Health Practitioners Competence Assurance Bill

Government Bill

Explanatory note

General policy statement

The Health Practitioners Competence Assurance Bill provides a framework for the regulation of health practitioners in order to protect the public where there is a risk of harm from the practice of the profession. It includes mechanisms to assure the public that a health practitioner, who is registered under the Bill, is competent to practise.

It also includes consistent procedures across the professions for handling complaints against health practitioners, co-ordinated with the provisions of the Health and Disability Commissioner Act 1994.

The Bill repeals the following 11 existing regulatory statutes in respect of health practitioners:

- Chiropractors Act 1982
- Dental Act 1988 (dentists, dental technicians, clinical dental technicians)
- Dietitians Act 1950
- Medical Auxiliaries Act 1966 (medical laboratory technologists, medical radiation technologists, podiatrists)
- Medical Practitioners Act 1995
- Nurses Act 1977 (which includes midwives)
- Occupational Therapy Act 1949
- Optometrists and Dispensing Opticians Act 1976
- Pharmacy Act 1970

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Physiotherapy Act 1949
Psychologists Act 1981.

Consequent to the repeal of the Pharmacy Act 1970, a new regulatory regime will be introduced to ensure that the public have ready access to medicines in a safe environment.

**Government's objectives**

The Government is committed to ensuring that appropriate occupational regulations, and regulations in relation to the safety of medicines, are retained in the health sector. It also recognises that ongoing changes in technology, models of care, and health service delivery mean that the regulatory statutes need to be flexible enough to allow health practitioners to vary their practice to meet new and challenging environments.

The emphasis of the Bill, as its name implies, is on assuring the public that registered health practitioners are competent to practise. It seeks to create a supportive environment in which health practitioners can practise, maintain their competence throughout their careers, and learn from their experiences and the experiences of their colleagues.

Inevitably, in some circumstances, there will be complaints from consumers about health practitioners.

The Government is committed to improving the processes for complaints against health practitioners to ensure that they can be resolved expeditiously and fairly with adequate communication between the various government agencies involved.

To meet these objectives, in conjunction with amendments to the Health and Disability Commissioner Act 1994 and amendments to the Medicines Act 1981, the Bill will—

- provide a uniform approach to all health professions, with changes applying automatically to all professions:
- be flexible enough to meet changing skill sets, roles, diagnostic regimes, and treatments:
- be transparent so that practitioners and the public can easily see which professions are regulated and how:
- provide a supportive environment for health practitioners to maintain their competence:
• provide a process for new professions to be regulated under the Act by Order in Council:
• provide consistent, co-ordinated, fair, and transparent processes for handling complaints against health practitioners:
• provide a safe regulatory environment for the distribution of medicines.

Registration authorities
Registration authorities will be appointed for each of the professions regulated under the Bill. New authorities will be created for the professions of midwifery, osteopathy, and pharmacy. A new Dental Council will be appointed to include the professions of dentistry, dental therapy, dental hygiene, and dental technology.

Framework
There will be a consistent framework for the functions of the registration authorities, their registration procedures and processes, to ensure that competence is maintained.

Complaints against health practitioners
In conjunction with amendments to the Health and Disability Commissioner Act 1994, there will be consistent processes across the professions for handling complaints against health practitioners that are fair to both the complainant and the health practitioner.

Health Practitioners Disciplinary Tribunal
A single disciplinary tribunal will be established to hear those complaints against health practitioners that warrant significant disciplinary action.

Changes to the Medicines Act 1981
A new regulatory regime for the distribution of medicines will be introduced that is based on the existing licensing regime in the Medicines Act 1981 for the manufacture of medicines, sale of medicines by wholesale, and packing or labelling medicines.
Clause by clause analysis

Clause 1 is the Title clause.

Part 1
Preliminary and key provisions

Preliminary provisions

Clause 2 provides for most of the provisions of the Bill to come into force 1 year after the date on which it receives the Royal assent. The provisions relating to protected quality assurance activities will come into force 28 days after the date on which it receives the Royal assent.

Clause 3 sets out the principal purpose of the Bill and how it is to be attained. The Bill’s principal purpose is to protect the health and safety of members of the public by providing for mechanisms to ensure that health practitioners are competent and fit to practise their professions.

Clause 4 outlines the provisions of the Bill.

Clause 5 defines certain terms used in the Bill. The following terms are of particular importance:

- **authority** means the body that is, in accordance with the Bill, responsible for the registration and oversight of practitioners of a particular health profession

- **health practitioner** or **practitioner** means a person who is registered with an authority as a practitioner of a particular health profession

- **scope of practice**—
  - means any health service that forms part of a health profession and that has been gazetted by the responsible authority; and
  - when used about a health practitioner of that profession, means any of those health services that the practitioner is permitted to perform, subject to any conditions imposed by the responsible authority.

Clause 6 provides that the Bill binds the Crown.
Key provisions

Clause 7 prohibits a person from using titles, etc, stating or implying that the person is a health practitioner of a profession covered by the Bill if the person is not qualified to be registered as a health practitioner of that profession. It also prohibits a person from claiming to be practising a profession as a health practitioner of a profession if the person does not hold a current practising certificate as a practitioner of the profession.

Clause 8 requires every health practitioner who practises his or her profession to have a current practising certificate. It also prohibits a health practitioner from practising his or her profession otherwise than in accordance with his or her scope of practice.

Clause 9 provides for the performance of certain health services to be restricted to health practitioners who are permitted to perform those activities by their scopes of practice. The restrictions are to be specified by Order in Council. An Order in Council may only be made if the Minister of Health is satisfied that without the restriction members of the public risk serious or permanent harm.

Part 2

Registration of, and practising certificates for, health practitioners

Prescribed scopes of practice, qualifications, and experience

Clause 10 requires every authority to describe its profession in terms of 1 or more scopes of practice. Those descriptions must be published in the Gazette.

Clause 11 requires every authority to prescribe qualifications for each scope of practice. Those prescriptions must be published in the Gazette.

Clause 12 sets out the principles by which an authority must be guided when it prescribes qualifications. The principles are that—

• the qualifications must be necessary to protect members of the public; and
• the qualifications may not unnecessarily restrict the registration of persons as health practitioners; and
• the qualifications may not impose undue costs on health practitioners or on the public.
Clause 13 allows authorities to amend, revoke, or replace descriptions of scopes of practice and prescriptions of qualifications. Up-to-date versions of the documents concerned must be published on the Internet and must also be available for inspection at each authority’s office.

Registration of practitioners and authorisations of scopes of practice

Clause 14 provides that an authority may register an applicant as a health practitioner permitted to practise within the scope of practice of the profession concerned if the applicant—

- is fit for registration in terms of clause 15; and
- has the qualifications that are prescribed under clause 11 for that scope of practice; and
- is competent to practise within that scope of practice.

Clause 15 sets out the requirements for fitness for registration. These include that the applicant—

- is able to communicate effectively for the purposes of practising within the scope of practice; and
- is able to comprehend English; and
- has no convictions of any offence punishable by imprisonment for a term of 3 months or longer, and is not subject to any disciplinary proceeding, investigation, or order, or is able to satisfy the responsible authority that the offence, proceeding, investigation, or order does not reflect adversely on the applicant’s fitness to practise; and
- is not stopped from performing the functions required for the practice of the profession because of some mental or physical condition.

Clause 16 covers applications by persons who wish to be registered as health practitioners as well as registered health practitioners who wish to have their scopes of practice changed. Each application must indicate the scope of practice within which the applicant proposes to practise or the changes the applicant wishes to have made to his or her existing scope of practice.

Clause 17 provides for the case of a person who seeks to be re-registered after the Health Practitioners Disciplinary Tribunal (the
The Tribunal has cancelled the person’s registration and imposed conditions that must be met before the person may be restored to the register.

Clause 18 enables an authority to receive information from the applicant or other persons in respect of the application. The authority may require an applicant for registration or for a change to a scope of practice to pass an examination or assessment. The purpose of the examination or assessment is to satisfy the authority that the applicant is competent to practise in New Zealand within the relevant scope of practice, or that the applicant has a reasonable ability to comprehend English.

Clause 19 requires an authority to consider whether an applicant is qualified and competent to practise within the scope of practice indicated in his or her application.

Clause 20 empowers authorities to authorise scopes of practice for applicants about to be registered. It also empowers them to authorise changes to existing scopes of practice of registered health practitioners.

Clause 21 sets out matters to be stated in an authorisation of a scope of practice. An authorisation of a new scope of practice must state the health services that the applicant is, subject to any conditions included in the authorisation, permitted to perform. Any conditions included in a scope of practice must be of a nature that the authority considers are required to ensure the competent practice of the applicant. Examples of conditions that may be included are—

- that the applicant practise under supervision or oversight;
- that the applicant not perform certain tasks;
- that the applicant perform certain tasks only in certain circumstances;
- that the applicant practise only in a stated capacity, for example, as an employee of an organisation;
- that the applicant practise only for a specified period;
- that the applicant practise in association with certain health practitioners;
- that the applicant attain additional qualifications or additional experience:
that the applicant be subject to any other condition that the authority believes on reasonable grounds to be necessary to protect the safety of the public.

Clause 22 relates to health practitioners who are required to practise subject to supervision. The authority may ask for assessments of, and reports on, those health practitioners. The reports must set out a recommendation as to whether the condition requiring the subject of the report to practise subject to supervision should continue to apply.

Clause 23 sets out what must happen when the authority has dealt with an application for registration. If the authority authorises a scope of practice within which an applicant is permitted to practise, the Registrar must register the applicant as a health practitioner.

Clause 24 relates to applications to have scopes of practice changed. The clause corresponds to clause 23.

Practising certificates

Clause 25 provides that applications for annual practising certificates must be made to the Registrar of the responsible authority. If the Registrar is not required by clause 26 to refer a duly completed application to the authority, the Registrar must issue the certificate to the applicant.

Clause 26 requires a Registrar of an authority to refer an application for an annual practising certificate to the authority if the Registrar believes on reasonable grounds that the applicant has not maintained the required standard of competence or has not met applicable conditions or the requirements of any competence programme or lacks current experience.

Clause 27 relates to applications referred to the authority by the Registrar under clause 26. If the authority proposes to decline an application for an annual practising certificate, or to include or vary conditions in the health practitioner’s scope of practice, it must tell the applicant why it is proposing to decline the application or why it is proposing to impose conditions. The applicant must be given a reasonable opportunity to make written submissions and be heard.

Clause 28 prevents an authority from approving the issue of an annual practising certificate to an applicant if the authority is not satisfied that the applicant meets the required standard of competence. In order to satisfy that criterion, the authority may include new conditions in the applicant’s scope of practice or may vary
existing conditions. The authority may make the issue of the certificate conditional on the fulfilment by the applicant of conditions determined by the authority. In that case, the applicant may be issued with an interim practising certificate under clause 30, pending fulfilment of those conditions.

Clause 29 provides that an annual practising certificate is in force for a period decided by the authority, but must be no longer than 1 year.

Clause 30 provides for interim practising certificates, which may not be issued for a period longer than 4 months, but may be extended for up to a further 4 months.

Clause 31 requires each Registrar to endorse the health practitioner’s scope of practice on his or her practising certificate.

Clause 32 requires a health practitioner to hand in his or her practising certificate to the Registrar if the certificate is required for endorsement under clause 31 or if the practitioner’s registration or practising certificate has been cancelled or suspended.

Part 3

Competence, fitness to practise, and quality assurance

Clause 33 allows a health practitioner who has reason to believe that another health practitioner may pose a risk of harm to the public by failing to meet the required standard of competence to report the circumstances to the authority that the other health practitioner is registered with.

The clause also requires the Health and Disability Commissioner to report to the responsible authority whenever he or she has reason to believe that a health practitioner may pose a risk of harm to the public by practising below the required standard of competence.

An employer of a health practitioner who resigns or is dismissed for reasons relating to competence must notify the Registrar of the responsible authority why the health practitioner resigned or was dismissed.

A person who makes a report under this clause is, in the absence of bad faith, protected from civil and disciplinary proceedings.

Clause 34 requires an authority that has reason to believe that one of its health practitioners may pose a risk of harm to the public to notify the Accident Compensation Corporation, the Director-General of
Health, the Health and Disability Commissioner, and any person who the authority believes is an employer of the health practitioner. 

Clause 35 requires an authority to inquire into the competence of a health practitioner in certain circumstances. An authority may always review the competence of a practitioner who holds a current practising certificate, even if there is no reason to believe that the practitioner’s competence is deficient.

Clause 36 gives a health practitioner who is subject to a competence review an opportunity to make written submissions and be heard about the matter.

Clause 37 provides for the orders that may be made by the authority if a competence review indicates that the health practitioner concerned fails to meet the required standard of competence. The health practitioner may be ordered to undertake a competence programme, to practise subject to conditions, or to sit an examination or undergo another assessment.

Clause 38 provides for the interim suspension of the practising certificate of a health practitioner whose competence has been, or is to be, reviewed if the responsible authority has reasonable grounds for believing that the health practitioner poses a risk of harm to the public by practising below the required standard of competence.

A suspension under this clause ceases to have effect when the competence review is completed or the health practitioner passes any examination or assessment that he or she has been required to sit or undergo.

Clause 39 provides for competence programmes. Under a competence programme a health practitioner may be required to pass an examination or assessment, complete a period of practical training or experience, undertake a course of instruction, or undertake a period of supervised practice.

Clause 40 provides for recertification programmes. A recertification programme may be applied to groups of health practitioners or to a particular health practitioner.

The requirements of a recertification programme have some similarity with those under a competence programme, but do not include requirements for practical experience or supervised practice. A health practitioner undergoing a recertification programme may be required to have his or her clinical and other practices, relations with
other health practitioners, and clinical records examined by another health practitioner.

Health practitioners subject to a recertification programme must be allowed a reasonable time (not less than 3 years) to comply with its requirements.

Clause 41 requires a health practitioner who is undergoing a competence review or a competence programme or a recertification programme to make his or her clinical records available for inspection by the responsible authority for the purposes of the review or programme.

Clause 42 deals with the case of a health practitioner who fails to meet the requirements of a competence programme or a recertification programme. In that case, the responsible authority may impose conditions on the health practitioner’s scope of practice or may suspend the practitioner’s registration. An order imposing conditions or suspending the health practitioner’s registration remains in effect until the health practitioner has satisfied all the requirements of the competence programme or the recertification programme.

Clause 43 protects the confidentiality of clinical records examined on behalf of an authority for the purposes of a competence review, competence programme, or recertification programme.

Inability to perform required functions

Clause 44 requires certain persons to notify the responsible authority if they have reason to believe that a health practitioner is unable to perform the functions required for the practice of his or her profession because of some mental or physical condition. A notification of that nature must also be given about a student who is studying for a qualification required for a profession if the person in charge of the educational programme has reason to believe that the student would be unable to perform the functions required for the practice of that profession.

The clause also permits any person who has reason to believe that a health practitioner is unable to perform the functions required for the practice of his or her profession to notify the authority.

Clause 45 requires the Registrar of an authority to bring a notice under clause 44 to the attention of the authority as soon as reasonably practicable.
Clause 46 provides for the interim suspension of the practising certificate of a health practitioner who may be unable to perform the functions required for the practice of his or her profession because of some mental or physical condition. A suspension under this clause may not be longer than 20 working days.

Clause 47 allows an authority to require a health practitioner to undergo a medical examination if the authority considers that, because of some mental or physical condition, the health practitioner may be unable to perform the functions required for the practice of his or her profession.

Clause 48 deals with the case where a health practitioner who has been required to undergo a medical examination fails to submit himself or herself for the examination or where the authority is, after such an examination, satisfied that the health practitioner is unable to perform the functions required for the practice of his or her profession because of some mental or physical condition. In such a case, the authority may suspend the registration of the health practitioner or impose conditions on the practitioner’s scope of practice.

Clause 49 enables an authority to revoke any suspension of a health practitioner’s practice if it is satisfied that the health practitioner is again able to practise satisfactorily. The authority may also revoke or vary conditions imposed on the health practitioner.

Quality assurance activities

Clause 50 states the purpose of clauses 52 to 60, which is to encourage effective quality assurance activities. This is achieved by protecting the confidentiality of information that becomes known solely as a result of such activities, and of documents brought into existence solely for the purposes of such activities; and also by protecting those who engage in such activities in good faith from being sued.

Clause 51 defines terms used in the clauses that deal with quality assurance activities. In broad terms, quality assurance activity is defined as an assessment or evaluation of health practitioners to improve their competence. However, the assessment of a specific significant incident does not form part of a quality assurance activity. A specific significant incident means the occurrence of an incident that has adversely affected 1 or more individuals, and that is, or is reasonably expected to be, the subject of inquiry or investigation by certain statutory agencies.
Explanatory note

**Clause 52** empowers the Minister of Health to confer protection on a quality assurance activity if he or she is satisfied that the protection should be conferred in the public interest. The protection conferred by this clause remains in force for 5 years, but may be renewed.

**Clause 53** provides for the appointment of suitable persons to be responsible for each protected quality assurance activity. To be suitable, an appointee must be independent of the health practitioners whose services are to be assessed.

**Clause 54** sets out some of the circumstances when the Minister of Health may revoke the protection conferred on a quality assurance activity or the appointment of the person responsible for the activity.

**Clause 55** imposes reporting requirements on persons responsible for protected quality assurance activities. Every 6 months, reports must be given to providers who have been assessed. Those reports must set out information on any problems or issues that have been identified; any action that has been taken to address those problems or issues; any recommendations and the manner in which their implementation is to be monitored; and the manner in which improvements in competence or practice are to be monitored.

An annual report containing the same information must also be given to the Minister of Health. That report may not identify particular individuals.

**Clause 56** protects the confidentiality of any information obtained solely as a result of a protected quality assurance activity. That information may not be recorded, disclosed, or given in evidence otherwise than for the purposes of the quality assurance activity or in accordance with a Ministerial authority. The prohibition is subject to exceptions provided for in **clause 57**.

