



HEALTH PRACTITIONERS  
REGISTRATION BOARDS  
OF THE  
NORTHERN TERRITORY

# PROFESSIONAL CONDUCT

## INFORMATION FOR PRACTITIONERS

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](mailto:complaintshealthprofessions@nt.gov.au)

# TABLE OF CONTENTS

<b>1.</b>	<b>PREAMBLE</b>	<b>3</b>
<b>2.</b>	<b>OBJECTS AND FUNCTIONS OF BOARDS</b>	<b>3</b>
<b>3.</b>	<b>NATURAL JUSTICE</b>	<b>4</b>
3.1	CONFLICT OF INTEREST	4
<b>4.</b>	<b>INFORMATION ABOUT COMPLAINTS</b>	<b>4</b>
4.1	WHO CAN MAKE A COMPLAINT?	4
4.2	WHAT MAY BE THE SUBJECT OF A COMPLAINT?	4
4.3	HOW IS A COMPLAINT MADE?	5
<b>5.</b>	<b>RECEIPT OF COMPLAINT</b>	<b>5</b>
<b>6.</b>	<b>PRELIMINARY INVESTIGATION</b>	<b>5</b>
<b>7.</b>	<b>WHAT OUTCOMES TO EXPECT FROM A PRELIMINARY INVESTIGATION</b>	<b>6</b>
<b>8.</b>	<b>THE HEALTH PROFESSIONAL REVIEW TRIBUNAL</b>	<b>6</b>
<b>9.</b>	<b>POWERS OF INVESTIGATION</b>	<b>7</b>
<b>10.</b>	<b>WHAT INFORMATION WILL I GET ABOUT THE INVESTIGATION OF A COMPLAINT?</b>	<b>7</b>
<b>11.</b>	<b>HOW LONG WILL IT TAKE?</b>	<b>7</b>
<b>12.</b>	<b>NOTICE OF COMPLAINT TO THE HEALTH AND COMMUNITY SERVICES COMPLAINTS COMMISSION</b>	<b>8</b>
<b>13.</b>	<b>IMPORTANT ADDITIONAL INFORMATION FOR PRACTITIONERS</b>	<b>8</b>
13.1	WHEN CAN THE BOARD DETERMINE TO SUSPEND A PRACTITIONER'S RIGHT TO PRACTISE?	8
13.2	WHEN CAN THE BOARD DETERMINE TO IMPOSE CONDITIONS ON A PRACTITIONER'S RIGHT TO PRACTISE?	8
13.3	WHEN CAN THE BOARD ADVISE OTHER REGISTRATION BODIES ABOUT A COMPLAINT?	9
13.4	WHEN CAN THE BOARD DETERMINE TO REMOVE A PRACTITIONER'S NAME FROM THE REGISTER?	9
13.5	CAN I BE LEGALLY REPRESENTED?	9
<b>14.</b>	<b>APPEALS</b>	<b>9</b>

## **1. PREAMBLE**

This document has been designed to inform health practitioners about the processes for dealing with complaints about health practitioners by the following health practitioner registration boards (the Boards):

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

The Boards are statutory authorities created by the *Health Practitioners Act 2004* (the Act) to regulate health practitioners practising in the Northern Territory. The Health Professions Licensing Authority (HPLA) provides a bureau service to the Boards and carries out administrative duties as directed.

This document is not intended to substitute for the provisions of the Act. You can obtain copies of current legislation from <http://www.nt.gov.au/dcm/legislation/current.html>

More detailed information about the procedures for dealing with an investigation of impaired practitioners and or performance assessment are contained in the Act.

## **2. OBJECTS AND FUNCTIONS OF BOARDS**

The Act determines the make-up of the professional Boards. Usually this includes registered members of the profession, and members who are not from the profession who are able to represent the interests of the public utilising that category of health service.

The objectives of the Boards as defined in section 3 of the Act are to:

- (a) *protect and promote the health and safety of the people of the Territory;*
- (b) *promote the highest standard of professional health care practice in the Territory;*
- (c) *determine the standards for registration and enrolment of health practitioners and for professional health care practice in the Territory; and*
- (d) *facilitate the continuing competence of health practitioners in the Territory.*

Each Board is charged with initiating investigations of complaints made against health practitioners in relation to the category of health care practice for which it is established.

### **3. NATURAL JUSTICE**

The principles of natural justice/procedural fairness apply to the investigation of complaints under the Act. These principles acknowledge that people are entitled to be treated fairly.

Natural Justice can be summarised as follows:

- the right to be given a fair hearing including an opportunity to present one's case;
- the right to have a decision made by an unbiased or disinterested decision maker; and
- that any decision will be based on logically probative evidence.

