifery will be recognised as separate professions. This is not currently the case. However, these professions will continue to be regulated by a single National Board, the Nursing and Midwifery Board of Australia.

Separate registers already exist for nurses and midwives and these separate registers will continue to be maintained.

Appropriately qualified and eligible practitioners may continue to hold dual registration as nurses and midwives.

How do the amendments affect Norfolk Island practitioners?

The Commonwealth Government took responsibility for governing Norfolk Island from 1 July 2016. NSW is assisting the Commonwealth by providing some services and regulatory support to roll out certain health-related laws to Norfolk Island for an initial period of five years until 30 June 2021.

The Commonwealth will apply relevant NSW laws to Norfolk Island. Under these changes NSW regulatory agencies will assume responsibility for the investigation and consideration of complaints about Norfolk Island based health practitioners. Practitioners who nominate their principal place of practice as Norfolk Island, will be deemed under the National Law to be a NSW practitioner.

The practitioner will be treated in the same way as any other NSW practitioner.

2. COAG Health Council meeting as the Australian Health Workforce Ministerial Council Communique, 8 April 2016, http://www.coaghealthcouncil.gov.au/Portals/0/CHC%208%20April%202016_Meeting%20Communique_1.pdf

What are some examples of how the proposed changes will better protect the public?

Regulation of paramedics

The National Registration and Accreditation Scheme was established to ensure the safety of consumers of health services provided by registered health practitioners. National Boards and the Australian Health Practitioner Regulation Agency (AHPRA) work together to ensure that practitioners are appropriately qualified and competent to practise as a registered health professional. When national regulation of paramedics starts, members of the public can check if a paramedic is registered, as their name will be on the national register, and if any conditions are placed on a paramedic's registration, this will also be on the register.

If a person is registered as a paramedic, it means that he/she has met (and has an obligation to continue to meet) national standards, including for conduct and practice, regardless of which state they practice in. Concerns about a paramedic's conduct or performance will be able to be raised with the National Board and AHPRA and action can be taken under the National Law, in the same way as the other registered professions, which include medicine, nursing, midwifery, and physiotherapy.

Stronger powers to take immediate action

The amendments give National Boards stronger powers to **take immediate action** against a health practitioner where it is satisfied that it is in the public interest. Currently the grounds on which a National Board may take immediate action can limit a Board's ability to take swift action to protect the public. The National Law as it applies in NSW contains a similar 'public interest' test for immediate action.

Stronger powers to obtain 'practice information'

The amendments will strengthen the powers of National Boards to ask a health practitioner to provide details of **all** the person's practice arrangements, including as an employee, contractor or voluntary and honorary appointments. The health practitioner must comply with such a request unless they have a reasonable excuse. These amendments are intended to remove doubt that practitioners may be required to provide this information to a National Board regardless of the manner of their engagement.

The term '**practice information**' will now be used in the National Law to describe the range of arrangements under which health practitioners may practice and about which a National Board may request details.

To assist health practitioners, the Bill empowers AHPRA to develop guidelines about 'practice information' to be provided by practitioners. The guidelines will contain additional practical information about how the concept of 'practice information' in the National Law applies to common employment, contracting and volunteering arrangements.

Stronger powers regarding prohibition orders

The amendments will enable a tribunal to issue a prohibition order which can prohibit a practitioner from providing **any type of health services**, and/or prohibit the use of **any protected title**, and the order **may be permanent**. Currently prohibition orders can only prohibit a person from "using a specified title" or "providing a specified health service".

This change provides greater protection for the public by giving tribunals improved flexibility to make an appropriate order in cases where a person is not a 'fit and proper person' to continue providing any kind of health service.

The National Law does not currently require or empower National Boards to keep a register of prohibition orders. The amendments will require National Boards to **maintain a public register of prohibition orders**. This will protect the public by ensuring they have access to information about practitioners who are subject to prohibition orders, enabling the public to make more informed choices about their health services.

The amendments also propose to introduce an **offence** for the **breach of a prohibition order** made in any State or Territory. It is not currently an offence to breach a prohibition order. A maximum penalty of \$30,000 for breach of a prohibition order is proposed.