**Clause 57** provides that the confidentiality requirements under **clause 56** do not apply if no individual is identified in the information concerned or if any identified individual consents or if the information is disclosed to the Minister of Health to enable him or her to decide whether or not to authorise the disclosure of the information under **clause 58**.

**Clause 58** allows the Minister of Health to authorise the disclosure of information obtained as a result of a quality assurance activity for the purposes of investigating and prosecuting a serious offence. A serious offence is an offence punishable by imprisonment for 2 years or longer.
Clause 59 protects persons from civil or disciplinary proceedings for anything done in good faith in connection with a protected quality assurance activity.

Clause 60 makes notices conferring protection on quality assurance activities subject to the Regulations (Disallowance) Act 1989.

Part 4
Complaints and discipline

Referral of complaints and interim suspensions

Clause 61 requires an authority to refer all complaints about practitioners to the Health and Disability Commissioner.

Clause 62 provides a link to the Health and Disability Commissioner Act 1994 under which a complaint against a health practitioner may be referred to authorities.

Clause 63 requires the Health and Disability Commissioner to notify the responsible authority of any investigation that directly concerns one of its health practitioners.

Clause 64 requires court registrars to notify the responsible authority of a conviction of one of its practitioners if the conviction is for an offence punishable by imprisonment for a term of 3 months or longer or if it is for an offence against certain health-related statutes.

Clause 65 requires an authority that receives a referral of a complaint from the Health and Disability Commissioner, or that is notified of a conviction under clause 64, to refer the complaint or the conviction to a complaints investigation committee. The authority may also refer a matter about a practitioner if it raises questions about the safety of his or her practice.

Clause 66 enables an authority to suspend the practising certificate of a practitioner or impose conditions on his or her scope of practice if he or she has engaged in conduct that is relevant to a pending charge or investigation against the practitioner, and if the authority considers that the conduct casts doubt on the appropriateness of the practitioner’s conduct in his or her professional capacity. The authority must revoke a suspension or the imposition of conditions if the practitioner is not convicted or no disciplinary action is to be taken against him or her or if the authority is satisfied that the appropriateness of the practitioner’s conduct in his or her professional capacity is no longer in doubt.
Clause 67 stops an authority from taking disciplinary action about a matter while the matter is under consideration or awaiting consideration under the Health and Disability Commissioner Act 1994. However, this restriction does not apply to the interim suspension of a practitioner’s practising certificate.

Complaints investigation committees

Clause 68 provides for the appointment of complaints investigation committees. Such a committee is made up of 1 layperson and 2 health practitioners who are registered with the authority.

Clause 69 allows a complaints investigation committee to regulate its own procedure subject to the rules of natural justice, this Bill, and any regulations made under this Bill.

Clause 70 allows complaints investigation committees to appoint legal advisers and investigators.

Clause 71 requires an authority, within 14 working days after a matter concerning a health practitioner is referred to a complaints investigation committee, to inform the health practitioner and any complainant of the intended membership of the complaints investigation committee that is to consider the matter.

Clause 72 gives the health practitioner who is being investigated and any complainant 5 working days to request changes to the membership of the committee. The authority must have regard to the request.

Clause 73 allows a complaints investigation committee to receive evidence, whether or not it would be admissible in a court of law. The committee may, in particular, hear oral evidence and receive statements and submissions from the health practitioner concerned, any employer or associate of the health practitioner, any complainant, and any clinical expert.

Clause 74 empowers a complaints investigation committee to requisition any papers, documents, records, or things from a person who has declined a previous request to provide the required information.

Clause 75 requires a person who receives a notice under clause 74 to comply with the requirement without charge.

Clause 76 requires a complaints investigation committee to notify the responsible authority immediately if it believes that the practice of the health practitioner poses a risk of harm to the public. If the committee considers that the practice of the practitioner should be
suspended, it may recommend that the authority take appropriate action.

Clause 77 requires a complaints investigation committee to make certain recommendations or determinations within 14 working days after completing its investigation. The committee may recommend that the authority review the practitioner’s competence or his or her fitness to practise or his or her scope of practice. The committee may also recommend that the authority refer the matter under investigation to the police or that the authority counsel the practitioner. The committee may determine that no further steps be taken under this Bill or that a charge be brought against the health practitioner before the Tribunal or that the complaint be submitted to conciliation.

Clause 78 requires a complaints investigation committee to notify the Registrar of the responsible authority and the health practitioner and any complainant of its determinations or recommendation under clause 77. The complaints investigation committee also has the responsibility of formulating and filing a charge with the Tribunal if it has determined that a charge should be brought against the health practitioner.

Clause 79 requires a complaints investigation committee that has decided to submit a complaint to conciliation to attempt to assist the health practitioner and complainant concerned to resolve the complaint by agreement. If the complaint has not been successfully resolved by agreement, it must decide whether to lay a charge against the practitioner before the Tribunal or to make further recommendations under clause 77(2) or to take no further steps.

Health Practitioners Disciplinary Tribunal

Clause 80 establishes the Health Practitioners Disciplinary Tribunal. Clause 81 provides that the functions of the Tribunal are to hear and determine charges brought by the Director of Proceedings or a complaints investigation committee against health practitioners and to perform any other statutory functions.

Clause 82 provides for the membership of the Tribunal. The members consist of a chairperson and 1 or more deputy chairpersons, each of whom must be a barrister or solicitor of not less than 7 years’ practice, and the members of the panel maintained by the Minister under clause 83. No person who is a member of an authority is
eligible for appointment as chairperson or as a deputy chairperson or as a member of the panel.

Clause 83 requires the Minister of Health to maintain a panel consisting of laypersons and practitioners of each profession with current practising certificates.

Clause 84 requires the Tribunal, when hearing a matter, to be made up of 5 members; the chairperson or a deputy chairperson, 2 professional peers of the health practitioner who is charged, and 2 laypersons.

Clause 85 permits the Tribunal to sit in divisions. The clause also provides that no hearing may take place unless all members of the Tribunal for that hearing are present, but decisions may be taken by a majority of members.

Clause 86 makes the provisions of Schedule 1 applicable to the Tribunal and its proceedings.

Procedure and decisions of Tribunal

Clause 87 provides that a charge against a health practitioner may be laid before the Tribunal by the Director of Proceedings under the Health and Disability Commissioner Act 1994 or by a complaints investigation committee.

Clause 88 requires the Tribunal to notify the practitioner of the grounds on which it is believed that the Tribunal’s powers may be exercised, of the particulars of the charge, and of the hearing date.

Clause 89 provides that the Tribunal may, if it believes that it is necessary or desirable to do so, suspend the registration of a health practitioner who has been charged or impose conditions on his or her practice until the charge has been disposed of by the Tribunal.

Clause 90 allows a health practitioner whose registration has been suspended, or on whom conditions have been imposed, to apply to the Tribunal for a revocation of the suspension or of the imposition of the conditions.

Clause 91 requires hearings of the Tribunal to be held in public. But the Tribunal may (having regard to the interests of any person, including the privacy of the complainant, and to the public interest) make an order excluding the public from, or stopping the publication of reports on, the proceedings.
Clause 92 clarifies certain matters arising out of the provisions of clause 91. The requirement to hold hearings in public does not prevent the Tribunal from deliberating in private. That requirement is also subject to the right of certain witnesses, under clause 93, to give their evidence about sensitive matters in private.

Clause 93 entitles a witness to give his or her evidence in private if the evidence is about an intimate or distressing matter.

Clause 94 allows any person to apply to the Tribunal for the revocation of an order excluding the public from, or stopping the publications of reports on, the proceedings.

Clause 95 sets out the grounds on which health practitioner may be disciplined. These are that the health practitioner—

- has been guilty of professional misconduct; or
- has been convicted of offences against certain health-related statutes; or
- has been convicted by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 3 months or longer, and the circumstances of that offence reflect adversely on the practitioner’s fitness to practise; or
- has performed a health service that is part of the practitioner’s profession but outside his or her scope of practice; or
- has failed to observe any conditions included in the practitioner’s scope of practice; or
- has breached an order of the Tribunal under clause 96.

The clause defines professional misconduct as conduct by a health practitioner that amounts to malpractice or negligence in relation to his or her scope of practice or that brings or is likely to bring discredit to the profession. It includes practising without a current practising certificate.

Clause 96 provides for the penalties that may be imposed if any of the grounds under clause 95 have been established against a health practitioner. The penalties include cancellation or suspension of the practitioner’s registration, the imposition of conditions, the censure of the health practitioner, a fine of up to $30,000, or requirements to pay all or any of the costs of the hearing or prosecution of the charge or the investigations that led to the charge.

Clause 97 provides that when the Tribunal orders the cancellation of a practitioner’s registration, the Tribunal may also fix the earliest
date by which the practitioner may apply for re-registration. It may also impose conditions that the practitioner must satisfy before making such an application.

Clause 98 requires orders of the Tribunal to be in writing, to be signed by the chairperson or by a deputy chairperson, and to contain a statement of the reasons on which it is based. The clause also contains provisions relating to the service of orders.

Funding of Tribunal and recovery of costs and fines

Clause 99 requires each authority to pay the costs of a proceeding brought against one of its practitioners.

Clause 100 provides that orders awarding costs to the Health and Disability Commissioner or to an authority are recoverable as a debt.

Part 5
Appeals

Clause 101 provides that appeals against decisions or directions of authorities are brought in District Courts, and appeals against decisions of the Tribunal are brought in the High Court.

Appeals against an authority may be brought in respect of the following decisions:
• a decision to decline to register the appellant:
• a decision to decline to issue a practising certificate to the appellant:
• a decision to suspend or cancel the appellant’s registration or practising certificate:
• a decision to impose conditions on the appellant’s practice:
• a decision to vary the appellant’s scope of practice.

Appeals against decisions of the Tribunal may be brought in respect of the following decisions:
• a decision to impose penalties or conditions on the appellant:
• a decision made on an application to lift the interim suspension of, or the interim imposition of conditions on, the practice of the appellant:
• a decision or refusal to make an order excluding the public from, or stopping the publication of reports on, the proceeding:
• a decision made on an application to revoke such an exclusion order or non-publication order.

An appeal must be brought within 20 working days after notice of the decision or order is communicated to the appellant, or within any further time a District Court Judge or a High Court Judge allows. 

Clause 102 requires the Registrar of an authority or the executive officer of the Tribunal to notify any persons against whom an appealable decision is made of their right of appeal. 

Clause 103 provides that an appeal against a decision or order does not stop it from being enforced unless the District Court or the High Court orders otherwise. 

Clause 104 provides for the way in which appeals under the Bill are heard in the courts, and also empowers the appropriate court to confirm, reverse, or modify the decision or order appealed against and to make any other decision or order that the authority or the Tribunal could have made. 

Clause 105 provides that, except for questions of law, the decision of the court hearing the appeal is final. 

Clause 106 allows the Court, instead of deciding the appeal, to direct the authority or the Tribunal to reconsider its decision. If the Court gives any directions as to the matter, the authority or the Tribunal must give effect to those directions. 

Clause 107 provides for awards of costs on appeal. 

Clause 108 enables the Court on appeal to prohibit the publication of the name or particulars of the affairs of a health practitioner or any other person. 

Clause 109 gives a further right of appeal on questions of law. 

Part 6 

Structures and administration 

Continuation and establishment of authorities 

Clause 110 continues existing registration authorities (other than the Pharmaceutical Council and the Dental Technicians Board) as authorities under the Bill. It also establishes the Midwifery Council, the Osteopathic Council, and the Pharmacy Council.
Clause 111 enables additional health professions to be designated under the Bill and authorities to be appointed for such additional professions.

Clause 112 provides that an additional profession may be designated only if the Minister of Health is satisfied that the provision of the health services concerned poses a risk of harm to the public or that it is otherwise in the public interest that the health services be regulated as a profession under this Bill, and that there is general agreement among providers of the health services concerned about qualifications, standards, and competencies required for that profession.

Status and functions of authorities

Clause 113 provides that every authority is a body corporate that has and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity. These rights and powers may be exercised only for the purpose of performing the authority’s functions.

All decisions relating to the powers, duties, and functions of an authority must be made by the members of the authority or by a duly authorised delegate.

Clause 114 sets out the functions of authorities. These include—

- prescribing the qualifications required for scopes of practice:
- authorising the registration of health practitioners under the Bill:
- considering applications for annual practising certificates:
- reviewing and maintaining the competence of health practitioners:
- setting standards of clinical competence, cultural competence, and ethical conduct:
- setting programmes to ensure the ongoing competence of health practitioners.

Clause 115 exempts authorities, members, employees, agents, and committees of authorities from criminal or civil liability for the performance or intended performance of their functions under the Bill. An exemption from civil liability applies to persons making an assessment under the Bill of a health practitioner who is required to practise under supervision. This exemption also applies to persons
conducting or assisting in conducting any competence review, competence programme, or recertification programme. Exemptions under this clause do not cover anything done or omitted in bad faith or without reasonable care.

Members of authorities

Clause 116 provides that the Minister of Health may appoint up to 14 members for each authority. Each authority must have at least 5 members. At least 2 of the members must be laypersons if the authority has fewer than 7 members, and at least 3 members must be laypersons if the authority has 7 or more members.

Clause 117 provides that each member is appointed for a term of 3 years or for any shorter term that is specified in the notice of appointment, and may be reappointed, but is not eligible to be a member for more than 9 consecutive years.

Clause 118 enables members of an authority to resign or be removed from office.

Powers of Minister

Clause 119 empowers the Minister of Health to obtain statistical information from authorities.

Clause 120 empowers the Minister of Health to have authorities audited to ascertain whether they are complying with the provisions of the Bill. The auditor’s report must be presented to the House of Representatives.

Clause 121 provides that if, after consideration of an auditor’s report about an authority, the Minister has concerns about any of the authority’s policies or practices, the Minister may notify the authority of his or her concerns and require the authority to provide a written response. The response must state whether the authority considers the concerns to be justified. If that is the case, the authority must indicate what steps have been, or are to be, taken to address the concerns. If the authority does not accept the concerns, the response must set out the authority’s reasons for that position.

Clause 122 deals with the case where it appears from the authority’s response that there is a significant difference of opinion between the Minister and the authority. In that case, the Minister may convene a conciliation conference to clarify the nature of the difference and to resolve the difference.
Clause 123 deals with the case where there is a dispute between authorities as to whether a scope of practice forms part of an authority’s profession. In that case, each authority must try to resolve the dispute and keep the Minister informed about the progress being made to resolve the dispute. The Minister may advise the authorities and the authorities must take that advice into account.

Clause 124 provides that, if it appears to the Minister to be unlikely that a dispute about an overlapping scope of practice will be resolved, the Minister may give directions as to how the dispute is to be resolved.

Clause 125 requires the Minister to publish any directions given under clause 124 in the Gazette and to present a copy of the directions to the House of Representatives.

Financial matters and annual report

Clauses 126 to 128 empower authorities to fix fees to be paid by health practitioners for such matters as registering with the authority or obtaining a practising certificate. The authority may also impose disciplinary levies on its health practitioners to cover the cost of complaints investigation committees and proceedings of the Tribunal. Notices prescribing fees or imposing levies must be published in the Gazette and are subject to the Acts and Regulations Publication Act 1989.

Clause 129 provides that all fees, fines, and other money required to be paid under the Bill must be paid to the Registrar of the relevant authority, and must be applied by the authority for the purpose of its functions and duties and the exercise of its powers.

Clause 130 requires each authority to prepare an annual report at the end of each financial year. The report must include a report on the operation of the authority during that financial year and audited financial statements. The report must be delivered to the Minister of Health and presented to the House of Representatives.

Corporate and administrative matters governed by Schedule 3

Clause 131 makes the provisions of Schedule 3 applicable to each authority.
Authorities to keep registers

*Clauses 132 to 146* set out machinery provisions for the maintenance and availability of registers of health practitioners. The clauses include the following provisions:

- each authority must maintain a register of the health practitioner registered with it;
- the details on the register about each health practitioner must include his or her scope of practice and qualifications;
- certificates as to the information on the register about a health practitioner may be obtained from the authority’s Registrar;
- obsolete entries may be removed from the register;
- the registration of a health practitioner may be cancelled if it has been brought about by a false or misleading statement or if the health practitioner was not entitled to be registered;
- the cancellation of a health practitioner’s registration does not affect his or her existing liabilities;
- authorities must publish the registers maintained by them;
- registers must be available for inspection at the offices of each authority.

Registrars

*Clause 147* requires each authority to appoint a Registrar. An authority may also appoint 1 or more Deputy Registrars.

*Clause 148* requires every Registrar of an authority to make the appropriate entries in the register to reflect the decisions of the authority. Registrars are bound to comply with directions given by authorities under the Bill.

Part 7

Miscellaneous provisions, consequential amendments and repeals, and transitional provisions

Subpart 1—Miscellaneous provisions, consequential amendments, and repeals

*Clause 149* makes a certificate signed by the Registrar of an authority or by the executive officer of the Health Practitioners Disciplinary Tribunal admissible in evidence.
Clause 150 makes it clear that an authority is not required to make information available under the Bill if that information could be withheld under the Privacy Act 1993 or the Official Information Act 1982.

Clause 151 saves the acts or proceedings of bodies under the Bill from invalidity on the ground that there was a defect in the appointment or office of one of its members.

Clause 152 is a default provision that governs the manner in which notice is to be given and documents are to be served.

Clause 153 provides for the publication of decisions concerning health practitioners. Decisions made by an authority may be published. In the case of orders made by the Tribunal or by a court, the name of the health practitioner concerned, the effect of the order, and a summary of the proceedings must be published in any publication the court or the Tribunal directs. This is subject to any non-publication order.

Clause 154 provides that this Bill is subject to the Trans-Tasman Mutual Recognition Act 1997.

Clauses 155 to 165 provide that references to a particular type of health practitioner in an enactment must be read as references to the corresponding type of health practitioner under this Bill.