The principles of natural justice provide that a health practitioner ought to know the content of the complaint made against them and be given an opportunity to respond to the allegations.

#### **3.1 Conflict of Interest**

In accordance 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.

### **4. INFORMATION ABOUT COMPLAINTS**

#### **4.1 Who can make a complaint?**

Any person who is aggrieved by the conduct of a practitioner may make a complaint to the Board.

The Board on its own motion may make a complaint in respect of the conduct of a health practitioner.

The Act also provides for the Board to receive notifications from other health professionals, employers, the Coroner, the Health and Community Services Complaints Commission and the Courts.

#### **4.2 What may be the subject of a complaint?**

A complaint may be made about the conduct of any health practitioner who is registered or enrolled in the Northern Territory even if that practitioner no longer holds the right to practice. A complaint may also be made against a person who is not a health practitioner but the Board has reasonable grounds to suspect that the person is practising as a health practitioner but has no entitlement to do so.

There are no specific limitations on what may be the subject of a complaint. Generally the Boards are concerned with matters that relate to professional standards or the competence of health practitioners or issues of public health and safety.

### 4.3 How is a complaint made?

To comply with the requirements of section 57 of the Act, a complaint must:

- be made in writing;
- contain particulars of the matter complained of (eg: date and time of consultation);
- identify the health practitioner against whom the complaint is being made;
- identify the complainant; and
- **contain a statement that the complainant consents to a copy of the complaint or particulars of the complaint being given to the health practitioner.**

The Board must provide reasonable assistance to people wishing to make complaints.

## 5. RECEIPT OF COMPLAINT

On receiving a complaint the Board must, without undue delay, determine whether to accept or not accept the complaint.

The main principles that govern the acceptance of a complaint are whether there are issues of public safety involved.

Following receipt of the complaint the Board may require the complainant to provide further information. The Board will usually delegate the task of investigating the complaint to the Complaints Manager at HPLA, who will be appointed as an Inspector by the Board.

The Board must dismiss a complaint if it considers that the complaint is without foundation, frivolous or vexatious, or if the matter complained of is insubstantial.

## 6. PRELIMINARY INVESTIGATION

After accepting the complaint the Board will usually direct that a preliminary investigation be conducted into the complaint (under section 60 of the Act). This can be carried out by a committee, an inspector or a person at the direction of the Board.

The Board will usually delegate the task of investigating the complaint to the Complaints Managers at HPLA, who will also be appointed as an Inspector by the Board.

If the Board accepts a complaint the practitioner will be notified in writing and will be given:

- a copy of the complaint or the particulars of the complaint; and
- a copy of this information book.

It is the Board's practice to make every effort to contact the practitioner by phone to advise them of the matter, prior to the letter being sent.

If the Board directs that a preliminary investigation be conducted the person(s) appointed to investigate the complaint may conduct interviews with witnesses, and any other relevant person(s).

The practitioner will be given an opportunity to make submissions to the person conducting the preliminary investigation. A practitioner may choose not to make any submissions to the investigator/inspector.

Following the completion of a preliminary investigation, a written report of the findings and any opinions based on those findings must be provided to the Board. The practitioner who is the subject of the complaint is also provided with a copy of the report.

Following consideration of the preliminary investigation report, the Board may determine to dismiss the complaint, take no further action or proceed under the provisions of section 61 where a practitioner is compelled to provide either a written explanation or appear before the Board. The Board may also refer the matter to the Health Professional Review Tribunal (the Tribunal). If the Board determines to require the practitioner to give an explanation under section 61 the practitioner may request that the matter be referred to the Tribunal.

## **7. WHAT OUTCOMES TO EXPECT FROM A PRELIMINARY INVESTIGATION**

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

When providing an explanation or appearing before the Board a practitioner may obtain assistance from a friend, union or lawyer, but is not entitled to be represented. The meeting at which a practitioner attends to give an explanation is not open to the public.

The Board is not to take any further action in respect of a matter if after considering the section 61 explanation of the practitioner concerned, it is not satisfied that the matter has been substantiated.

If a complaint is found to be substantiated the Board may take action in respect of the practitioner – such action is limited but includes the following:

- cautioning or reprimanding the practitioner;
- accepting an undertaking from the practitioner;
- imposing a condition of the practitioner's registration;
- imposing a fine as a debt due and payable to the Board not exceeding \$10,000; and
- notifying other jurisdictions or other bodies as considered appropriate.

## **8. THE HEALTH PROFESSIONAL REVIEW TRIBUNAL**

The Act 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.

The Board may refer a complaint to the Tribunal. This may occur where the matter is of a serious nature or at the practitioner's request. 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; or
- dismiss the complaint.