The amendments will also require practitioners subject to prohibition orders to **inform patients and employers of the order** and include details of the order in any advertising. The requirement to inform employers will also extend to other entities who engage a practitioner, for example, under a contract for services or as a volunteer. The offence of failing to inform patients, employers or other entities will carry a maximum penalty of \$5,000, while a breach of the advertising requirements will have a maximum penalty of \$5,000 for individuals and \$10,000 for a body corporate.

How will the amendments improve information sharing with notifiers?

The amendments will improve communications with **notifiers** who report health, performance or conduct matters, by allowing National Boards to keep them informed of progress of investigations, outcomes of disciplinary action and reasons for decisions.

National Boards will develop protocols to ensure appropriate information is disclosed to notifiers, while also taking into account privacy concerns of practitioners and patients.

Why has a review date been added for a suspension of registration?

Currently a health panel may suspend the registration of a health practitioner or student but is not required to set a date at which the suspension is reviewed.

The amendments will now require a health panel to set a review date if it suspends a practitioner's registration. This is an enhancement for the benefit of practitioners subject to a suspension. It is in the interests of a practitioner to have certainty about when their suspension will be reviewed, rather than an open ended suspension.

If a health panel is unable to complete the review of a suspension by the specified date, they must provide notice to the practitioner or student practitioner as to the reasons why the review could not be completed by that date, and to advise of a revised review date. This may occur, for example, if attendance at a hearing by a practitioner or student is required and they are unwell and a panel decides it is preferable to wait until they are well enough to participate in the hearing. It could also occur if a practitioner or student provides evidence to a panel which requires further review by the panel and this cannot be completed prior to the due date.

What are the next steps?

Feedback on the amendments to the National Law can be provided until 5pm on **22 February 2017**.

Comments received as part of the consultation process will be considered in finalising the draft Bill for approval by the Ministerial Council in the first half of 2017.

The finalised Bill is planned to be introduced to the Queensland Parliament (as the host jurisdiction for the legislation) in mid-2017.

If the Bill is passed in Queensland, the changes apply automatically in all other States and Territories, except for Western Australia which must enact its own separate corresponding legislation, and South Australia where regulations must be made to adopt the changes.

How can I provide feedback on the proposed changes?

Comments can be emailed to: NRAS.Project@dhhs.vic.gov.au

Or posted to:

NRAS Review Implementation Project Secretariat
Workforce Regulation
Health and Human Services Workforce Branch
Department of Health and Human Services
GPO Box 4057
Melbourne VIC 3001

WA specific FAQ

How will the legislative changes be enacted in Western Australia?

WA will enact corresponding legislation, which means that an Amendment Bill is required to amend the *Health Practitioner Regulation National Law* (Western Australia). The Amendment Bill must be passed by both Houses of Parliament (Legislative Assembly and the Legislative Council) in WA.

The Amendment Bill will be debated in both Houses and amendments may be proposed and debated. In the Legislative Council, the Amendment Bill will be referred to a Standing Committee to consider and provide a report to Parliament. If both Houses agree, the Amendment Bill is sent to the Governor for approval (Royal Assent).

The Amendment Bill then becomes an Act of Parliament. At this time, the Amendment Act is in force for those sections which are operational on assent, otherwise specific provisions in the Amendment Act would come into operation on a date to be fixed by proclamation. A proclamation is a notice which is generally published in the relevant government gazette proclaiming the date(s) on which the act, or a part of it, comes into operation.

SA specific FAQ

How will the legislative changes be enacted in South Australia?

Changes to the *Health Practitioner Regulation National Law* in South Australia are made by regulation.

Once the Queensland Parliament has passed the Health Practitioner Regulation Law Amendment Law 2017 the South Australian Government will recommend to the Governor that a regulation is made to reflect the amendments passed by the Queensland Parliament.

This regulation will then be tabled in the South Australian Parliament allowing Parliament to consider the amendments to the *Health Practitioner Regulation National Law*.

It is intended that the regulation amending the *Health Practitioner Regulation National Law* will come into effect at the same time as amendments in other jurisdictions.

Paramedic specific FAQs

What is the date that registration of paramedics is expected to commence?

Registration for paramedics is expected to commence in the second half of 2018, likely to be in or around September 2018, depending on the date that the Bill is passed in the Queensland Parliament during 2017. The date on which registration of paramedics commences will be referred to as the **'participation day'**.

The 'participation day' will be declared in a regulation to be made by the Ministerial Council in 2018 under the National Law.

When will the Paramedicine Board of Australia be established?