Clause 166 authorises regulations to be made concerning the procedure of authorities, complaints investigation committees, or the Tribunal. Regulations made under this clause may also make provision for the election of some members of authorities. Before regulations are made, the Minister of Health must consult with affected authorities.

Clause 167 makes it an offence to make false or misleading statements, or to produce documents containing such statements, to an authority, the Tribunal, or a complaints investigation committee.

Clause 168 makes consequential amendments, repeals, and revocations.

Repeal of Part VI of Medical Practitioners Act 1995 and savings

Clause 169 repeals the provisions in the Medical Practitioners Act 1995 that relate to quality assurance activities. This clause, together with the provisions in the Bill concerning protected quality assurance activities, will come into force before the general repeal of that
Subpart 2—Transitional provisions
This subpart provides for the transition from the systems under the 11 health registration Acts repealed by this Bill (former registration Acts) to the system established by the Bill. The subpart includes provisions that—

- deem persons who are, immediately before the commencement of this subpart, registered under a former registration Act to be registered under the Bill;
- deem such persons to have an authorised scope of practice under the Bill that permits them to perform the health services that they were permitted to perform before the commencement of this subpart, and subject to the same conditions;
- provide that temporary or provisional registration under a former registration Act expires at the same time that it was to expire under the former registration Act;
- empower the responsible authority to exercise the same powers as to the cancellation or the variation of a temporary, provisional, or probationary registration that could have been exercised under the relevant former registration Act;
- dissolve the Pharmaceutical Society and vests its assets and liabilities in the Pharmacy Council established by this Bill;
- dissolve the Dental Technicians Board and vests its assets and liabilities in the Dental Council continued by this Bill.

Part 8
Amendments to Health and Disability Commissioner Act 1994

Clause 219 provides that, in this Part, the Health and Disability Commissioner Act 1994 is called “the principal Act”.

Clauses 220 and 221 amend definitions set out in the principal Act. The amendments are consequential on the Bill and on new section 9, which would allow more than 1 Deputy Commissioner to be appointed.

Clause 222 consequentially repeals section 4 of the principal Act, which relates to the definition of registered health professional.
Clause 223 repeals section 9 of the principal Act, which relates to the Deputy Commissioner, and substitutes a new section 9. The new section will allow the appointment of more than 1 Deputy Commissioner. Under the existing section, the Deputy Commissioner acts as Commissioner in the Commissioner’s absence. Under the new section, a Deputy Commissioner will, in addition, be able to perform any function delegated to him or her by the Commissioner.

Clause 224 amends section 14 of the principal Act. The amendment establishes the Commissioner’s role as the initial recipient of complaints about health care providers and disability services providers, and responsibility for ensuring that each complaint is appropriately dealt with. The amendment also removes an obsolete reference to “purchaser”.

Clause 225 repeals sections 31 to 44 of the principal Act, which deal with complaints and investigations, and substitute new sections 31 to 44. The new sections largely re-enact the substance of the existing sections, but introduce the following new features:

- after receiving a complaint, the Commissioner must make a preliminary assessment of the complaint:
- the Commissioner may refer the complaint to—
  - the appropriate health professional body:
  - the Accident Compensation Corporation:
  - the Director-General of Health:
  - the health care provider or the disability services provider concerned:
  - certain other statutory agencies:
- each agency to which a complaint is referred must keep the Commissioner informed of any significant step taken in its consideration or examination of the complaint and advise the Commissioner of the outcome of its consideration or examination of the complaint:
- the Commissioner may call the parties to the complaint to a mediation conference (under the existing Act, this can only be done once an investigation has commenced):
- the Commissioner is given greater discretion to decide to take no action on a complaint:
- the Commissioner is required to notify—
• the appropriate health professional body if he or she has reason to believe that a health practitioner is endangering or is likely to endanger the health or safety of members of the public:

• the Director-General of Health if he or she has reason to believe that failures or inadequacies in the systems or practices of a health care provider or a disability services provider are harming or are likely to harm the health or safety of members of the public:

• instead of requiring the Director of Proceedings to give a person an opportunity to be heard before deciding the question whether proceedings or other action should be taken against the person, the person is given an opportunity to comment to the Commissioner before he or she decides whether to refer that question to the Director of Proceedings.

Clause 226 amends section 45 of the principal Act, which relates to the actions the Commissioner may take after completing an investigation. Two amendments are made. First, the Accident Compensation Corporation is included among the agencies to which the Commissioner may send the report on the investigation. Second, when the Commissioner refers a matter to the Director of Proceedings, the Commissioner must advise the Director of Proceedings of the relevant factors that were taken into account in deciding on the referral.

Clause 227 amends section 46 of the principal Act. The amendment allows the Commissioner to report to the appropriate health professional body the name of any health practitioner who fails to implement a recommendation made by the Commissioner.

Clause 228 consequentially repeals section 48 of the principal Act, which relates to the Commissioner’s obligation to refer significant breaches of duty to the appropriate authority. This matter is now covered by new section 39(3).

Clauses 229 and 230 amend sections 49 and 50 of the principal Act consequential on new section 44.

Clause 231 amends section 51 of the principal Act, which in certain circumstances gives aggrieved persons the right to initiate their own proceedings before the Human Rights Review Tribunal. Under the existing section, that action may be taken only if (together with other conditions) the matter concerned has been referred to the Director of Proceedings. The amendment will allow aggrieved persons to take
their own action when the Commissioner has found a breach but has not referred the matter to the Director of Proceedings.

Clause 232 consequentially amends section 54 of the principal Act.

Clause 233 amends section 61 of the principal Act, which relates to mediation conferences. The effect of the amendment is to allow the Commissioner to call a mediation conference in respect of a complaint, whether or not the complaint has resulted in an investigation.

Clauses 234 to 237 make amendments that are consequential on the power to appoint 1 or more Deputy Commissioners set out in new section 9.

Clause 238 is a transitional provision that provides that the changes to the complaints and investigation system under the principal Act do not apply to existing investigations, but do apply to any complaint that was received before the changes come into force if no investigation has been commenced in respect of the complaint.

Part 9
Amendments to the Medicines Act 1981

Clause 239 provides that, in this Part, the Medicines Act 1981 is called “the principal Act”.

Clause 240 amends section 2(1) of the principal Act by inserting new definitions of authorised prescriber, dispensing, and pharmacy practice, and by replacing the definitions of dentist, medical practitioner, optician, registered health professional, and registered midwife to reflect changes made by the earlier parts of the Bill. Clause 240 also alters the definition of licensing authority by providing that the licensing authority is, in all cases, the Director-General of Health. The definition of pharmacy is also altered to include any place where pharmacy practice is carried out, not just places where pharmacy practice is carried on as a business.

Clause 241 inserts new sections 5A and 5B into the principal Act. New section 5A defines holding an interest in a pharmacy. This definition is based on the definition currently contained in section 2 of the Pharmacy Act 1970. However, the definition is modified by extending its application to pharmacies that are not carried on as a business. New section 5B defines when a person operates a pharmacy for the purposes of the principal Act. This is the relevant legal test to be applied in determining when a person is required to hold a licence to operate a pharmacy.
Clause 242 amends section 17 of the principal Act to add the operation of pharmacies to the list of activities for which a licence is required under the principal Act. Clause 242 also increases the penalty for the offence of contravening section 17(1) of the principal Act from $500 to $40,000. Section 17(1) of the principal Act currently requires manufacturers, wholesalers, and packers of medicines to be licensed unless they come within an exemption provided in the Act or in any regulations made under the Act.

Clause 243 amends section 18(1) of the principal Act by recasting certain exemptions that apply to the supply of medicines in circumstances corresponding to retail sale, to take account of the changes introduced by the Bill relating to the licensing, operation, and ownership of pharmacies.

Clause 243 also increases the penalty for the offence of contravening section 18(1) of the principal Act from $1,000 to $40,000. Section 18(1) of the principal Act requires persons who sell medicines by retail, or who supply medicines in circumstances corresponding to retail sale, to be licensed unless they come within an exemption provided in the Act or in any regulations made under the Act.

Clauses 244 and 245 amend sections 19 and 25 of the principal Act by repeal of the definition of authorised prescriber, which is now unnecessary because it has been inserted in section 2 of the principal Act.

Clause 246 amends section 31 of the principal Act (which in general terms enables an authority conferred by a licence to be exercised by an employee or agent of a licensee) to take account of the changes introduced by the Bill relating to the licensing, operation, and ownership of pharmacies.

Clause 247 inserts new sections 42A to 42C into the principal Act. New section 42A (which is based on section 41 of the Pharmacy Act 1970) prohibits any person from operating a pharmacy unless it is under the immediate supervision and control of a pharmacist. New section 42B imposes additional requirements designed to ensure the security of pharmacies. New section 42C prohibits persons who are authorised to prescribe medicines from holding an interest in a pharmacy other than a pharmacy for which the person holds a licence to operate unless the licensing authority consents to the person holding an interest in a pharmacy. The licensing authority may not give consent unless the authority is satisfied that there are
sufficient safeguards to prevent the provision of health care by the person being influenced by the commercial or financial interests of that person or of any other person holding an interest in a pharmacy.

Clause 248 amends section 50 of the principal Act (which deals with applications for licences) to make changes necessary to make the Director-General of Health the sole licensing authority under the principal Act.

Clause 249 amends section 51 of the principal Act to make changes necessary to provide for the granting of licences to operate pharmacies. A new provision is inserted that enables the licensing authority to impose a penalty not exceeding $40,000, or to forbid the licence holder or any person with an interest in a pharmacy from holding an interest in or operating a pharmacy for a period not exceeding 5 years, if the authority is satisfied that the holder of a licence to operate a pharmacy has failed to comply with any conditions affecting the licence.

Clause 250 amends section 52(1) of the principal Act by inserting a new paragraph that states the effect of a licence to operate a pharmacy. A licence to operate a pharmacy authorises the establishment of a pharmacy and the carrying on of pharmacy practice in a pharmacy.

Clause 251 consequentially amends section 53(1) of the principal Act, which relates to licences. It also clarifies that conditions imposed on licences can restrict the licence holder from undertaking any specified activity or using any specified process.

Clause 252 inserts new sections 55A to 55G of the principal Act. New section 55A sets out additional criteria that must be satisfied by applicants for a licence to operate a pharmacy in order to be granted that licence. The applicant must be a person who is qualified under any of new sections 55D, 55E, or 55G to be granted a licence. The applicant must also be a person who is able to satisfy the conditions set out in new section 55C. New section 55A of the principal Act also enables the suspension and cancellation of a licence to operate a pharmacy in a case where a licence holder ceases to satisfy any of the additional criteria.

New section 55B of the principal Act enables the licensing authority to require applicants for a licence to operate a pharmacy to supply additional information to enable the licensing authority to make a proper assessment of the application.
New section 55C of the principal Act sets out a mandatory condition of a licence to operate a pharmacy. A holder of that licence must not request or require any pharmacist who is employed or engaged in duties of a pharmacy to act in a way that is inconsistent with the applicable professional or ethical standards of pharmaceutical practice.

New section 55D of the principal Act sets out rules governing the eligibility of companies to be granted a licence to operate a pharmacy. A company may only be granted a licence to operate a pharmacy if—

- at all times at least 51% of the share capital of the company is owned by a pharmacist or pharmacists, and effective control of the company is vested in that pharmacist or those pharmacists; or
- it is exempt from those shareholding requirements under an Order in Council made under new section 105C of the principal Act or complies with any modification of those requirements authorised by an Order in Council made under that section; or
- it is deemed to have been issued with a licence under new section 114A(2) of the principal Act; or
- the pharmacy is in a hospital owned or operated by the company; or
- it is a company that, at the commencement of new section 55D of the principal Act, was lawfully operating a pharmacy.

New section 55E of the principal Act sets out rules governing the eligibility of individuals to be granted a licence to operate a pharmacy, or to hold a majority interest in a pharmacy. An individual may only be granted a licence to operate a pharmacy, or hold a majority interest in a pharmacy if—

- that person is a pharmacist, and at all times a pharmacist has an interest in the pharmacy of at least 51% of the value of the business or businesses undertaken in the pharmacy; or
- that person is exempt from that shareholding requirement under an Order in Council made under new section 105C of the principal Act or complies with any modification of that requirement authorised by an Order in Council made under that section; or
Explanatory note

- the person is deemed to have been issued with a licence under \textit{new section 114A(2)} of the principal Act; or
- the pharmacy is in a hospital owned or operated by the person; or
- that person, at the commencement of \textit{new section 55E}, was lawfully operating a pharmacy.

\textit{New sections 55F and 55G} repeat, with modifications, provisions in the Pharmacy Act 1970 that place restrictions on the number of pharmacies that a person is allowed to operate or hold a majority interest in and provide an exemption from ownership restrictions for mortgagees in possession of a pharmacy.

\textit{Clause 253} inserts \textit{new section 76A} into the principal Act (which makes it an offence for pharmacists and certain other persons to give commissions to persons authorised to issue prescriptions). \textit{New section 76A} is based on section 49(1)(a) of the Pharmacy Act 1970.

\textit{Clause 254} inserts \textit{new section 105C} into the principal Act. \textit{New section 105C} enables the making of Orders in Council exempting any person or class of person from the ownership restrictions relating to pharmacies in \textit{new sections 55D and 55E} of the principal Act, or modifying the application of those restrictions. The Minister of Health may not recommend the making of an Order in Council unless, in the opinion of the Minister, health services or access to those services will be improved by the making of that Order in Council.

\textit{Clause 255} inserts \textit{new sections 114A and 114B} into the principal Act. \textit{New section 114A} deems certain persons operating pharmacies lawfully on the commencement of the section to be holders of a licence to operate a pharmacy. \textit{New section 114B} provides that \textit{new section 114A} expires 1 year after the date of its commencement.

\textbf{Regulatory impact and business compliance cost statement}

\textit{Statement of the problem and need for action}

With the exception of the Medical Practitioners Act 1995, the following current 11 regulatory statutes are out of date. They are, in many cases, inflexible, prescriptive, and do not meet the needs of either consumers or the relevant health professions.

Chiropractors Act 1982
Dental Act 1988 (dentists, dental technicians, clinical dental technicians)
Dietitians Act 1950
Medical Auxiliaries Act 1966 (medical laboratory technologists, medical radiation technologists, podiatrists)
Medical Practitioners Act 1995
Nurses Act 1977 (which includes midwives)
Occupational Therapy Act 1949
Optometrists and Dispensing Opticians Act 1976
Pharmacy Act 1970
Physiotherapy Act 1949
Psychologists Act 1981.

The repeal of the Pharmacy Act 1970 provides an opportunity to review the existing provisions relating to the safety of medicines and to allow pharmacists greater flexibility to adapt to the changing needs of the health sector.

A number of problems with the current complaints mechanisms for consumers of health and disability services indicate a need to improve the simplicity of complaints processes.

**Statement of public policy objective**

The public policy objectives are to—

- protect the health and safety of the public by providing for mechanisms to ensure that health practitioners are competent to practise and that medicines necessary to maintain and improve health status are distributed in a secure environment; and

- provide co-ordinated, timely, and transparent processes for handling complaints about health practitioners.

**Statement of options for achieving the desired outcome**

**Registration regime**

*Non-regulatory measures*

The alternative to statutory regulation for the health professions is reliance on industry self-regulation. It is considered that this would
not be sufficient to ensure that the public, rather than professional, interest is served.

Regulatory measures
There are 2 statutory regulatory options identified for updating the existing occupational regulatory statutes, as follows:

• amending the existing Acts individually; or
• introducing a single Act to provide a framework for all health professions where there is a risk of harm to the public.

Both options would achieve the objective. However, the second option provides the following additional benefits:

• consistency—a uniform approach could be taken to all professions, and changes would automatically apply to all professions:
• flexibility—enabling greater flexibility to meet changing skill sets, roles, diagnostic regimes, and treatments:
• transparency—enabling easy identification of which professions are regulated and how:
• simplification of regulating new professions—new professions could be regulated without the need for new legislation.

Medicines
Non-regulatory measures
Due to the potential for harm resulting from misuse of medicines, there are no non-regulatory options for the safe provision of medicines.

Regulatory measures
There are also 2 options identified for ensuring that the public has access to medicines in a safe environment, as follows:

• to retain the current regime of not allowing non-pharmacists to own pharmacies and allowing pharmacists to own only 1 pharmacy; or
• to modify the current regime by introducing a licensing regime that is based on the licensing regime for manufacturers, wholesalers, and packers of medicines and the current registration process for retail pharmacies by allowing—
• pharmacists to hold a licence to operate up to 5 pharmacies:
• non-pharmacists to own up to 49% of a pharmacy:
• non-pharmacists to hold a licence to operate a pharmacy where health services or access to health services would be improved.

The second option provides greater collective benefits, including—
• facilitating the integration of pharmacy services with other primary health care providers in line with the Primary Health Care Strategy:
• a more competitive pharmacy retail market that may reduce the costs of medicines to the consumer:
• more diversity in the delivery of pharmacy services, particularly in remote areas:
• access to a wider source of capital to establish new pharmacies and introduce new technologies.

Complaints

Non-regulatory measures
A statutory process is necessary to ensure fairness and transparency to both complainants and practitioners.

Regulatory measures
Statutory requirements for complaints procedures will ensure a fair, co-ordinated, and consistent approach to consumer complaints about health practitioners, including—
• more timely investigation and resolution of complaints:
• improved information sharing and co-ordination between the Health and Disability Commissioner, Accident Compensation Corporation, registration authorities, and the Ministry of Health:
• enhanced protection for the public, because issues of concern regarding the competence of health professionals or public safety should be identified and resolved by the appropriate agency.
Statement of the net benefit of the proposal

The benefits of the proposal are—

- reduced risk of harm, and possibly of death, from the incompetent practice of health practitioners. These benefits are impossible to quantify:
- a more flexible and physically secure regime for the distribution of medicines that will result in greater efficiencies.

The costs of improved regulatory requirements are estimated below.