## **9. POWERS OF INVESTIGATORS**

Sections 71 and 72 of the Act set out the powers of an investigator (inspector) which includes removing any document found on the premises to the custody and control of the Board for as long as the Board considers it necessary or expedient and asking questions of and requiring answers from persons on the premises.

Practitioners have a legal and professional obligation to assist in matters involving unsafe or unethical practice.

## **10. WHAT INFORMATION WILL PRACTITIONERS GET ABOUT THE INVESTIGATION OF A COMPLAINT?**

The Act limits the disclosure of information obtained by a Board (or delegates of a Board).

Practitioners that are the subject of an investigation will be provided with the particulars of the complaint and are invited to make submissions to the Inspector. The Act requires that a copy of the preliminary investigation report be provided to the practitioner.

According to the Act a Board cannot provide any detailed information about the investigation to complainants.

It is Board policy to advise the complainant of:

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

The Act requires that a copy of the preliminary investigation report be provided to the practitioner.

## **11. 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 frequently. The complaint will be considered at the next Board meeting.

Once a complaint is accepted the first step is to invite the practitioner to respond to the allegations and depending on the nature of the 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 then determine what further investigative steps may be required prior to completing a preliminary investigation report.

It may take some months for a complaint to be accepted and 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 matters will take considerably longer than this.

## **12. NOTICE OF COMPLAINT TO THE HEALTH AND COMMUNITY SERVICES COMPLAINTS COMMISSION**

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

The Boards and HCSCC must consult 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.

## **13. IMPORTANT ADDITIONAL INFORMATION FOR PRACTITIONERS**

### **13.1 When can the Board determine to suspend a Practitioner's right to practise?**

Section 68 sets out the circumstances when the Board may suspend a practitioner's right to practise. In particular the Board may determine to suspend the practitioner's right of practise if it reasonably considers the suspension necessary for the purposes of inquiring into the complaint, or that it is in the public interest to do so.

A health practitioner will be notified in writing of a decision to suspend a right to practise.

The practitioner may appeal to the Supreme Court against a decision of the Board to suspend their right of practise.

### **13.2 When can the Board determine to impose conditions on a practitioner's right to practise?**

Section 30 provides that the Board may of its own motion at any time review the registration or enrolment of a health practitioner and may impose or vary conditions to which the registration or enrolment is subject.

A health practitioner will be notified in writing of a decision to impose or vary conditions of practise.

The practitioner may appeal to the Supreme Court against a decision of the Board to impose or vary conditions of practise.

### **13.3 When can the Board advise other registration bodies about a complaint?**

The Boards will not usually advise other registration bodies about the receipt or investigation of a complaint. The Board will be required to disclose the investigation if a request for information is received under the Mutual Recognition scheme. If the Board has determined to impose conditions or suspend a practitioner's registration then it will inform other registration bodies.

In certain circumstances the Board may determine to advise any other person or body that it considers appropriate eg: employers or the police. The Board will usually advise if such a decision is made.

### **13.4 When can the Board determine to remove a Practitioner's name from the Register?**

Pursuant to section 50 the Board may remove a practitioner's name from the Register if they contravene a condition of their registration, fail to honour an undertaking or pay a fine. The Board must remove a practitioner's name from the Register if they are no-longer entitled to be registered, if directed to do so by the Tribunal, or if the practitioner's authority to practise under a foreign health care practice law has been cancelled for any reason relating to the person's competence to practise.

In order to be entitled to registration a health practitioner must, amongst other things, be competent and of good character pursuant to section 22(1)(c) and (f). Thus, if a Board determines that a person is not of good character then their name must be removed from the Register.

In most circumstances the Board must not remove a practitioner's name from the Register without first giving them a reasonable opportunity to be heard. A practitioner will be notified and is entitled to appeal the decision to the Supreme Court pursuant to section 99 of the Act. The Board may also determine that a practitioner cannot re-apply for registration for a specified period or that they must fulfil a specific condition prior to applying for registration.

### **13.5 Can I be Legally Represented?**

Practitioners are entitled to legal representation at any time during the complaint process should they so desire. However, when appearing before the Board to give an explanation pursuant to section 61 of the Act practitioners are permitted to be assisted by a person but are not able to be represented.

## **14. APPEALS**

The statutory provision for appeals against decisions of the Board are contained within Part 7 of the Act. Essentially these provisions allow for a practitioner to appeal to the Supreme Court of the Northern Territory within **fourteen (14)** days after the Notice of the Board's decision is given to the practitioner.

The Board may also appeal to the Supreme Court against a decision of the Tribunal.

There is no provision in the Act for a complainant to challenge the decision of a Board.