The Paramedicine Board will need to be established approximately 12 months prior to the participation day to allow the Board to work with AHPRA and undertake limited functions needed to prepare the profession for national regulation.

It is therefore anticipated that the Paramedicine Board will be appointed by Health Ministers as soon as possible after the Bill is considered by the Queensland Parliament. The Bill is expected to be considered by the Queensland Parliament in the second half of 2017.

Vacancies for the inaugural Paramedicine Board will be publicly advertised in the local metropolitan and national press and also on AHPRA's website (<http://www.ahpra.gov.au/National-Boards/National-Boards-recruitment.aspx>). The timing for the advertising is to be determined, depending on when Ministers approve the final Bill.

What does the Paramedicine Board of Australia need to do to prepare for registration of paramedics?

Paramedics are not currently required to be registered in any state or territory. For the first time in Australia, paramedics will be required to seek national registration. The Paramedicine Board and AHPRA will need to ensure that people who are currently working or qualified as paramedics understand what national regulation means for this profession, and also what they need to do to apply for registration before the participation day.

One of the key functions of National Boards is to develop registration standards for approval by Health Ministers.

Prior to the participation day, the Paramedicine Board must develop draft registration standards for paramedicine, which will be submitted to Health Ministers for approval. The Board must consult with relevant stakeholders when developing the draft registration standards, including paramedics, employers, education providers, interested members of the public, consumer groups and governments.

The registration standards will set requirements for professional indemnity insurance arrangements, criminal history of applicants, continuing professional development, English language skills, recency of practice and any other matter relevant to paramedicine that the Board believes is necessary.

The Board may also need to develop and consult on other codes and guidelines that will provide profession-specific guidance to registered paramedics.

How will paramedic stakeholders be kept up to date in the lead up to registration commencing?

Prior to the start of registration for paramedics on the participation day, Paramedics Registration Project bulletins will continue to be posted at <https://www2.health.vic.gov.au/health-workforce/health-workforce-regulation/current-regulatory-reform/national-registration>

AHPRA will manage the implementation of national regulation of paramedics. This will include managing the registration process for paramedics in conjunction with the Paramedicine Board (once it is established). Information about current registration processes for the 14 professions regulated under the national scheme is available on the AHPRA website at www.ahpra.gov.au/Registration/Registration-Process.aspx

Once the draft Bill is passed and the project moves into the implementation phase, AHPRA will keep paramedics up to date with the work that AHPRA and the Paramedicine Board are doing to prepare the profession for registration and to develop and consult on registration standards.

A new website will be created for the Paramedicine Board once the Board is established. A link to the new website will be available from www.ahpra.gov.au/National-Boards.aspx.

What will be the registration fee for paramedics?

At this stage, we cannot advise what the registration fee for paramedics will be. Fees to be paid by paramedics under the National Scheme, including the registration fee, must be determined by AHPRA and the Paramedicine Board (once established).

The National Scheme is self-funded, primarily from registration fees. Registration fees vary by profession according to a number of factors, including the size of the profession, the risks associated with practice, the level and complexity of complaints and notifications, and the equity (capital reserves) needed to ensure sustainability of the operations of the National Board.

Under the National Law, AHPRA and National Boards must enter into a Health Profession Agreement (HPA) that makes provision for:

- the National Board's annual budget,
- fees payable by health practitioners,
- the services to be provided to the National Board by AHPRA to enable the National Board to carry out its functions.

A copy of the HPA's between AHPRA and the current National Boards is available at <http://www.ahpra.gov.au/Publications/Health-profession-agreements.aspx>.

As occurs with other professions, AHPRA and the Paramedicine Board will enter into a HPA after the Paramedicine Board is established. Registration fees for paramedics will be set to cover the reasonable costs to support the efficient operation of the national scheme.

All fees are published on each of the National Board's websites. In 2016/17, National Boards and AHPRA agreed the following general registration fees for their respective professions:

Health profession	Fee
Aboriginal and Torres Strait Island Health Practice	\$120
Chinese Medicine	\$579
Chiropractic	\$566
Dental:	
Dentists/Specialists	\$628
Dental prosthetists	\$558
Hygienists/Therapists	\$310
Medical	\$724
Medical Radiation	\$180
Nursing and Midwifery	\$150
Occupational Therapy	\$110
Optometry	\$300
Osteopathy	\$376
Pharmacy	\$328
Physiotherapy	\$110
Podiatry	\$378
Psychology	\$449

It is important to note that registration fees for paramedics will be set independently of the fees for other professions, by agreement between the Paramedicine Board and AHPRA.