Registration process

Statutory regulation of health professionals is already in place. The registration authorities currently carry out similar functions to those proposed in the new legislation. The direct costs of administering the functions of the current registration authorities, including disciplinary procedures, are met by annual registration fees. These include—

- $45 for nurses (50,155 with current practising certificate):
- $485 for medical practitioners (10,096 with current practising certificate):
- $450 for podiatrists (250 hold an annual licence):
- $475 for dentists (1,600 with current practising certificate):
- $540 for pharmacists (2,300 registered full-time pharmacists).

The one significant change (for professions other than the medical profession) is the requirement that registration authorities must have mechanisms in place to ensure the ongoing competence of practitioners. The medical practitioners’ fee already meets the cost of competency reviews under the Medical Practitioners Act 1995. Other registration authorities, however, may incur additional costs by the new provisions relating to ongoing competence. Obviously, members of the smaller professions will have greater difficulty in absorbing the additional costs than will the larger groups, such as the nurses. It costs the Medical Council, on average, $3,700 to review a practitioner’s competence. This is likely to be at the higher end of the average cost because of the complexity of a medical practitioner’s scope of practice.

Some current registration authorities believe they will not have to increase fees, at least in the short term, because of their accumulated
level of reserves, but others anticipate a significant rise. Any increase in the annual fee will vary depending on the number of registered practitioners and the processes put in place to ensure the ongoing competence of practitioners. For example, the Nursing Council estimates a fee increase of $10 to $20, while the Dental Council anticipates an increase of at least $210. The Pharmaceutical Society estimates that there could be a 50% increase in fees to cover the changes in the pharmaceutical sector. New professions could face annual fees of up to $1,200.

Registration authorities will pass any increased costs on to the professions by way of increased fees. In turn, self-employed practitioners may pass costs on to consumers by increased prices and consultancy fees. Employers who pay the registration fees of the health practitioners they employ may also pass on the costs in prices. Some of these costs will be met by the Crown (there will be in excess of 70,000 health practitioners registered under the Bill, of whom approximately 33,000 are employed by District Health Boards).

Safety of medicines
The current registration and auditing regime for retail pharmacies is similar to a licensing regime. Currently, owners pay an annual pharmacy registration fee of $675. This does not fully cover the costs of auditing and monitoring pharmacies.

The Ministry of Health and District Health Boards contribute $500 to each audit to ensure compliance with safety regulations.

To bring the new licensing regime into line with the principle that the costs of regulation are met by the licensee or registered person, it is proposed that the licensee meet the full cost of administering the new system. It is estimated that the annual fee will be of the order of $1,125.

Complaints and discipline
Costs under the Bill
Currently, each registration authority meets the costs of their complaints and disciplinary processes. This will continue under the Bill. The fixed administration costs of the Medical Practitioners Disciplinary Tribunal (MPDT) are met by the Medical Council of New Zealand from a disciplinary levy, and amount to $250,000 to $275,000 per annum.
The costs of hearings amount to $300,000 to $500,000 per annum depending on the number of hearings. A 2-day hearing in Auckland involving a medical practitioner could cost in excess of $17,000. This includes $1,250 per sitting day for the Chair, $650 per sitting day for 3 medical practitioners and the layperson on the Tribunal panel (with additional work done outside the sittings days at $81.25 per hour), and preparation time for tribunal members of $325. Other costs include the legal assessor, hearing, legal counsel, and stenographer fees, and travel, accommodation, and venue costs.

By contrast, daily fees for tribunal members in other health professions range from $270 to $560 and from $430 to $896 for the Chair. It is estimated that the total costs, including a proportion of the administration costs, may amount to up to $20,000 per day, based on the administration and hearing costs of the MPDT. This will vary according to the complexity of the case and the length and location of the hearing, but is likely to be significantly higher for some professions than the costs of their current processes. In some cases, it could double.

The actual costs of the hearing and an overhead charge to cover administration expenses would be charged to the relevant hearing and recovered from the registration authority or the practitioner concerned.

Not all complaints may result in full disciplinary procedures. There is discretion for the Health and Disability Commissioner to refer a complaint to the appropriate registration authority if he or she considers that the registration authority is the appropriate body to resolve the complaint, for example, in cases involving the competence or ethical behaviour of a health practitioner. The Bill contains processes for the registration authorities to follow in these circumstances.

*Costs to the Health and Disability Commissioner*

There are no costs to the Crown or to health and disability providers as a result of the proposed amendments.

**Indirect costs**

As well as the direct costs of administering the regulatory regime, regulation imposes indirect costs on the sector. For example, the provisions in the Bill for competency reviews and programmes, may
result in professionals undertaking more training programmes; if the regulation unnecessarily restricts who may practise, there could be labour shortages leading to upward pressure on wages and prices.

**Consultation**

The Treasury, Ministries of Economic Development, Justice, Foreign Affairs and Trade, Pacific Island Affairs, Consumer Affairs, and Women’s Affairs, Departments of Labour and Prime Minister and Cabinet, State Services Commission, Te Puni Kokiri, New Zealand Police, Health and Disability Commissioner, Privacy Commissioner, and PHARMAC have been consulted and support the legislation.

The current registration authorities have been consulted and concur with the analysis of the costs and benefits.

Except for the Medical Council, which currently has a similar process to the one proposed, the registration authorities have expressed concern at the likely costs of the single disciplinary tribunal, which will be passed on to their members. Some professions that receive few complaints about their practitioners are not concerned provided all the costs of the tribunal are met by the professions involved in hearings. Others are concerned that—

- the new process will be less efficient than the processes they already operate, thus incurring more costs; and
- the size of the tribunal (5 members) will increase daily operational costs and the length of time to complete a hearing.

**Business compliance cost statement**

**Sources of compliance costs**

Because processes for collecting registration fees are already in place there will be no additional business compliance costs.

**Parties likely to be affected**

The parties likely to be affected are—

- all self-employed health practitioners registered under the Bill; and
- organisations who employ registered health practitioners; and
- pharmacies.
Estimated compliance costs of the proposal
Nil.

Longer-term implications of the compliance costs
There will be no significant additional longer-term compliance costs.

Level of confidence of compliance cost estimates
N/A.

Key compliance cost issues identified in consultation
Nil.

Overlapping compliance requirements
Nil.

Steps taken to minimise compliance costs
The major impact of the new legislation is on the registration authorities.
In order to allow time for the registration authorities to prepare for the new provisions, the Act will not come into force until 1 year after enactment.
The registration authorities have been closely involved in the development of the legislation and are already sharing information and, in some cases, administration costs, to improve the efficiency of implementation and ongoing compliance.
Hon Annette King

Health Practitioners Competence
Assurance Bill

Government Bill

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- Committees may appoint legal advisers and investigators
- Information to be given to practitioner and complainant
- Practitioners and complainants may request changes in membership of complaints investigation committee
- Complaints investigation committees may receive evidence
- Powers to call for information or documents
- Compliance with requirement to provide information or document
- Complaints investigation committees may recommend suspension of practitioner’s practising certificate if public at risk
- Recommendations and determinations of complaints investigation committee
- Procedure after committee makes recommendation or determination
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The Parliament of New Zealand enacts as follows:

1 Title
This Act is the Health Practitioners Competence Assurance Act 2002.
Part 1
Preliminary and key provisions

Preliminary provisions

2 Commencement
(1) Except as provided in this section, this Act comes into force 1 year after the date on which it receives the Royal assent.
(2) This section and sections 1, 5, 50 to 60, and 169 come into force on the 28th day after the date on which this Act receives the Royal assent.

3 Purpose of Act
(1) The principal purpose of this Act is to protect the health and safety of members of the public by providing for mechanisms to ensure that health practitioners are competent and fit to practise their professions.
(2) This Act seeks to attain its principal purpose by providing, among other things,—
   (a) for a consistent accountability regime for all health professions; and
   (b) for the determination for each health practitioner of the scope of practice within which he or she is competent to practise; and
   (c) for systems to ensure that no health practitioner practises in that capacity outside his or her scope of practice; and
   (d) for power to restrict specified activities to particular classes of health practitioner to protect members of the public from the risk of serious or permanent harm; and
   (e) for additional health professions to become subject to this Act.

4 Outline
(1) Part 1 is concerned with preliminary matters, such as the definitions of terms used in the Act. It also contains certain key provisions. These include provisions that—
   (a) prohibit persons who are not qualified to be registered as health practitioners of a profession from claiming or implying to be health practitioners of that profession:
(b) prohibit persons other than registered health practitioners of a profession with current practising certificates from claiming to be practising the profession;

(c) prohibit health practitioners from practising their professions without current practising certificates or from practising their professions outside their scopes of practice;

(d) authorise the making of Orders in Council restricting the provision of the whole or part of certain health services to health practitioners who are permitted to perform those activities by their scopes of practice.

(2) **Part 2** sets out the conditions that a health professional must meet in order to practise as a health practitioner under this Act. The Part includes provisions that—

(a) require every health practitioner to be registered for a scope of practice:

(b) require applicants for registration—
   (i) to have the qualifications prescribed by the responsible authority for the applicant’s intended scope of practice; and
   (ii) to be competent to practise within that scope of practice; and
   (iii) to be fit for registration, which includes the ability to communicate effectively for the purposes of practising within that scope of practice:

(c) stop a health practitioner from practising without a current practising certificate:

(d) stop the authority, in the case of applications for practising certificates referred to it by its Registrar, from approving those applications unless the authority is satisfied that the health practitioners concerned are competent to practise in accordance with their scopes of practice.

(3) **Part 3** provides mechanisms for improving the competence of health practitioners and for protecting the public from health practitioners who practise below the required standard of competence or who are unable to perform the required functions. These mechanisms include competence reviews, competence programmes, recertification programmes, medical examinations, and protected quality assurance activities. The Part also contains provisions that—
(a) allow health practitioners to notify the responsible authority if they have reason to believe that another health practitioner may pose a risk of harm to the public by practising below the required standard of competence:

(b) enable the responsible authority to order the interim suspension of a health practitioner’s practising certificate if there are reasonable grounds for believing that the practitioner poses a risk of harm to the public by practising below the required standard of competence:

(c) enable the responsible authority to order the suspension of a health practitioner if the authority is satisfied that the practitioner is unable to perform the functions required for the practice of his or her profession because of some mental or physical condition or if the practitioner has not complied with a requirement for a medical examination:

(d) enable the Minister to confer protection on quality assurance activities conducted to improve the practices or competence of health practitioners and so protect the confidentiality of information that becomes known solely as a result of those activities and give those engaged in those activities immunity from civil liability.

(4) **Part 4** provides for the establishment by each authority of complaints investigation committees to investigate complaints referred to the authority by the Health and Disability Commissioner. Complaints investigation committees are also required to investigate the circumstances of certain offences committed by health practitioners. The Part also establishes a single tribunal, called the Health Practitioners Disciplinary Tribunal, to hear and determine charges brought against practitioners by the Health and Disability Commissioner or by a complaints investigation committee.

(5) **Part 5** provides for appeals to a District Court against the decisions of an authority, and for appeals to the High Court against decisions of the Health Practitioners Disciplinary Tribunal.

(6) **Part 6** continues certain registration authorities as authorities under the Act. It also establishes the Midwifery Council, the
Osteopathic Council, and the Pharmacy Council. The Part also contains provisions that—

(a) enable additional health professions to be designated under the Act and authorities to be appointed for such additional professions:

(b) set out the functions of authorities. These include—
   (i) prescribing the qualifications required for scopes of practice:
   (ii) authorising the registration of health practitioners:
   (iii) reviewing and maintaining the competence of health practitioners:
   (iv) setting standards of clinical competence, cultural competence, and ethical conduct:
   (v) setting programmes to ensure the ongoing competence of health practitioners:

(c) provide for the membership of authorities:

(d) confer certain powers on the Minister in relation to authorities:

(e) require authorities to maintain public registers of health practitioners.

(7) **Part 7** contains (in **subpart 1**) miscellaneous provisions, including provisions of general application (such as, for example, a provision on the way notice is to be given under the Act), consequential amendments, repeals, savings, and (in **subpart 2**) transitional provisions, including provisions for the continued recognition of the registration of health practitioners who were, immediately before the commencement of **subpart 2**, registered under a health-registration statute.

(8) This section is only a guide to the general scheme of this Act.

5 **Interpretation**

(1) In this Act, unless the context otherwise requires,—

   **Accident Compensation Corporation** means the corporation of that name continued by section 259 of the Injury Prevention, Rehabilitation, and Compensation Act 2001

   **applicant** means a person who makes an application under this Act
authority means a body corporate appointed, by or under this Act, as the body that is, in accordance with this Act, responsible for the registration and oversight of practitioners of a particular health profession

condition includes a restriction or limit

former health practitioner means a person who was, but no longer is, registered with an authority

Health and Disability Commissioner means the Health and Disability Commissioner appointed under the Health and Disability Commissioner Act 1994

health practitioner or practitioner means a person who is, or is deemed to be, registered with an authority as a practitioner of a particular health profession

health profession or profession means the practice of a profession in respect of which an authority is appointed by or under this Act

health service means a service provided for the purpose of assessing, improving, protecting, or managing the physical or mental health of individuals or groups of individuals

layperson means a person who is neither registered nor qualified to be registered as a health practitioner

medical officer of health has the same meaning as in section 2(1) of the Health Act 1956

medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) as a practitioner of the profession of medicine

mental or physical condition means any mental or physical condition or impairment; and includes, without limitation, a condition or impairment caused by alcohol or drug abuse

Minister means the Minister of Health

practise a profession or practise means to perform services that fall within the description of a health profession

practising certificate means an annual practising certificate issued under section 25(3) or section 28(4) or an interim practising certificate issued under section 30

prescribed qualification means a qualification for the time being prescribed under section 11 for a scope of practice
professional peer, in relation to a health practitioner, is a person who is registered with the same authority with which the health practitioner is registered

register, in relation to an authority, means the register maintained by the authority under section 132

Registrar, in relation to an authority, means the Registrar of the authority appointed under section 147

required standard of competence, in relation to a health practitioner, means the standard of competence reasonably to be expected of a health practitioner practising within that health practitioner’s scope of practice

responsible authority, in relation to—
(a) a health profession, means the authority appointed in respect of the profession:
(b) a health practitioner, an applicant, or a former health practitioner, means the authority responsible for the registration of practitioners of the profession that the person concerned practises or seeks to practise or has practised

scope of practice—
(a) means any health service that forms part of a health profession and that is for the time being described under section 10; and
(b) in relation to a health practitioner of that profession, means 1 or more of such health services that the practitioner is, under an authorisation granted under section 20, permitted to perform, subject to any conditions for the time being imposed by the responsible authority

Tribunal means the Health Practitioners Disciplinary Tribunal established by section 80.

(2) A reference in this Act to an authority responsible for a profession is a reference to the authority that is appointed in respect of the profession concerned.

(3) In Parts 4 and 5, health practitioner includes a former health practitioner.

6 Act binds the Crown
This Act binds the Crown.
Key provisions

7 Unqualified person must not claim to be health practitioner

(1) A person may only use names, words, titles, initials, abbreviations, or descriptions stating or implying that the person is a health practitioner of a particular kind if the person is qualified to be registered as a health practitioner of that kind.

(2) No person may claim to be practising a profession as a health practitioner of a particular kind or do anything that is calculated to suggest that the person practises or is willing to practise a profession as a health practitioner of that kind unless the person—
   (a) is a health practitioner of that kind; and
   (b) holds a current practising certificate as a health practitioner of that kind.

(3) No person may, in relation to another person, do anything that the other person is prohibited by subsection (1) or subsection (2) from doing in relation to that other person.

(4) Every person commits an offence punishable on summary conviction by a fine not exceeding $10,000 who contravenes this section.

Compare: 1995 No 95 ss 9(1), 10(1)

8 Health practitioners must not practise outside scope of practice

(1) Every health practitioner who practises the profession in respect of which he or she is registered must have a current practising certificate issued by the responsible authority.

(2) No health practitioner may perform a health service that forms part of a scope of practice of the profession in respect of which he or she is registered unless he or she—
   (a) is permitted to perform that service by his or her scope of practice; and
   (b) performs that service in accordance with any conditions stated in his or her scope of practice.

(3) Nothing in subsection (1) or subsection (2) applies to a health practitioner who performs health services—
   (a) in an emergency; or
   (b) as part of a course of training or instruction.
(4) Every person commits an offence punishable on summary conviction by a fine not exceeding $10,000 who contravenes subsection (1) or subsection (2).

9 Certain activities restricted to particular health practitioners

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister,—

(a) declare an activity that constitutes or forms part of a health service to be a restricted activity; and

(b) entitle an authority appointed in respect of a health profession to include that activity in the scope of practice of any health practitioner of that profession who, in the opinion of the authority, is qualified and competent to perform that activity.

(2) The Minister may recommend the making of an Order in Council under this section only if satisfied that members of the public risk serious or permanent harm if the activity is performed by persons other than by health practitioners—

(a) who are registered with the authority to be entitled to include the activity in scopes of practice by the order; and

(b) who are permitted by their scopes of practice to perform that activity.

(3) No person may perform, or state or imply that he or she is willing to perform, an activity that, by an Order in Council made under this section, is declared to be a restricted activity unless the person is a health practitioner—

(a) who is registered with an authority that is entitled to include the activity in scopes of practice; and

(b) whose scope of practice includes that activity.

(4) Despite subsection (3), a person does not contravene that subsection by performing, in the course of training or instruction, an activity under the supervision of a health practitioner of the kind described in that subsection.

(5) Every person commits an offence punishable on summary conviction by a fine not exceeding $10,000 who contravenes subsection (3).

(6) An Order in Council under this section is a regulation for the purposes of the Regulations (Disallowance) Act 1989.
Part 2
Registration of, and practising certificates for, health practitioners

Prescribed scopes of practice, qualifications, and experience

10 Authorities must specify scopes of practice
(1) Each authority appointed in respect of a profession must, by notice published in the Gazette, describe the contents of the profession in terms of 1 or more scopes of practice.
(2) A scope of practice may be described in any way the authority thinks fit, including, without limitation, in any 1 or more of the following ways:
   (a) by reference to a name or form of words that is commonly understood by persons who work in the health sector;
   (b) by reference to an area of science or learning;
   (c) by reference to tasks commonly performed;
   (d) by reference to illnesses or conditions to be diagnosed, treated, or managed.

