



HEALTH PRACTITIONERS
REGISTRATION BOARDS
OF THE
NORTHERN TERRITORY

PROFESSIONAL CONDUCT

GUIDE TO MAKING A COMPLAINT

This information booklet applies to the following Health Practitioner Registration Boards:

Aboriginal Health Workers Board
Chiropractors & Osteopaths Board
Dental Board
Medical Board
Nursing & Midwifery Board
Occupational Therapists Board
Optometrists Board
Pharmacy Board
Physiotherapists Board
Psychologists Board
Radiographers Board

Contact Details:

Health Professions Licensing Authority
GPO Box 4221
DARWIN NT 0801
Ph: 08 89994157
Fax: 08 8999 4196
E-mail: complaintshealthprofessions@nt.gov.au

GUIDE TO MAKING A COMPLAINT

THE HEALTH PROFESSIONAL BOARDS AND THE ROLE OF HPLA

The *Health Practitioners Act 2004* (the Act) established the following health professional boards:

- Aboriginal Health Workers Board
- Chiropractors & Osteopaths Board
- Dental Board
- Medical Board
- Nursing & Midwifery Board
- Occupational Therapists Board
- Optometrists Board
- Pharmacy Board
- Physiotherapists Board
- Psychologists Board
- Radiographers Board

The Boards are established to regulate health practitioners practising in the Northern Territory. The Health Professions Licensing Authority (HPLA) carries out the administrative duties of the Boards.

You can contact the Boards C/- Health Professions Licensing Authority at:

2nd floor, Harbourview Plaza
Cnr McMinn and Bennett Streets
Darwin NT 0800
GPO Box 4221
Darwin NT 0801
- Phone: 8999 4157
- Fax: 8999 4196

Email: complaintshealthprofessions@nt.gov.au

OBJECTS AND FUNCTIONS OF BOARDS

The most important objectives of the Boards are: protecting and promoting the health and safety of the people of the Territory; and promoting the highest standard of professional health care practice in the Territory. To do this, the Boards have the power to initiate and/ or investigate complaints made against health practitioners.

THIS GUIDE

This is a guide for people who would like to complain about the professional conduct of a health practitioner. This information is not intended to substitute for the provisions of the Act. You can obtain copies of the legislation from:

<http://www.nt.gov.au/dcm/legislation/current.html> .

The Boards are not the only place to make a complaint about health practitioners. The Health & Community Services Complaints Commission is an independent body established to deal with complaints about health services. National associations may also receive complaints about their members.

You can obtain more information from the publication “Where to Complain in the NT” which is available from: http://www.nt.gov.au/omb_hcsc/ombudsman/publications.html

INFORMATION FOR PEOPLE CONSIDERING MAKING A COMPLAINT

Who can make a complaint?

Any person who is aggrieved or hurt by the conduct of a health practitioner may make a complaint to the Board. You can also make a complaint on behalf of another person.

The Boards can decide to begin their own complaint regarding the conduct of a health practitioner.

The Act also allows the Boards to receive notifications from employers, the Coroner, the Health & Community Services Complaints Commission and other health practitioners.

Who can you complain about?

A complaint may be made about any health practitioner who is registered or enrolled in the Northern Territory even if that practitioner no longer has the right to practise. A complaint may also be made about a person who is not a health practitioner but is suspected to be practising as a health practitioner with no qualification or entitlement to do so.

How is a complaint made?

A complaint must meet the requirements of Section 57 of the Act, which says that the complaint must:

- Be made in writing
- Contain details of the issue being complained about (eg: date and time of consultation, what happened)
- name the health practitioner about whom the complaint is being made;
- name the person making the complaint
- **Contain a statement that the complainant consents to a copy of the complaint or details of the complaint being given to the health practitioner**

Example:

I[name] authorise a copy of my complaint to be given to..... [health practitioner] Signed..... [date]
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What information should be in the complaint?

So that your complaint can be handled efficiently, include as much information as possible, such as:

- The name of the practitioner
- The date and time of the incident complained about
- The name of other people present
- A statement giving the Board the right to see your health records in relation to your complaint
- Any additional information or paperwork you have such as prescriptions.

To assist you make your complaint there is also a complaint form available but it is not compulsory that you complete this form in order to make a complaint.

If you need help to make your complaint you can contact HPLA:

2nd floor, Harbourview Plaza
Cnr McMinn and Bennett Streets
Darwin NT 0800
GPO Box 4221
Darwin NT 0801
- Phone: 8999 4157
- Fax: 8999 4196
Email: complaintshealthprofessions@nt.gov.au

Your written complaint should be addressed to the Chairperson of the relevant health practitioner Board at the address.

What can you complain about?

There are no particular limits on what you can complain about. Generally the Boards are concerned with issues that relate to professional behaviour, the skills and knowledge of health practitioners or health and safety. When a complaint is received, the Board must decide whether to accept or not accept the complaint. After the Board has received the complaint you may be asked for more information.

To decide to accept a complaint the Board will be looking for whether there are issues of public safety involved or issues of professional conduct.

What outcome to expect from making a complaint?

The Act limits the powers and functions of the Boards.

The Board must dismiss a complaint that is considered “without foundation or frivolous or vexatious or the matter complained of is insubstantial”.