Once the registration fee for paramedics is determined by the Paramedicine Board, this will be communicated with paramedic stakeholders at the earliest opportunity.

Who is responsible for paying the registration fee?

Registration fees are payable by the individual seeking registration or renewal of registration and as such can usually be claimed as an employment expense for taxation purposes³.

Will there be any one-off registration costs for paramedics?

Paramedics will also be required to pay a **one-off application fee** as first time registrants. This fee is to **cover the costs** associated with processing their application and assessing a person's eligibility and suitability for registration. This includes verification of the practitioner's identity, assessment and verification of qualifications, training and/or expertise as a paramedic, and covers the cost of a criminal history check (in Australia), and confirmation of registration status with international regulatory bodies (as needed).

Again, it is not possible to advise at this point in time what the one-off application fee for paramedics will be, as it will be determined by the Paramedicine Board (once established) and AHPRA.

3. This document is not intended to provide taxation or financial advice and registrants should seek their own advice or contact the ATO.

What if a paramedic has had a previous decision or order made against them?

Paramedics who currently have, or have previously had, a decision or order made against them, either under the National Law while practising in a different health profession, or a prohibition order issued by a Health Complaints Entity or tribunal while practising as a paramedic, should note that any such order will be taken into consideration when their application for registration as a paramedic is assessed.

Why is the Ambulance Service of NSW vocational qualification specifically recognised in the draft Bill?

NSW initially reserved its right to participate in the registration of paramedics under the National Registration and Accreditation Scheme pending resolution of some policy issues, including preservation of the paramedic vocational qualification delivered by the Ambulance Service of NSW.

On 7 October 2016, Health Ministers agreed to include a provision in the National Law to specify that a person will be qualified for general registration as a paramedic, if they hold the paramedic qualification delivered by the Ambulance Service of NSW.

Other qualifications for general registration for paramedics will be decided by the National Board after it is established.

With recognition in the National Law of the qualification delivered by the Ambulance Service of NSW (and resolution of other policy issues) NSW has agreed to participate in the national registration of paramedics, along with all other jurisdictions in Australia.

This is an important outcome for the National Registration and Accreditation Scheme. It ensures that paramedics will be registered nationally, which is consistent with all other professions regulated under the National Scheme. This outcome also provides greater clarity and protection for the public, in that employers and consumers will be able to go to one place – the National Register of practitioners maintained by AHPRA – to inform themselves about whether a paramedic is registered to use the title and/or has any conditions on their right to practice.

How will 'grandparenting' of existing paramedics work?

The National Law sets out '**grandparenting**' provisions, which apply for three years from the commencement of registration of paramedics (the participation day), in order to enable a person who is working as a paramedic to apply for registration even if the person does not hold an "approved qualification" for registration, but has another relevant qualification/s, training and experience practising the profession.

"Approved qualifications" for general registration for paramedics will be decided by the National Board after it is established. The intent is to ensure that practitioners who are legitimately practising the profession have a way of seeking registration and are not disadvantaged because they are not recent graduates. This is especially important because no state or territory in Australia currently has a registration system in place that could 'automatically' transition state and territory registered paramedics into paramedics registered under the National Law.

The proposed grandparenting provisions in the draft Bill state that an individual is qualified for general registration in paramedicine if the individual:

- (a) holds a qualification or has completed training in paramedicine, whether in a participating jurisdiction or elsewhere, that the Paramedicine Board considers is adequate for the purposes of practising the profession; or
- (b) holds a qualification or has completed training in paramedicine, whether in a participating jurisdiction or elsewhere, and has completed any further study, training or supervised practice in the profession required by the Paramedicine Board for the purposes of this section; or
- (c) has practised paramedicine during the 10 years before the participation day for a consecutive period of 5 years or for any periods which together amount to 5 years and satisfies the Paramedicine Board that he or she is competent to practise paramedicine.

As indicated above, these grandparenting provisions will not apply in relation to the NSW vocational qualification specified in the Bill.

It is also important to note that all of the other eligibility requirements for registration, for example criminal history and identity checks, set out in section 52 of the National Law will apply to everyone seeking registration.