11 Qualifications must be prescribed
(1) Each authority must, by notice published in the Gazette, prescribe the qualification or qualifications for every scope of practice that the authority describes under section 10.
(2) In prescribing qualifications under subsection (1), an authority may designate 1 or more of the following as qualifications for any scope of practice that the authority describes under section 10:
   (a) a degree or diploma of a stated kind from an educational institution accredited by the authority, whether in New Zealand or abroad, or an educational institution of a stated class, whether in New Zealand or abroad:
   (b) the successful completion of a degree, course of studies, or programme accredited by the authority:
   (c) a pass in a specified examination or any other assessment set by the authority or by another organisation approved by the authority:
   (d) registration with an overseas organisation that performs functions that correspond wholly or partly to those performed by the authority:
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(e) experience in the provision of health services of a particular kind, including, without limitation, the provision of such services at a nominated institution or class of institution, or under the supervision or oversight of a nominated health practitioner or class of health practitioner.

(3) A notice under subsection (1) may state that 1 or more qualifications or experience of 1 or more kinds, or both, is required for each scope of practice that the authority describes under section 10.

(4) An authority must monitor every New Zealand educational institution that it accredits for the purpose of subsection (2)(a), and may monitor any overseas educational institution that it accredits for that purpose.

12 Principles guiding the prescribing of qualifications
In prescribing qualifications under section 11, each authority must be guided by the following principles:
(a) the qualifications must be necessary to protect members of the public; and
(b) the qualifications may not unnecessarily restrict the registration of persons as health practitioners; and
(c) the qualifications may not impose undue costs on health practitioners or on the public.

13 Provisions relating to notices under sections 10 and 11
(1) An authority may at any time, by notice in the Gazette, amend, revoke, or replace a notice under section 10 or section 11.

(2) Each authority must ensure that an up-to-date version of each notice that the authority has published under section 10 or section 11 is—
(a) available on the Internet; and
(b) available at the office of the authority during business hours, so that members of the public may—
(i) inspect the notice free of charge; or
(ii) obtain a photocopy of the notice for a reasonable fee.

(3) Each notice published under section 10 or section 11 is a regulation for the purposes of the Regulations (Disallowance) Act
1989 but is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

Registration of practitioners and authorisations of scopes of practice

14 Requirements for registration of practitioners

(1) The authority appointed in respect of a health profession may register an applicant as a health practitioner permitted to practise within a scope of practice if the applicant—
(a) is fit for registration in accordance with section 15; and
(b) has the qualifications that are prescribed, under section 11, for that scope of practice; and
(c) is competent to practise within that scope of practice.

(2) An authority may, for the purposes of subsection (1)(b), treat any overseas training or experience as a prescribed qualification if, in the opinion of the authority, that training or experience is equivalent to, or as satisfactory as, a prescribed qualification.

15 Fitness for registration

No applicant for registration may be registered as a health practitioner of a health profession if—
(a) he or she does not satisfy the responsible authority that he or she is able to communicate effectively for the purposes of practising within the scope of practice in respect of which the applicant seeks to be, or agrees to be, registered; or
(b) he or she does not satisfy the responsible authority that he or she has a reasonable ability to comprehend English; or
(c) he or she has been convicted by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 3 months or longer, and he or she does not satisfy the responsible authority that the offence does not reflect adversely on his or her fitness to practise as a health practitioner of that profession; or
(d) the responsible authority is satisfied that the applicant is unable to perform the functions required for the practice of that profession because of some mental or physical condition; or
(e) he or she is the subject of professional disciplinary proceedings in New Zealand or in another country, and he or she does not satisfy the responsible authority that those proceedings do not reflect adversely on his or her fitness to practise as a health practitioner of that profession; or

(f) he or she is under investigation, in New Zealand or in another country, in respect of any matter that may be the subject of professional disciplinary proceedings, and he or she does not satisfy the responsible authority that that investigation does not reflect adversely on his or her fitness to practise as a health practitioner of that profession; or

(g) he or she—
   (i) is subject to an order of a professional disciplinary tribunal (whether in New Zealand or in another country) or to an order of an authority or of a similar body in another country; and
   (ii) does not satisfy the responsible authority that that order does not reflect adversely on his or her fitness to practise as a health practitioner of that profession.

Compare: 1995 No 95 s 13

16 Applications for registration of health practitioners and authorisations of scopes of practice

(1) This section applies to every application by—
   (a) a person who applies to be registered as a health practitioner permitted to practise within a scope of practice; and
   (b) every health practitioner who applies for a change in the authorisation of his or her scope of practice.

(2) Every application to which this section relates must be made to the responsible authority, and must—
   (a) be made in a form, and contain the information, that is determined by the authority; and
   (b) be accompanied by—
      (i) an indication of the scope of practice within which the applicant proposes to practise, or, as the case requires, an indication of the changes the
applicant wishes to have made to his or her existing scope of practice; and
(ii) any evidence in support of the application that is required by the authority; and
(iii) the fee (if any) set by the authority.

(3) Subject to subsection (4), on receipt by the Registrar of a duly completed application for registration made in accordance with this section, the Registrar must, as soon as reasonably practicable, submit the application to the authority for its consideration.

(4) If any fine imposed on a health practitioner under section 96, or any costs payable under an order made under that section, or any costs or expenses payable under an order made under section 88(4), remains unpaid, the Registrar may decline to do any act, or to permit any act to be done, in relation to the registration of that health practitioner until the fine or costs or expenses are paid.

(5) If, in accordance with subsection (4), the Registrar declines to do any act, or to permit any act to be done, in relation to the registration of a health practitioner, that health practitioner may, by application in writing made to the authority, request the authority to review the Registrar’s decision, and, on any such application,—
(a) the authority must, as soon as practicable, review the Registrar’s decision, and must either confirm or revoke that decision; and
(b) the Registrar’s decision has effect, or ceases to have effect, accordingly.

17 Applications for re-registration
If, under section 97, the Tribunal has imposed any conditions that must be satisfied by a person before he or she may apply to have his or her name restored to the register, the authority may not authorise the registration of that person unless the authority is satisfied that the person has satisfied those conditions.

Compare: 1995 No 95 s 35
Authority may obtain information about application

(1) An authority must consider a duly completed application for registration or for a change in the authorisation of a scope of practice as soon as reasonably practicable after receiving it.

(2) The authority may, if it thinks fit, receive any information from, or question, the applicant, or any other person, in respect of an application being considered by the authority; for the purposes of any such questioning, the authority may administer an oath to any person.

(3) The authority may, if it thinks fit, require—
   (a) any person to verify by statutory declaration any statement made by the person in respect of an application being considered by the authority; and
   (b) the applicant to provide the authority with a certificate from a nominated institute or body that the applicant is a person of good standing with the institute or body.

(4) The authority may, before authorising the registration of an applicant or, as the case requires, authorising a change to the applicant’s scope of practice, require the applicant to take and pass an examination or assessment that is set or recognised by the authority, for the purpose of satisfying the authority in respect of either or both of the following:
   (a) that the applicant is competent to practise, in New Zealand, within the scope of practice in respect of which the applicant seeks to be, or agrees to be, registered:
   (b) that the applicant has a reasonable ability to comprehend English.

Compare: 1995 No 95 s 34(1)–(4)

Authority must inform applicant that it proposes to depart from indicated scope of practice or to decline application

(1) In assessing an application under section 16, an authority must consider whether the applicant is qualified and competent to practise within the indicated scope of practice submitted by the applicant under section 16(2)(b)(i).

(2) If the scope of practice that an authority proposes to authorise for an applicant differs from that indicated by the applicant under section 16(2)(b)(i), whether in respect of conditions to be
stated or otherwise, the authority must inform the applicant why it proposes to authorise a different scope of practice.

(3) If, in assessing an application under section 16, the authority proposes to decline the application, the authority must inform the applicant why the authority proposes to decline the application.

(4) When the authority informs an applicant under subsection (2) or subsection (3), the authority must also give the applicant—

(a) a copy of any information on which the authority relies in proposing to authorise a different scope of practice or to decline the application; and

(b) a reasonable opportunity to make written submissions and be heard, either personally or by his or her representative, in respect of the matter.

(5) Subsection (4)(a) is subject to section 150.

Compare: 1995 No 95 s 34(5)

20 Authority may authorise scope of practice or changed scope of practice

(1) The responsible authority may authorise a scope of practice or, as the case requires, a change to the scope of practice within which a health practitioner is permitted to practise.

(2) If an applicant is, under section 19(4)(b), entitled to an opportunity to make written submissions and be heard, an authorisation under subsection (1) may be determined only after the applicant has had that opportunity.

21 Contents of authorisation of scope of practice

(1) An authorisation, under section 20, of a scope of practice must state the scope of practice by describing the health services that the applicant is, subject to any conditions included in the authorisation, permitted to perform.

(2) An authorisation, under section 20, of a change to a scope of practice must state the change involved by reference to 1 or more of the following matters:

(a) the health services that the applicant is permitted to perform:

(b) the cancellation or variation of any condition that forms part of the applicant’s scope of practice:
(c) the inclusion in the applicant’s scope of practice of any new conditions.

(3) Any conditions included in a scope of practice under subsection 21(1) must be of a kind that the authority considers are required to ensure the competent practice of the applicant, and, without limitation, may include any of the following:

(a) a condition that the applicant practise subject to the supervision of 1 or more nominated health practitioners or health practitioners of a stated class:

(b) a condition that the applicant practise subject to the oversight of 1 or more nominated health practitioners or health practitioners of a stated class:

(c) a condition that the applicant not perform any task of a stated kind or that he or she perform those tasks only in stated circumstances:

(d) a condition that the applicant practise only in a stated capacity, for example, as an employee of a nominated person or a person of a stated class:

(e) a condition that the applicant practise in association with 1 or more nominated persons or persons of a stated class:

(f) a condition that the applicant practise only for a specified period:

(g) a condition that the applicant attain 1 or more further stated qualifications or attain further experience of a stated kind:

(h) any condition that the authority believes on reasonable grounds to be necessary to protect the safety of the public.

22 Assessment of practitioners practising under supervision
If an authorisation of a scope of practice requires the inclusion in the scope of practice of a condition referred to in section 21(3)(a) that the applicant practise under supervision, the authorisation may also include the following conditions in the scope of practice:

(a) that 1 or more of the health practitioners, under whose supervision the applicant practises, assess, and report to the authority at intervals specified by the authority (whether generally or in relation to any particular case
or class of case) on, the performance of the applicant; and

(b) that each of those reports set out a recommendation as to whether the condition requiring the applicant to practise subject to supervision should continue to apply.

Compare: 1995 No 95 s 16(4)

23 Decisions of authority on registration

(1) As soon as practicable after the responsible authority authorises the scope of practice within which an applicant is permitted to practise, the Registrar must register the applicant as a health practitioner by entering in the register the information about the applicant required under section 134(1).

(2) The Registrar must promptly notify an applicant who has been registered of the applicant’s registration, the scope of practice in respect of which he or she has been registered, and the reasons for any conditions included in the applicant’s scope of practice.

(3) If the authority, after considering an application for registration, decides that the applicant should not be registered, the Registrar must promptly notify the applicant of the decision and the reasons for it.

Compare: 1995 No 95 s 36

24 Decisions of authority on change to scope of practice

(1) As soon as practicable after the responsible authority authorises a change in the scope of practice within which a health practitioner is permitted to practise, the Registrar must enter the change in the register and promptly notify the health practitioner of the change and of the reasons for any conditions included in the applicant’s scope of practice.

(2) If the authority, after considering an application for a change to a scope of practice, decides that the change should not be authorised, the Registrar must promptly notify the health practitioner of the decision and the reasons for it.


Practising certificates

25 Applications for annual practising certificate

(1) Every health practitioner who wishes to obtain an annual practising certificate must apply to the Registrar of the responsible authority in accordance with this section.

(2) Every application for an annual practising certificate must—
   (a) be in the form, and include the information, that is determined by the authority, including a statement specifying whether or not the applicant is, at the date of the application, practising the profession in respect of which the authority is appointed; and
   (b) be accompanied by the fee (if any) set by the authority.

(3) If, after receiving a duly completed application under this section, the Registrar considers that the application is not required to be referred to the authority, the Registrar must issue to the applicant an annual practising certificate.

(4) Despite subsection (3), if any fine imposed on a health practitioner under section 96, or any costs payable under an order made under that section, or any costs or expenses payable under an order made under section 88(4), remains unpaid, the Registrar may decline to issue a practising certificate to that practitioner until the fine or costs or expenses are paid.

(5) If, under subsection (4), the Registrar declines to issue a practising certificate to a health practitioner, the practitioner may, by written application to the authority, request the authority to review the Registrar’s decision, and, on any such application,—
   (a) the authority must, as soon as practicable, review the Registrar’s decision, and must either confirm or revoke that decision; and
   (b) the Registrar’s decision has effect, or ceases to have effect, accordingly.

Compare: 1995 No 95 s 51

26 Restrictions on issue of annual practising certificate

(1) The Registrar must refer an application for an annual practising certificate to the authority concerned if the Registrar believes on reasonable grounds that—
   (a) the applicant has, at any time, failed to maintain the required standard of competence; or
(b) the applicant has failed to fulfil, or has failed to comply with, a condition included in the applicant’s scope of practice; or

(c) the applicant has not satisfactorily completed the requirements of any competence programme that he or she has been ordered by the authority to complete; or

(d) the applicant has not held an annual practising certificate of a kind sought by the application within the 3 years immediately preceding the date of the application; or

(e) the applicant has not, within the 3 years immediately preceding the date of application, lawfully practised the profession to which the application relates.

(2) The Registrar or the authority may decline to issue an annual practising certificate if satisfied that any information included in the application is false or misleading.

(3) Before the Registrar or the authority decides to decline to issue an annual practising certificate under subsection (2), the Registrar or, as the case requires, the authority must—

(a) inform the health practitioner concerned why the Registrar or, as the case requires, the authority believes that the information is false or misleading; and

(b) give the health practitioner a reasonable opportunity to make written submissions and to be heard on the question, either personally or by his or her representative.

27 Procedure for considering applications

(1) Each authority must consider an application for an annual practising certificate referred to it by a Registrar as soon as reasonably practicable after receiving it.

(2) If the authority proposes to decline an application for an annual practising certificate, or to include or vary conditions in the health practitioner’s scope of practice, it must give the applicant—

(a) a notice containing enough particulars to inform the applicant clearly of the substance of the grounds on which the authority proposes to decline the application, or to include or vary any conditions; and
(b) a copy of any information on which the authority relies in proposing to decline the application, or to include or vary any conditions; and
(c) a reasonable opportunity to make written submissions and be heard, either personally or by his or her representative, in respect of the application.

(3) **Subsection (2)(b)** is subject to **section 150**.

Compare: 1995 No 95 s 53

28 **Decisions of authority as to practising certificate and scope of practice**

(1) When an application for an annual practising certificate has been referred to the authority concerned by the Registrar, the authority must not decide that the certificate should be issued unless it is satisfied that the applicant meets the required standard of competence.

(2) In order to satisfy the criterion stated in **subsection (1)**, the authority may include new conditions in the applicant’s scope of practice or may vary existing conditions in that scope of practice.

(3) The authority, after considering any application for an annual practising certificate, may decide that the applicant should be issued with an annual practising certificate, either with changes, determined under **subsection (2)**, to the applicant’s scope of practice or without such changes.

(4) As soon as practicable after the authority makes a decision under **subsection (3)**, the Registrar must—
(a) issue the certificate to the applicant; and
(b) notify the applicant of the reasons for any conditions included in the health practitioner’s scope of practice; and
(c) make any necessary amendments to the registration of the health practitioner’s scope of practice.

(5) The authority, after considering an application for an annual practising certificate, may decide that—
(a) the applicant should not be issued with an annual practising certificate until the applicant has fulfilled 1 or more conditions determined by the authority; or
(b) the applicant should not be issued with an annual practising certificate.
(6) As soon as practicable after the authority makes a decision under subsection (5), the Registrar must notify the applicant of the decision and the reasons for it.

(7) If the authority declines an application for an annual practising certificate under subsection (5)(a), it may, nevertheless, order that the Registrar issue an interim practising certificate to the applicant under section 30, pending fulfilment of the conditions imposed.

Compare: 1995 No 95 s 54

29 Currency of annual practising certificate

(1) An annual practising certificate is in force for a period decided by the authority (generally or in any particular case).

(2) The period must be stated in the certificate, and must be no longer than 1 year from the date the certificate is issued.

(3) Every health practitioner who applies for a renewal of an annual practising certificate under section 25(1) is to be treated as the holder of that certificate from the date when the authority receives the application until the date it is issued or he or she is sooner notified by the Registrar that it will not be issued.

Compare: 1995 No 95 s 55(3)

30 Interim practising certificate

(1) If, under section 28(7), an authority orders the Registrar of the authority to issue to an applicant for an annual practising certificate an interim practising certificate, the Registrar must, on payment by the applicant of the fee (if any) set by the authority, issue the interim practising certificate, which—

(a) is in force for a period stated in the certificate that may not be longer than 4 months after the date of its issue or any extension; and

(b) is subject to any conditions that the authority specifies.

(2) The authority may at any time order the Registrar to extend an issued interim certificate by a further period stated in the certificate that may not be longer than 4 months.

(3) The interim practising certificate is cancelled if, at any time during the currency of an interim practising certificate,—

(a) the holder of the certificate ceases to be registered; or

(b) an annual practising certificate is issued to the holder of the certificate.
(4) The authority may at any time order the Registrar to cancel any interim practising certificate and give notice of the cancellation, and the reasons for it, to the health practitioner concerned.