If a complaint is found to be substantiated the Board may take action that can only include the following:

- Cautioning or reprimanding the practitioner
- Accepting an undertaking from the practitioner
- Imposing a condition on the practitioner’s registration
- Imposing a fine as a debt due and payable to the Board not exceeding \$10,000
- Notifying other jurisdictions or other bodies as considered appropriate

In certain circumstances the Board may suspend a practitioner’s registration for a specified period.

The Board may also refer a complaint to the Health Professional Review Tribunal (the Tribunal). This may happen where the issue is of a serious nature or if the practitioner asks for it. In addition to the above the Tribunal has the power to

- Remove the practitioner’s name from the register
- Suspend the practitioner’s registration
- Impose a period of supervised practise
- Require the practitioner to undergo rehabilitation
- Dismiss the complaint

Can the Board (or the Tribunal) award compensation?

The Boards (and the Tribunal) have no power to award compensation to complainants. The Boards only have limited powers to take disciplinary action against practitioners. The Boards do not determine issues of legal liability. The Boards do determine whether the practitioner’s conduct fell below the standard expected of practitioners in the same profession.

What happens to your complaint?

The task of investigating the complaint is usually given to the Complaints Managers at HPLA, who will also be appointed as Inspectors by the Board.

Sometimes the Board may refer a complaint in whole or in part to the Health & Community Services Complaints Commission.

Who will consider my complaint?

The appropriate Board will consider the complaint. The Act states that the Board must include registered members of the profession and some members who are able to represent the interests of the public who use health services.

Most of the time the Board will ask the Complaints Managers at HPLA to conduct a preliminary investigation of the complaint, before the Board decides on what further action to take.

The Act also provides for a Health Professional Review Tribunal (the Tribunal) which is made up of five members. Two permanent members are appointed by the Minister and include a lawyer (the President) and a public member. The President then appoints three members who are registered in the same category of health care practice as the health practitioner against whom the complaint is made.

What information will I get about the investigation of my complaint?

The Act limits the sharing of information obtained by a Board and as such a Board cannot give detailed information about the investigation to people who have made a complaint.

However, the Board can tell you:

- The Board's decision to accept or not accept a complaint.
- The Board's decision after a preliminary investigation - however you will not be provided with a copy of the report.
- The Board's decision or any action taken at the conclusion of a further inquiry, if the Board thinks it appropriate to do so.

How long will it take?

The decision to accept or not accept a complaint is made at a Board meeting. Some Boards meet a few times a year whilst others meet more often. Your complaint will be taken to the next Board meeting.

Once a complaint is accepted the first step is to invite the practitioner to respond to the allegations. Depending on the type of complaint this response is usually required within 28 days; however a longer period of time may be appropriate.

Once a response has been received the inspector will determine what further information may be needed to prepare a preliminary investigation report.

It may take some months before you know if your complaint has been accepted and then depending on the type of complaint, some period of time for an investigation to be completed. The preliminary investigation report will then be considered at a Board meeting. Many complaints can be resolved within six months however some will take considerably longer than this.

What if I am not happy about the outcome?

The Act does not provide for complainants to ask a Board to re-consider a decision. Practitioners have statutory appeal rights to the Supreme Court in relation to decisions of the

Boards in specific circumstances. The Ombudsman may also assist you if you believe you have been treated unfairly.

You can obtain more information from the publication *"Where to Complain in the NT"* which is available from:

http://www.nt.gov.au/omb_hcsc/ombudsman/publications.html

NOTICE OF COMPLAINT TO THE HEALTH & COMMUNITY SERVICES COMPLAINTS COMMISSION

In certain circumstances the Board must notify the Health & Community Services Complaints Commissioner (the H&CSCC) that a complaint has been received.

The Boards and the H&CSCC must communicate with each other about how to deal with complaints and may refer all or part of a complaint to each other for assessment/ preliminary investigation.

CONFIDENTIALITY

The Board treats all material and communication gathered in the course of an investigation in a confidential manner and that information can only be used for the purpose of the investigation. Board proceedings in relation to conduct issues are not open to the public.

NATURAL JUSTICE

The principles of natural justice/procedural fairness apply to the investigation of complaints under the Act. These principles mean that people have a right to be treated fairly and particularly that a health practitioner should know the content of the complaint made against him or her and be given an opportunity to respond to the allegations.

Conflict of Interest

In keeping with the principles of natural justice no Board member who has a conflict of interest will be involved in the receipt, investigation or determination of any complaint received in relation to the professional conduct of a practitioner. The current conflict of interest policy can be found on the HPLA website

http://www.nt.gov.au/health/org_supp/prof_boards/general_policies/general_policies.shtml

MORE INFORMATION

For more information you can contact
HPLA:

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Darwin NT 0800
GPO Box 4221
Darwin NT 0801
Phone: (08) 8999 4157
Fax: (08) 8999 4196
Email: complaintshealthprofessions@nt.gov.au

Health & Community Services Complaints
Commission
12 Floor, NT House
22 Mitchell Street
DARWIN NT 0800
GPO Box 1344
DARWIN NT 0801
Phone: (08) 8999 1969
Fax: (08) 8999 1828
Toll Free Phone: 1800 806 380
E-mail: hcsc.omb@nt.gov.au