Compare: 1995 No 95 s 57

31 Scope of practice must be endorsed on practising certificates
The Registrar must endorse on every annual practising certificate or interim practising certificate issued to a health practitioner the health practitioner’s scope of practice.

Compare: 1995 No 95 s 58

32 Surrender of practising certificate
(1) This subsection applies to a person who is a health practitioner or a former health practitioner and—
   (a) whose name is removed from the register; or
   (b) whose registration or practising certificate is suspended; or
   (c) whose practising certificate is required for endorsement by the Registrar under section 31.

(2) A person to whom subsection (1) applies must, within 14 days after the date on which notice of the removal, suspension, or requirement for endorsement is given to him or her, deliver to the Registrar any current annual practising certificate or interim practising certificate that he or she holds.

(3) Every person commits an offence and is liable on summary conviction to a fine not exceeding $2,000 who, being required to comply with subsection (2), fails to comply with that subsection.

Compare: 1995 No 95 s 59

Part 3
Competence, fitness to practise, and quality assurance

33 Notification that practice below required standard of competence
(1) If a health practitioner (health practitioner A) has reason to believe that another health practitioner (health practitioner...
B) may pose a risk of harm to the public by practising below the required standard of competence, health practitioner A may give the Registrar of the authority that health practitioner B is registered with written notice of the reasons on which that belief is based.

(2) If the Health and Disability Commissioner has reason to believe that a health practitioner may pose a risk of harm to the public by practising below the required standard of competence, the Health and Disability Commissioner must promptly give the Registrar of the responsible authority written notice of the circumstances on which that belief is based.

(3) Whenever an employee employed as a health practitioner resigns or is dismissed from his or her employment for reasons relating to competence, the person who employed the employee immediately before that resignation or dismissal must promptly give the Registrar of the responsible authority written notice of the reasons for that resignation or dismissal.

(4) No civil or disciplinary proceedings lie against any person in respect of a notice given under this section by that person, unless the person has acted in bad faith.

34 Authority must notify certain persons of risk of harm to public

(1) Whenever an authority that a health practitioner is registered with has reason to believe that the practice of the health practitioner may pose a risk of harm to the public, the authority must promptly notify the following persons of the circumstances that have given rise to that belief:

(a) the Accident Compensation Corporation:

(b) the Director-General of Health:

(c) the Health and Disability Commissioner:

(d) any person who, to the knowledge of the authority, is the employer of the health practitioner.

(2) If, after giving notice under subsection (1) in respect of a health practitioner, the authority forms the view that the practice of the health practitioner never posed, or no longer poses, a risk of harm to the public, the authority must promptly notify every recipient of the notice under subsection (1) of the current position in respect of the health practitioner.
35 When authority may review health practitioner’s competence

(1) Promptly after receiving a notice of the kind described in subsection (2), an authority must make inquiries into, and may review, the competence of a health practitioner who is registered with the authority and who holds a current practising certificate.

(2) The notices referred to in subsection (1) are—
   (a) a notice of a complaints investigation committee’s recommendation under section 77(2)(a) or section 76(b), so far as that recommendation relates to competence; or
   (b) a notice given under section 33.

(3) Subsection (1) does not apply if the authority has reason to believe that a notice given under section 33 by a health practitioner is frivolous or vexatious.

(4) The responsible authority may at any time review the competence of a practitioner who holds a current practising certificate, whether or not—
   (a) there is reason to believe that the practitioner’s competence may be deficient; or
   (b) the authority receives a notice of the kind described in subsection (2).

(5) In conducting a review under this section, the authority must consider whether, in the authority’s opinion, the health practitioner’s practice of the profession meets the required standard of competence.

Compare: 1995 No 95 s 60

36 Matters to be observed in reviewing competence

(1) The form of a review under section 35 is at the authority’s discretion, but in every case the authority must give the health practitioner under review—
   (a) a notice containing sufficient particulars to inform that health practitioner clearly of the substance of the grounds (if any) on which the authority has decided to carry out the review; and
   (b) information relevant to his or her competence that is in the possession of the authority; and
(c) a reasonable opportunity to make written submissions and be heard on the matter, either personally or by his or her representative.

(2) Subsection (1)(b) is subject to section 150.

37 Orders concerning competence
(1) If, after conducting a review under section 35, the authority has reason to believe that a health practitioner fails to meet the required standard of competence, the authority may make 1 or more of the following orders:
   (a) that the health practitioner undertake a competence programme;
   (b) that 1 or more conditions be included in the health practitioner’s scope of practice;
   (c) that the health practitioner sit an examination or undertake an assessment specified in the order.

(2) The Registrar of the authority must ensure that, after the making of an order under subsection (1),—
   (a) a copy of the order is given to the health practitioner concerned within 5 working days after the making of the order; and
   (b) all administrative steps are taken to give effect to the order.

(3) An order made under subsection (1) takes effect on a date stated in the order, which, if the order is sent to the health practitioner by post, may not be earlier than 4 days after it is posted.

Compare: 1995 No 95 s 61

38 Interim suspension of health practitioner’s practising certificate pending review or assessment
(1) The responsible authority may order that the practising certificate of a health practitioner be suspended if the health practitioner—
   (a) has been, or is to be, reviewed under section 35; and
   (b) there are reasonable grounds for believing that the health practitioner poses a risk of harm to the public by practising below the required standard of competence.

(2) The authority may not make an order under subsection (1) unless it has first—
(a) informed the health practitioner concerned why it is considering the question whether his or her practising certificate should be suspended under this section; and
(b) given the health practitioner a reasonable opportunity to make written submissions and be heard on the question, either personally or by his or her representative.

(3) An order made under subsection (1) takes effect from the day on which the health practitioner receives a copy of the order or from any later date stated in the order.

(4) An order under subsection (1) ceases to have effect on the later of—
(a) the completion of the review; or
(b) the attainment of a pass in any examination or assessment specified in the order under section 37(1)(c).

39 Competence programmes
(1) For the purpose of maintaining, examining, or improving the competence of health practitioners to practise the profession in respect of which an authority is appointed, the authority may from time to time set or recognise competence programmes in respect of health practitioners who hold or apply for practising certificates.

(2) Any competence programme may be made to apply generally in respect of all such health practitioners, or in respect of a specified health practitioner, or in respect of any specified class or classes of such health practitioners.

(3) Any competence programme may require a health practitioner to do any 1 or more of the following, within a period, or at intervals, prescribed in the programme:
(a) pass any examination or assessment:
(b) complete a period of practical training:
(c) complete a period of practical experience:
(d) undertake a course of instruction:
(e) permit another health practitioner specified by the authority to examine the clinical records kept by the health practitioner in relation to his or her clients:
(f) undertake a period of supervised practice.

(4) The authority may specify a period within which the health practitioners to which a competence programme applies must comply with the requirements of the programme.
(5) The authority may exempt any health practitioner or class of health practitioner from all or any of the requirements of a competence programme.

(6) Within 20 working days after a competence programme is set or recognised by the authority, the Registrar must notify every health practitioner who is required to undertake the programme of that fact and of the details of the programme.

Compare: 1995 No 95 s 62

40 Recertification programmes
(1) For the purpose of ensuring that health practitioners are competent to practise within the scope of practice in respect of which they are registered, each authority may from time to time set or recognise recertification programmes for practitioners who are registered with the authority.

(2) A recertification programme may be made to apply generally in respect of all health practitioners, or in respect of a specified health practitioner, or in respect of a specified class or classes of health practitioner.

(3) A recertification programme may require a practitioner to do any 1 or more of the following at intervals (if any) prescribed in the programme:
   (a) pass any examination or assessment;
   (b) complete a period of practical training;
   (c) undertake a course of instruction;
   (d) permit a health practitioner specified by the authority to examine—
      (i) any or all of his or her clinical and other practices;
      (ii) any or all of his or her relations with other health practitioners;
      (iii) any or all of the clinical records kept by the practitioner in relation to his or her patients or clients;
   (e) undergo an inspection;
   (f) adopt and undertake a systematic process for ensuring that the services provided by the practitioner meet the required standard of competence.
(4) Every recertification programme must allow a reasonable time (being not less than 3 years) for a practitioner to whom it relates to comply with its requirements.

(5) The authority may exempt any health practitioner or class of health practitioner from all or any of the requirements of a recertification programme.

(6) Within 20 working days after a recertification programme is set or recognised by the authority, the Registrar must notify every health practitioner who is required to undertake the programme of that fact and of the details of the programme.

Compare: 1995 No 95 s 63

41 Health practitioners may be required to make records available
An authority that is reviewing the competence of a health practitioner or that has set a competence programme or recertification programme for a health practitioner may, for the purposes of the review or programme, inspect all or any of the clinical records of the health practitioner, and that health practitioner must make those records available for those purposes to any person duly authorised by the authority.

42 Unsatisfactory results of competence programme or recertification programme
(1) If a health practitioner who is required to complete a competence programme or a recertification programme does not satisfy the requirements of the programme, the responsible authority may make either of the following orders:
   (a) that the health practitioner’s scope of practice include any condition or conditions that the authority considers appropriate;
   (b) that the practitioner’s registration be suspended.

(2) If the authority proposes to make an order under subsection (1), it must give to the health practitioner concerned—
   (a) a notice stating—
      (i) why the authority proposes to make the order; and
      (ii) that he or she has a reasonable opportunity to make written submissions and to be heard on the
matter, either personally or by his or her representative; and
(b) a copy of any information on which the authority is relying in proposing to make the order.

(3) The notice under *subsection (2)(a)(i)* must contain sufficient detail to inform the person clearly of the particular grounds for the proposal to make the order.

(4) Any order made under *subsection (1)* remains in effect until the health practitioner concerned has satisfied all the requirements of the competence programme or, as the case requires, the recertification programme, and for that purpose the authority must, on the application of the practitioner, extend the period within which the practitioner is required to satisfy those requirements.

(5) The failure of a health practitioner to satisfy the requirements of any competence programme or recertification programme that applies to the health practitioner is not, of itself, a ground for taking disciplinary action under *Part 4* against that health practitioner.

(6) *Subsection (2)(b)* is subject to *section 150*.

Compare: 1995 No 95 s 64

43 Confidentiality of information

(1) No person who examines any clinical records of any health practitioner under a requirement of a competence review, competence programme, or recertification programme may disclose any information (being information about any identifiable individual) obtained by that person as a result of that examination, except for 1 or more of the following purposes:
(a) for the purpose of making a report to the authority in relation to the health practitioner concerned:
(b) for the purposes of any criminal investigation or any criminal proceedings taken against that health practitioner:
(c) for the purpose of making the information available to the person to whom the information relates in any case where—
   (i) the authority directs that the information be made available; or
   (ii) the person requests access to the information.
(2) **Subsection (1)(c)(ii)** does not affect the Privacy Act 1993.

(3) Every person commits an offence and is liable on summary conviction to a fine not exceeding $10,000 who discloses any information in contravention of **subsection (1)**.

(4) No information, statement, or admission that is disclosed or made by any health practitioner in the course of, or for the purposes of satisfying the requirements of, any competence review, competence programme, or recertification programme and that relates to any conduct of that health practitioner (whether that conduct occurred before or during that review or programme)—
   (a) may be used or disclosed for any purpose other than the purposes of that review or programme; or
   (b) is admissible against that person, or any other person, in any proceedings in any court or before any person acting judicially.

Compare: 1995 No 95 s 65

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**Inability to perform required functions**

44 Notification of inability to perform required functions due to mental or physical condition

(1) **Subsection (2)** applies to a person who—
   (a) is in charge of an organisation that provides health services; or
   (b) is a health practitioner; or
   (c) is an employer of health practitioners; or
   (d) is a medical officer of health.

(2) If a person to whom this subsection applies has reason to believe that a health practitioner is unable to perform the functions required for the practice of his or her profession because of some mental or physical condition, the person must promptly give the Registrar of the responsible authority written notice of all the circumstances.

(3) If any person has reason to believe that a health practitioner is unable to perform the functions required for the practice of his or her profession because of some mental or physical condition, the person may give the Registrar written notice of the matter.
(4) **Subsection (5)** applies to a person in charge of an educational programme in New Zealand that includes or consists of a course of study or training (a **course**) that is a prescribed qualification for a scope of practice of a health profession.

(5) If a person to whom this subsection applies has reason to believe that a student who is completing a course would be unable to perform the functions required for the practice of the relevant profession because of some mental or physical condition, the person must promptly give the Registrar of the responsible authority written notice of all the circumstances.

(6) No civil or disciplinary proceedings lie against any person in respect of a notice given under this section by that person, unless the person has acted in bad faith.

Compare: 1995 No 95 s 76

45 **Duty of Registrar**
On receiving a notice given under **section 44**, the Registrar must take all reasonable steps to have the notice considered by the authority as soon as reasonably practicable.

Compare: 1995 No 95 s 78

46 **Interim suspension of practising certificate in cases of suspected inability to perform required functions due to mental or physical condition**

(1) The responsible authority may order that the practising certificate of a health practitioner be suspended if the authority considers that the health practitioner may be unable to perform the functions required for the practice of his or her profession because of some mental or physical condition.

(2) An order made under **subsection (1)** may suspend the practising certificate of the health practitioner concerned for a period of not more than 20 working days from the date that a copy of the order is given to the health practitioner under **subsection (5)**.

(3) The authority is not obliged to give the health practitioner notice that the authority intends to make an order under this section.

(4) Every order made under this section must—

(a) be in writing; and

(b) contain a statement of the reasons on which it is based; and
(c) be signed by the Registrar.

(5) The Registrar must ensure that a copy of an order made under this section is promptly given to the health practitioner concerned.

Compare: 1995 No 95 s 79

47 Power to order medical examination

(1) If the responsible authority considers (whether or not as a result of a notice given under section 44 or of a recommendation made under section 76) that a health practitioner may be unable to perform the functions required for the practice of his or her profession because of some mental or physical condition, the authority may, by notice given to the health practitioner, require him or her to submit himself or herself for examination or testing by a medical practitioner at the expense of the authority.

(2) Every notice given under this section must—

(a) specify—

(i) the mental or physical condition that may make the health practitioner unable to perform the functions required for the practice of his or her profession; and

(ii) the name and address of the medical practitioner who is to conduct the examination or test; and

(iii) a date by which the examination or test is to be conducted, being a date that gives the health practitioner concerned a reasonable time, after he or she receives the notice, to submit himself or herself for examination or testing; and

(b) be signed by the Registrar.

(3) Before giving a notice under this section, the authority must endeavour to consult with the health practitioner about the medical practitioner who is to conduct the examination or test.

(4) A health practitioner who is required by a notice given under this section to submit himself or herself for examination or testing by a medical practitioner may have another person chosen by him or her attend the examination or testing as an observer.

(5) When a medical practitioner has examined or tested a health practitioner under this section, he or she must, as soon as
reasonably practicable after the examination or test, make a written report to the Registrar of the responsible authority on whether or not the practitioner has the mental or physical condition stated under subsection (2) and, if that is the case, the extent, if any, to which that condition affects the practitioner’s ability to perform the functions required for the practice of his or her profession.

(6) The Registrar must, promptly after receiving a report under subsection (5), send a copy to the health practitioner to whom the report relates.

Compare: 1995 No 95 s 80

48 Restrictions may be imposed in case of inability to perform required functions

(1) Subsection (2) applies if a health practitioner has been given a notice under section 47, and

(a) either—

(i) the health practitioner has not, by the time specified in the notice, submitted himself or herself for examination or testing by the medical practitioner named in the notice; or

(ii) the Registrar of the responsible authority has received a written report in respect of the health practitioner from the medical practitioner named in the notice; and

(b) the authority has given the health practitioner a reasonable opportunity to make written submissions and be heard on the matter, either personally or by his or her representative.

(2) The authority must consider the report (if any) and all the relevant circumstances of the case.

(3) The authority may order that the health practitioner’s registration be suspended if the authority has considered the case of the health practitioner and the authority is satisfied that—

(a) the health practitioner is unable to perform the functions required for the practice of his or her profession because of some mental or physical condition; or

(b) the health practitioner has not submitted himself or herself for examination or testing in accordance with a notice under section 47.
(4) The authority may order that conditions be included in the practitioner’s scope of practice if the authority has considered the case of the practitioner and the authority is satisfied that the practitioner is able to perform the functions required for the practice of his or her profession, but only if those conditions are observed.

(5) Every order made under subsection (3) or subsection (4) must—
(a) be in writing; and
(b) contain a statement of the reasons on which it is based; and
(c) be signed by the chairperson of the authority or by a person authorised by the chairperson.

(6) The Registrar of the authority must ensure that, after an order under subsection (3) or subsection (4) is made,—
(a) a copy of the order is given to the health practitioner concerned within 5 working days after the making of the order; and
(b) all administrative steps are taken to give effect to the order.

(7) An order made under subsection (3) or subsection (4) takes effect from the day on which a copy of the order is given under subsection (6) to the health practitioner concerned, or a later date specified in the order.

49 Revocation of suspension or conditions

(1) An authority may at any time make an order revoking any suspension that it has imposed under section 38 or section 48 if it is satisfied that the health practitioner concerned is again able to practise the health practitioner’s profession satisfactorily.

(2) The authority may at any time make an order revoking any conditions imposed under section 48 if it is satisfied that those conditions are no longer necessary.

(3) The authority may make an order varying a condition imposed under section 48 if it is satisfied that the variation should have been part of the original order or is required by a change in circumstances.

(4) The authority may not make an order under subsection (3) otherwise than in accordance with an application from the health practitioner concerned unless it has first—
(a) informed the health practitioner why it may vary the condition; and
(b) given the health practitioner a reasonable opportunity to make written submissions on the proposed variation, and be heard on the question, either personally or by his or her representative.

(5) An order under this section may be made on the application of the health practitioner or on the authority’s own initiative.

(6) The Registrar of the responsible authority must ensure that, after an order under this section is made,—
(a) a copy of the order is given to the health practitioner concerned within 5 working days after the making of the order; and
(b) all administrative steps are taken to give effect to the order.

(7) An order under this section takes effect immediately.

Compare: 1995 No 95 s 82

Quality assurance activities

50 Purpose of sections 52 to 60
The purpose of sections 52 to 60 is to encourage effective quality assurance activities in relation to health services performed by health practitioners by—
(a) protecting the confidentiality of—
   (i) information that becomes known solely as a result of such activities; and
   (ii) documents brought into existence solely for the purposes of such activities; and
(b) giving immunity from civil liability to persons who engage in such activities in good faith.

Compare: 1995 No 95 s 67

51 Interpretation
(1) In this section and in sections 52 to 60, unless the context otherwise requires,—

judicial proceeding means any proceeding that is a judicial proceeding within the meaning of section 108 of the Crimes Act 1961
Ministerial authority means an authority given by the Minister under section 58 and for the time being in force.

Protected quality assurance activity means a quality assurance activity in respect of which a notice issued under section 52 and an appointment under section 53 are in force when the activity is engaged in.

Quality assurance activity—
(a) means an activity that is undertaken to improve the practices or competence of 1 or more health practitioners by assessing the health services performed by those health practitioners (whenever those services are or were performed); and
(b) includes the following acts that are done in the course of, or as a result of, that activity:
(i) the whole or part of any assessment or evaluation;
(ii) the whole or part of a study of the incidence or causes of conditions or circumstances that may affect the quality of health services performed by 1 or more of those health practitioners;
(iii) any preparation for that assessment, evaluation, or study;
(iv) making recommendations about the performance of those services;
(v) monitoring the implementation of those recommendations; but
(c) does not include the assessment, evaluation, or study of a specific significant incident, or any preparation for that assessment, evaluation, or study.

Serious offence means an offence punishable by imprisonment for a term of 2 years or more.

Specific significant incident means the occurrence of an incident that—
(a) has adversely affected 1 or more individuals; and
(b) is, or is reasonably expected to be, the subject of inquiry or investigation by any 1 or more of the following:
(i) a commission of inquiry;
(ii) an inquiry board appointed under the New Zealand Public Health and Disability Act 2000;
(iii) the Director-General of Health.
(iv) the Health and Disability Commissioner:
(v) the police.

(2) For the purposes of sections 52 to 60,—
(a) information about a matter may not be taken to have become known merely because of the existence or dissemination of suspicions, allegations, or rumours about that matter:
(b) information may be taken to have become known solely as a result of a protected quality assurance activity, even though the information was previously known to a person whose conduct has been or is being investigated by the persons engaging in the protected quality assurance activity.

Compare: 1995 No 95 s 66

52 Minister may confer protection on quality assurance activity
(1) The Minister may from time to time, by notice in the Gazette, declare a quality assurance activity to be protected on being satisfied that it is in the public interest that the protections conferred by sections 56 to 59 should apply in respect of the activity.

(2) Every notice issued under subsection (1), unless sooner revoked, remains in force for a period of 5 years after the date on which it is issued, but this subsection does not prevent the Minister from issuing another notice in respect of the same quality assurance activity.

53 Minister must appoint person responsible for activity
(1) When the Minister makes a declaration under section 52, the Minister must also, by written notice, appoint a person to be responsible for the quality assurance activity concerned.

(2) A person appointed under subsection (1) must,—
(a) in the Minister’s opinion, be suitable for appointment; and
(b) have signed an application that complies with any requirements for the time being in force under subsection (4).

(3) In assessing the suitability of a person for the purposes of subsection (2)(a), the Minister—
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(a) must be satisfied that the person is sufficiently independent of the health practitioners whose services are to be assessed or evaluated through the quality assurance activity; and

(b) must take into account the nature of the quality assurance activity for which the person would be responsible; and

(c) may take into account any services provided by, or the employment of, the person.

(4) The Director-General of Health may from time to time, by notice in the Gazette, state requirements relating to the form, content, and quality standards of an application referred to in subsection (2)(b).

54 Revocation of protection or revocation of appointment of person responsible

(1) The Minister may at any time,—
(a) by notice in the Gazette, revoke a notice issued under section 52; or
(b) by written notice, revoke the appointment of a person responsible for a protected quality assurance activity if, in the Minister’s opinion, the person has neglected his or her duties or is not able to perform those duties or has ceased to be suitable for appointment under section 53(2)(a).

(2) A notice, issued under section 52, in respect of a protected quality assurance activity or the appointment of a person responsible for a protected quality assurance activity may, without limitation to the generality of subsection (1), be revoked if—
(a) the person has failed to comply with section 55; or
(b) each of the reports provided by the person under section 55 in the previous 2 years has, in the Minister’s opinion, been unsatisfactory, taking into account the subject matter of the quality assurance activity; or
(c) the progress of the quality assurance activity has, in the Minister’s opinion, been unsatisfactory, taking into account the subject matter of the activity.
(3) Before the Minister revokes a notice issued under section 52 or revokes the appointment of a person responsible for a protected quality assurance activity, the Minister must—
(a) inform the person why the Minister believes that the notice or the appointment should be revoked; and
(b) give the person a reasonable opportunity to make written submissions in respect of the matter.

(4) The Minister may, by written notice, appoint a person who is suitable for appointment under section 53(2)(a) to replace a person whose appointment has been revoked or who has died or resigned.

55 Reporting requirements

(1) Within 2 months after the expiry of each period of 6 months (the reporting period) that follows the date of a notice under section 52 declaring a quality assurance activity to be protected, the person for the time being appointed to be responsible for the activity must give each provider of health services (the provider) who has, or whose employees or agents have, been assessed in the reporting period through the activity a report relating to the reporting period that sets out information on the following matters:
(a) any problems or issues concerning the operations of the provider that have been identified in the course of the activity:
(b) any action that has been taken, as a result of the activity, to resolve or address the problems or issues stated under paragraph (a):
(c) any recommendations that have been, or are to be, made to the provider as a result of the activity:
(d) the manner in which the implementation of the recommendations stated under paragraph (e) is to be monitored:
(e) the manner in which improvements in the competence or practice of the provider or any of the agents or employees of the provider are to be monitored.

(2) Within 2 months after the expiry of each period of 1 year (the reporting period) that follows the date of a notice under section 52 declaring a quality assurance activity to be protected, the person for the time being appointed to be responsible for the activity must give the Minister a report that contains the information set out in the reports given by the person...
under subsection (1) to providers in respect of the reporting period.

(3) A report given under subsection (2) may not identify, either expressly or by implication, a particular individual.

(4) Subsection (2) is subject to subsection (3).

56 Confidentiality of information

(1) Subject to section 57, no person who obtains any information that became known solely as a result of a protected quality assurance activity may, except for the purposes of that activity (including compliance with the reporting requirements under section 55) or in accordance with a Ministerial authority,—
   (a) make a record of that information; or
   (b) disclose that information to another person or in any judicial proceeding.

(2) Subsection (1) applies whether the person obtained the information in the course of engaging in the protected quality assurance activity or as a result of a disclosure in accordance with a Ministerial authority or in any other way.

(3) Subject to section 57, no person may be required—
   (a) to produce in any judicial proceeding any document that was brought into existence solely for the purposes of the quality assurance activity; or
   (b) to disclose in any judicial proceeding any information that became known solely as a result of any such activity.

(4) Subsection (3) does not apply if it is necessary to produce a document or disclose information for the purposes of a protected quality assurance activity or in accordance with a Ministerial authority.

(5) Even though an activity has since ceased to be a protected quality assurance activity, this section continues to apply in respect of—
   (a) information that became known solely as a result of the activity at any time when it was a protected quality assurance activity; and
   (b) documents brought into existence solely for the purposes of that activity at any time when it was a protected quality assurance activity.
(6) Every person commits an offence and is liable on summary conviction to a fine not exceeding $10,000 who acts in contravention of subsection (1).

Compare: 1995 No 95 ss 70, 142(1)(b)

57 Exceptions to prohibition on disclosure

(1) Nothing in section 56 prohibits the production, disclosure, or recording of any information that does not identify, either expressly or by implication, a particular individual.

(2) Nothing in section 56 prohibits the production or disclosure of a document that does not identify, either expressly or by implication, a particular individual.

(3) Nothing in section 56 prohibits the disclosure of any information with the consent of every person who would be directly or indirectly identified by the disclosure.

(4) Nothing in section 56 prohibits the disclosure of any information to the Minister, or to any person authorised by the Minister, for the purpose of enabling the Minister to decide whether or not to authorise the disclosure of the information under section 58.

(5) Nothing in section 56 prohibits the disclosure of any information for the purposes of the prosecution of an offence against section 56(6).

(6) Nothing in section 56 prohibits the production or disclosure of information to a mortality review committee in accordance with a requirement of the chairperson of the committee, or of an agent appointed by the committee, under clause 2 of Schedule 5 of the New Zealand Public Health and Disability Act 2000.

Compare: 1995 No 95 s 71

58 Minister may authorise disclosure of information

(1) If the Minister is satisfied, in respect of any information to which section 56 applies, that the information relates to conduct (whenever occurring) that constitutes or may constitute a serious offence, the Minister may, by notice in writing signed by the Minister, authorise the disclosure of that information, in any manner and on any conditions that are specified in the notice, for any 1 or more of the following purposes:
(a) for the purposes of the investigation and prosecution of offences:
(b) for the purposes of a Royal Commission, or a commission of inquiry appointed by an Order in Council made under the Commissions of Inquiry Act 1908.

(2) Subsection (1) does not authorise the Minister to authorise the disclosure of information of a non-factual nature (such as expressions of opinion) unless the information consists only of matter contained in a report prepared by a person who engaged in the protected quality assurance activity.

(3) The Minister may at any time—
(a) revoke any Ministerial authorisation under subsection (1); or
(b) revoke, amend, or add to any condition imposed on a Ministerial authorisation under subsection (1).

(4) The fact that a Ministerial authorisation authorises the disclosure of information does not—
(a) require the disclosure of that information; or
(b) create a duty to disclose that information.

Compare: 1995 No 95 s 72

59 Exclusion of liability
(1) No civil or disciplinary proceedings lie against any person in respect of conduct engaged in good faith in connection with a protected quality assurance activity.

(2) This section continues to apply in respect of conduct that was engaged in by any person in connection with a protected quality assurance activity, even though that activity has since ceased to be a protected quality assurance activity.

Compare: 1995 No 95 s 73

60 Notices deemed to be regulations
Every notice issued under section 52, and every amendment or revocation of a notice of that kind, is to be treated as a regulation for the purposes of the Regulations (Disallowance) Act 1989.
Part 4
Complaints and discipline

Referral of complaints and interim suspensions

61 Complaints about practitioners
(1) Whenever an authority receives a complaint about a practitioner who is registered with the authority, the authority must promptly forward the complaint to the Health and Disability Commissioner.

(2) This section does not apply to complaints received under section 62 or notified under section 63.

62 Health and Disability Commissioner may refer complaint to authority
The Health and Disability Commissioner may, under section 34(1)(a) of the Health and Disability Commissioner Act 1994, refer to the responsible authority a complaint against a health practitioner.

63 Health and Disability Commissioner must notify authority of pending complaint
The Health and Disability Commissioner must, under section 42(1) of the Health and Disability Commissioner Act 1994, notify the responsible authority of any investigation under that Act that directly concerns a health practitioner.

64 Notification of convictions
A registrar of a court in New Zealand who knows that a person convicted in the court is a health practitioner must send a notice of the conviction to the responsible authority if the conviction is for—
(a) an offence punishable by imprisonment for a term of 3 months or longer; or
(b) an offence against—
   (i) the Births, Deaths, and Marriages Registration Act 1995; or
   (ii) the Burial and Cremation Act 1964; or
   (iii) the Contraception, Sterilisation, and Abortion Act 1977; or
   (iv) the Coroners Act 1988; or
65 Referral of complaints and notices of conviction to complaints investigation committee

(1) When a complaint concerning a health practitioner is, under section 62, referred to the responsible authority, the authority must, as soon as reasonably practicable after receiving the notification, refer the complaint to a complaints investigation committee.

(2) When a notice of conviction is given under section 64 to the authority, the authority must, as soon as reasonably practicable after receiving the notice, refer the notice to a complaints investigation committee.

(3) If the responsible authority considers that information in its possession raises 1 or more questions about the safety of the practice of a health practitioner, it may refer any or all of those questions to a complaints investigation committee.

66 Interim suspension of practising certificate pending prosecution or investigation

(1) This section applies if a practitioner is alleged to have engaged in conduct that—

(a) is relevant to—

(i) a criminal proceeding that is pending against the practitioner; or

(ii) an investigation about the practitioner that is pending under the Health and Disability Commissioner Act 1994 or under this Act; and

(b) in the opinion of the responsible authority held on reasonable grounds, casts doubt on the appropriateness of
the practitioner’s conduct in his or her professional capacity.

(2) If this section applies, the responsible authority may order that—
(a) the practising certificate of the health practitioner be suspended; or
(b) 1 or more conditions be included in the health practitioner’s scope of practice.

(3) The authority may not make an order under subsection (2) unless it has first—
(a) informed the health practitioner concerned why it may make an order under that subsection in respect of the health practitioner; and
(b) given the health practitioner a reasonable opportunity to make written submissions and be heard on the question, either personally or by his or her representative.

(4) An order made under subsection (2) takes effect from a date to be stated in the order, which, if the order is posted to the practitioner, may not be earlier than 4 days after the date on which it is posted.

(5) The authority must revoke an order under subsection (2) as soon as practicable after—
(a) the authority is satisfied that the appropriateness of the practitioner’s conduct in his or her professional capacity is no longer in doubt; or
(b) the criminal proceeding on which the practitioner’s suspension is based is disposed of otherwise than by his or her conviction; or
(c) if the criminal proceeding on which the practitioner’s suspension is based results in his or her conviction, the authority is satisfied that no disciplinary action is to be taken or continued in respect of that conviction under the Health and Disability Commissioner Act 1994 or under this Act; or
(d) if the investigation on which the practitioner’s suspension is based has been completed, the authority is satisfied that the practitioner will not be charged as a result of the investigation.
(6) An order under subsection (2) takes effect immediately, and the authority must ensure that the practitioner is notified as soon as practicable.

67 No action to be taken while matter under investigation by Health and Disability Commissioner

(1) When, in accordance with section 61, an authority notifies the Health and Disability Commissioner of a complaint or, in accordance with section 63, the Health and Disability Commissioner notifies an authority of an investigation, the authority may not take any action under this Part concerning the complaint or the subject matter of the investigation until—
(a) the Health and Disability Commissioner notifies the authority—
(i) that the matter is not to be investigated, or investigated further, under the Health and Disability Commissioner Act 1994; or
(ii) that the complaint or matter has been resolved; or
(iii) that the matter is not to be referred to the Director of Proceedings under section 45(f) of that Act; or
(b) the Director of Proceedings notifies the authority of his or her decision under section 49 of that Act not to institute disciplinary proceedings in relation to the matter.

(2) This section is subject to section 66.

Complaints investigation committees

68 Complaints investigation committees

(1) Each authority may from time to time appoint, in relation to a particular case or cases of a particular class, a complaints investigation committee consisting of—
(a) 2 health practitioners who are registered with the authority; and
(b) 1 layperson.

(2) The authority may, if in any particular case it considers it appropriate to do so, appoint, under subsection (1), a health practitioner or, as the case requires, a layperson who is a member of the authority.
(3) The authority must appoint 1 of the members of each complaints investigation committee to preside at the meetings of the committee.

Compare: 1995 No 95 s 88

69 Committees may regulate own procedure

(1) A complaints investigation committee may regulate its procedure as it thinks fit.

(2) Subsection (1) is subject to—
(a) the rules of natural justice; and
(b) this Act; and
(c) any regulations made under this Act.

Compare: 1995 No 95 s 89(1)

70 Committees may appoint legal advisers and investigators

(1) A complaints investigation committee may appoint a legal adviser approved by the authority to advise the committee on matters of law, procedure, or evidence.

(2) A complaints investigation committee may appoint an investigator to collect information required by the committee and to investigate complaints.

(3) A person appointed under this section must not be present during the deliberations of the committee.

(4) The legal adviser may not, under section 87(5), represent the committee before the Tribunal at the hearing of a charge if the adviser assisted the committee in the investigation that led to the charge.

Compare: 1995 No 95 s 89(2), (3)

71 Information to be given to practitioner and complainant

(1) Within 14 working days after a matter concerning a health practitioner is referred to a complaints investigation committee, the authority must ensure—

(a) that the health practitioner is given written notice of—
   (i) the particulars of the matter; and
   (ii) the membership or intended membership of the complaints investigation committee that is to consider the matter; and
72 Practitioners and complainants may request changes in membership of complaints investigation committee

(1) Within 5 working days after being informed of the intended membership of the complaints investigation committee that is to consider a matter about a health practitioner, the practitioner or, in the case of a complaint, the complainant may give the authority concerned notice—

(a) requesting that any or all of the members or intended members not be appointed as, or not act as, members of that committee; and

(b) stating the reasons for the request.

(2) The authority—

(a) must have regard to the request; but

(b) need not comply with it.

Compare: 1995 No 95 s 91

73 Complaints investigation committees may receive evidence

(1) A complaints investigation committee may receive as evidence any statement, document, information, or matter that, in its opinion, may assist it to deal effectively with the subject of its investigation, whether or not that statement, document, information, or matter would be admissible in a court of law.

(2) In particular, a complaints investigation committee may hear oral evidence and receive statements and submissions from any or all of the following persons:

(a) the health practitioner who is the subject of the committee’s investigation:

(b) any employer of that health practitioner:

(c) any person in association with whom that health practitioner practises:

(d) if the matter referred to the committee is a complaint, the complainant:
(e) any clinical expert.

(3) Any complainant may be supported by a person nominated by the complainant; but that person may not, unless otherwise entitled, be heard at a hearing.

(4) A complaints investigation committee may require that any evidence it receives be supported by a statutory declaration in the manner provided for by section 9 of the Oaths and Declaration Act 1957.

(5) Subsection (4) does not apply to a submission made by the health practitioner or a complainant under section 77(4).

(6) No civil or disciplinary proceedings lie against any person in respect of any evidence given, or statements or submissions made, under this section by that person, unless the person has acted in bad faith.

74 Powers to call for information or documents

(1) If the conditions stated in subsection (2) are satisfied, a complaints investigation committee may, by notice in writing, require any person to produce to the committee any papers, documents, records, or things.

(2) The conditions referred to in subsection (1) are that—
   (a) the members of the committee believe, on reasonable grounds, that the exercise of the powers conferred by that subsection is necessary to enable the committee to carry out its investigation; and
   (b) the person to whom a notice under that subsection is to be given has failed to comply with a previous request to produce to the committee, within a reasonable time, the papers, documents, records, or things required by the notice; and
   (c) the members of the committee believe, on reasonable grounds, that—
      (i) it is not reasonably practicable to obtain the information required by the committee from another source; or
      (ii) for the purposes of the investigation, it is necessary to obtain the papers, documents, records, or things to verify or refute information obtained from another source.
75 Compliance with requirement to provide information or document

(1) A person who receives a notice under section 74 must, without charge, comply with the requirement stated in the notice in the manner and within the period (being not less than 10 working days after the notice is given to the person) specified in the notice.

(2) Subsection (1) does not require a person to provide any information or produce any document that would be privileged in a court of law.

(3) No person is required to produce to a committee any papers, records, documents, or things if compliance with that requirement would be in breach of an obligation of secrecy or non-disclosure imposed on the person by an enactment (other than the Official Information Act 1982 or the Privacy Act 1993).

(4) Every person commits an offence, and is liable on summary conviction to a fine not exceeding $10,000, who, when required to comply with a notice given under section 74,—
(a) refuses or fails without reasonable excuse to comply with the notice; or
(b) knowingly or recklessly provides information that is false or misleading in any material particular.

76 Complaints investigation committee may recommend suspension of practitioner’s practising certificate if public at risk

If, at any time in the course of investigating a matter about a health practitioner, a complaints investigation committee has reason to believe that the practitioner’s practice poses a risk of harm to the public, the committee—
(a) must immediately notify the responsible authority of that belief and the reasons for it; and
(b) if, in the opinion of the committee, those reasons justify the suspension of the practitioner’s practising certificate under section 38(1), section 46(1), or section 66(2), may recommend that the authority take appropriate action.
77  **Recommendations and determinations of complaints investigation committee**

(1)  Within 14 working days after completing its investigation into a matter concerning a health practitioner, the committee must make—

(a)  1 or more of the recommendations specified in subsection (2); or

(b)  1 of the determinations specified in subsection (3); or

(c)  both.

(2)  The recommendations referred to in subsection (1)(a) are—

(a)  that the authority review the competence of the health practitioner to practise his or her profession;

(b)  that the authority review the fitness of the health practitioner to practise his or her profession;

(c)  that the authority review the practitioner’s scope of practice;

(d)  that the authority refer the subject matter of the investigation to the police;

(e)  that the authority counsel the practitioner.

(3)  The determinations referred to in subsection (1)(b) are—

(a)  that no further steps be taken under this Act in relation to the subject matter of the investigation;

(b)  that a charge be brought against the health practitioner before the Tribunal;

(c)  in the case of a complaint, that the complaint be submitted to conciliation.

(4)  The committee may not make a recommendation or determination unless the health practitioner concerned and any complainant have each been given a reasonable opportunity to make written submissions and be heard on the matter under investigation, either personally or by a representative.

Compare: 1995 No 95 s 92

78  **Procedure after committee makes recommendation or determination**

(1)  A complaints investigation committee must give written notice of any recommendation or determination under section 77 in respect of a health practitioner, and the reasons for it, to—

(a)  the Registrar of the responsible authority; and
(b) the health practitioner; and
(c) in the case of a complaint, the complainant.

(2) If it decides to lay a charge against the health practitioner before the Tribunal, the complaints investigation committee must—
(a) formulate an appropriate charge; and
(b) lay it before the Tribunal.

(3) An authority that receives notice of a recommendation specified in section 77(2) must promptly consider the recommendation.

Compare: 1995 No 95 s 93

79 Settlement of complaint by conciliation

(1) If a complaints investigation committee has decided to submit a complaint to conciliation, it must attempt to assist the health practitioner and complainant concerned to resolve the complaint by agreement.

(2) If the committee thinks that the complaint has been successfully resolved by agreement, it must promptly give the health practitioner’s authority written notice to that effect.

(3) If the committee thinks that the complaint has not been successfully resolved by agreement, it must promptly decide whether—
(a) the committee should lay a charge against the practitioner before the Tribunal; or
(b) the committee should make 1 or more of the recommendations specified in section 77(2) about the practitioner; or
(c) no further steps be taken under this Act in relation to the complaint.

(4) If it decides to lay a charge before the Tribunal, the committee must—
(a) formulate an appropriate charge; and
(b) lay it before the Tribunal, together with a notice stating—
(i) the matters on which the practitioner and complainant reached agreement during conciliation; and
(ii) the matters on which the practitioner and complainant did not reach agreement during conciliation; and
(c) give a copy of the charge and notice to the practitioner and the complainant.

(5) If the committee makes a determination that no further steps be taken under this Act in relation to the complaint,—
(a) no further steps may be taken under this Act in relation to the complaint; and
(b) the committee must give the practitioner and complainant written notice of—
   (i) the determination; and
   (ii) the committee’s reasons.

Compare: 1995 No 95 s 94

Health Practitioners Disciplinary Tribunal

80 Establishment of Tribunal
This section establishes a Tribunal known as the Health Practitioners Disciplinary Tribunal.

Compare: 1995 No 95 s 96

81 Functions of Tribunal
The functions of the Tribunal are—
(a) to hear and determine charges brought under section 87:
(b) to exercise and perform any other functions, powers, and duties that are conferred or imposed on it by or under this Act or any other enactment.

Compare: 1995 No 95 s 97

82 Membership of Tribunal
(1) The members of the Tribunal are—
   (a) a chairperson and 1 or more deputy chairpersons, each of whom must be a barrister or solicitor of the High Court of not less than 7 years’ practice, whether or not he or she holds or has held judicial office; and
   (b) the members of the panel maintained by the Minister under section 83.

(2) The chairperson and each deputy chairperson are appointed by the Minister by notice in the Gazette, after consultation by the Minister with any persons that the Minister thinks fit.
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(3) No person who is a member of an authority is eligible for appointment as chairperson or as a deputy chairperson or as a member of the panel.

Compare: 1995 No 95 s 98

83 Panel

(1) The Minister must maintain a panel of—
   (a) practitioners of each profession, each of whom must hold a current practising certificate; and
   (b) laypersons.

(2) The numbers of persons appointed under subsection (1)(a) and (b) must be sufficient to enable the Tribunal to be constituted in accordance with section 84.

(3) In considering the suitability of any person for inclusion on the panel, the Minister must have regard not only to the person’s personal attributes but also to the person’s knowledge and experience of matters likely to come before the Tribunal.

(4) The name of a person must be removed from the panel if—
   (a) the person is convicted by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 3 months or longer; or
   (b) the person dies or is, under the Insolvency Act 1967, adjudged bankrupt; or
   (c) the Minister directs that the name of the person be removed from the panel on the grounds of inability to perform the functions of the office, or for neglect of duty, or misconduct, proved to the satisfaction of the Minister; or
   (d) the person becomes a member of an authority; or
   (e) a period of 5 years has elapsed since the date on which the Minister last approved the entry of the person’s name; or
   (f) the person requests by writing addressed to the Minister that his or her name be removed.

(5) If subsection (4)(d) or (e) applies, the name of the person must not be removed from the panel until any hearings in respect of which that person was appointed to the Tribunal have concluded.

Compare: 1995 No 95 s 99
84 Constitution of Tribunal for hearings
For the purposes of each hearing, the Tribunal consists of—
(a) the chairperson of the Tribunal or a deputy chairperson of the Tribunal; and
(b) 4 persons selected by the chairperson or the deputy chairperson from the panel maintained by the Minister under section 83, of whom—
(i) 2 must be professional peers of the health practitioner who is the subject of the hearing; and
(ii) 2 must be laypersons.

85 Hearings of Tribunal
(1) The Tribunal may from time to time, as the chairperson directs, sit in 2 or more divisions, each of which—
(a) has and may exercise or perform all the powers and functions of the Tribunal; and
(b) may exercise or perform any power or function of the Tribunal, even though another division of the Tribunal is exercising or performing a power or function of the same kind at the same time.

(2) Hearings of the Tribunal must be held at the times and places appointed by the Tribunal or the presiding officer for the purpose.

(3) Any hearing of the Tribunal may be adjourned by the Tribunal or the presiding officer.

(4) No hearing may take place unless all members of the Tribunal for that hearing are present, but a decision of a majority of those members is, for the purposes of the hearing, the decision of the Tribunal.

Compare: 1995 No 95 s 100(2)–(5)

86 Further provisions relating to Tribunal in Schedule 1
The provisions set out in Schedule 1 apply to the Tribunal and its proceedings.

Procedure and decisions of Tribunal

87 Laying of charge before Tribunal
(1) A charge against a health practitioner may be laid before the Tribunal by—
(a) the Director of Proceedings, in any case where the Director of Proceedings decides, under section 49 of the Health and Disability Commissioner Act 1994, that proceedings should be taken under this Part against that health practitioner; or
(b) a complaints investigation committee, under section 78 or section 79.

(2) Every charge laid under subsection (1) must include a statement to the effect that the Director of Proceedings or the complaints investigation committee, as the case may be, has reason to believe that a ground exists entitling the Tribunal to exercise its powers under section 95.

(3) If the charge was laid by the Director of Proceedings, it must be prosecuted at the hearing by the Director of Proceedings.

(4) If the charge was laid by a complaints investigation committee, it must be prosecuted at the hearing by that committee.

(5) The Director of Proceedings or the complaints investigation committee may be represented by counsel or otherwise.

(6) The chairperson of the Tribunal must, as soon as reasonably practicable after the laying of the charge, convene a hearing of the Tribunal to consider the charge.

Compare: 1995 No 95 s 102

88 Notice of disciplinary proceedings to be given to practitioner

(1) Before convening a hearing of the Tribunal to consider a charge against a health practitioner, the chairperson of the Tribunal must ensure that the practitioner is given a written notice that—

(a) states that the Director of Proceedings, or a complaints investigation committee, as the case may be, has reason to believe that a ground exists entitling the Tribunal to exercise its powers under section 95; and

(b) contains sufficient particulars to inform the practitioner clearly of the substance of the ground believed to exist; and

(c) specifies the particulars of the charge; and

(d) specifies a date (being not less than 20 working days, and not more than 60 working days, after the date on
which the notice is received by the practitioner) on which the Tribunal intends to hear the matter.

(2) The executive officer of the Tribunal must also ensure that the responsible authority and any complainant are promptly given a copy of the notice.

(3) Every notice given to a health practitioner must require the practitioner to notify the Tribunal in writing, not later than on a specified date (being not less than 10 working days after the date on which the notice is received by the practitioner), whether or not he or she wishes to be heard by the Tribunal, either personally or by his or her representative.

(4) If a practitioner fails to notify the Tribunal as required by the notice, the practitioner is entitled to appear and be heard at the hearing only on any conditions as to payment of costs and expenses or otherwise that the Tribunal thinks fit to order.

Compare: 1995 No 95 s 103

89 Interim suspension of registration or imposition of restrictions on practice

(1) At any time after a notice has been given to a health practitioner under section 88(1), the Tribunal may, if it is satisfied that it is necessary or desirable to do so, having regard to the need to protect the health or safety of members of the public, order that, until the charge to which that notice related has been disposed of,—

(a) the registration of that health practitioner be suspended; or

(b) the health practitioner may practise as a health practitioner only in accordance with conditions stated in the order.

(2) The Tribunal may make an order under this section on the recommendation of the Director of Proceedings or a complaints investigation committee, or on its own initiative.

(3) The Tribunal does not have to give the health practitioner notice that it intends to make the order.

(4) The order must—

(a) be in writing; and

(b) state the reasons for it; and

(c) state clearly the health practitioner’s right to apply to the Tribunal to have it revoked; and
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(d) be signed by the chairperson or a deputy chairperson of
the Tribunal.

(5) The executive officer of the Tribunal must also ensure that the
health practitioner, any employer of the health practitioner,
and the responsible authority are promptly given a copy of the
order.

(6) The order takes effect from the day on which the copy is given
to the health practitioner.

90 Health practitioner may apply for revocation of order

(1) A health practitioner may at any time apply to the Tribunal for
the variation or revocation of an order under section 89(1).

(2) The application must be in writing and delivered to the execu-
tive officer of the Tribunal.

(3) The Tribunal—
   (a) must hear the application within 10 working days after
       it is received by the executive officer of the Tribunal;
       and
   (b) may, as it thinks fit,—
       (i) grant or refuse the application; or
       (ii) in the case of conditions imposed under section
           89(1)(b), amend or replace the conditions.

(4) The Tribunal may also revoke or vary an order under section
89(1) on its own initiative.

(5) The executive officer of the Tribunal must ensure that the
health practitioner, any employer of the health practitioner,
and the responsible authority are promptly given notice of the
Tribunal’s decision.

(6) The Tribunal’s decision takes effect immediately.

91 Hearings to be public unless Tribunal orders otherwise

(1) Every hearing of the Tribunal must be held in public unless
the Tribunal orders otherwise under this section or unless
section 93 applies.

(2) If, after having regard to the interests of any person (includ-
ing, without limitation, the privacy of any complainant) and to
the public interest, the Tribunal is satisfied that it is desirable
to do so, it may (on application by any of the parties or on its own initiative) make any 1 or more of the following orders:

(a) an order that the whole or any part of a hearing must be held in private;
(b) an order prohibiting the publication of any report or account of any part of a hearing, whether held in public or in private;
(c) an order prohibiting the publication of the whole or any part of any books, papers, or documents produced at a hearing;
(d) an order prohibiting the publication of the name, or any particulars of the affairs, of any person.

(3) An application to the Tribunal for an order under subsection (2) must be heard in private, but the other parties to the proceedings and any complainant are entitled to be present and to make written or oral submissions on the application.

(4) If the Tribunal proposes on its own initiative to make an order under subsection (2), it must give the parties to the proceedings and any complainant an opportunity to make written or oral submissions on the proposal; all parties and complainants (if any) are entitled to be present when any oral submissions are heard.

(5) Even if a hearing of the Tribunal is otherwise held in private, the Tribunal may allow any particular person to attend it if satisfied that he or she has a particular interest in the matter to be heard.

(6) An order made under this section continues in force—

(a) until a time specified in it; or
(b) if no time is specified, until it is revoked under section 94.

(7) Every person commits an offence and is liable on summary conviction to a fine not exceeding $10,000 who contravenes an order made under subsection (2).

Compare: 1995 No 95 ss 106(1)–(5), 142(1)(d)

92 Clarifications concerning section 91

(1) Section 91 does not prevent the Tribunal from deliberating in private as to its decision, or as to any question arising in the course of a hearing.

(2) Section 91(1) is subject to section 93.
(3) Orders cannot be made under section 91(2)(d) in respect of—
   (a) any communication by or on behalf of the Health and Disability Commissioner under the Health and Disability Commissioner Act 1994; or
   (b) any communication between any of the Health and Disability Commissioner, the authority, and the Tribunal; or
   (c) the publication, under section 153, of the effect of any order.

Compare: 1995 No 95 s 106(6), (7)

93 Special protection for certain witnesses

(1) This section applies to evidence to be given by a witness at a hearing by the Tribunal that—
   (a) relates to or involves a sexual matter; or
   (b) in the Tribunal’s opinion, relates to or involves some other matter that may require the witness to give intimate or distressing evidence.

(2) Before a witness at a hearing by the Tribunal begins to give oral evidence to which this section applies, the presiding officer must—
   (a) tell the witness that he or she has a right to give the evidence in private; and
   (b) ask if the witness wishes to give the evidence in private.

(3) If the witness wishes to give the evidence in private, the presiding officer must—
   (a) ensure that only the people referred to in subsection (4) are present in the room in which the hearing is being held; and
   (b) tell the witness that he or she has a right to request the presence of any person of his or her choice who agrees to be present; and
   (c) tell the health practitioner concerned that he or she has a right to request the presence of any person of his or her choice who agrees to be present.

(4) If the witness wishes to give the evidence in private, only the following people may be present in the room while the witness is giving the evidence:
   (a) the members of the Tribunal;
   (b) the health practitioner concerned:
(c) the person prosecuting the charge;
(d) any barrister or solicitor engaged in the proceedings;
(e) if the health practitioner’s representative is not a barris-
ter or solicitor, the representative:
(f) any officer of the Tribunal:
(g) any person responsible to the Tribunal for recording the
proceedings:
(h) any person of the witness’s choice who agrees to be
present:
(i) any person of the health practitioner’s choice who
agrees to be present:
(j) any other person expressly permitted by the Tribunal to
be present.

(5) The witness may object to the presence of a person of the
health practitioner’s choice; and, if the Tribunal upholds the
objection, that person may not be present in the room while
the witness is giving the evidence.

(6) If it thinks that the interests of the witness require it to do so,
the Tribunal may make an order under section 91(2)(b) forbid-
ding publication of any report or account of any part of the
evidence relating to acts—
(a) that are alleged to have been performed, on or in respect
of, the witness; or
(b) that the witness is alleged to have been compelled or
induced to perform.

(7) This section does not affect section 91(2) to (7) or section 92.

Compare: 1995 No 95 s 107

94 Application for revocation of order under section 91
(1) Any person may apply to the Tribunal for the revocation of an
order under section 91.

(2) The application may be made by a person who was a party to
the proceedings in which the order was made, or any other
person.

(3) The Tribunal may grant or refuse the application as it thinks
fit.

Compare: 1995 No 95 s 108
95 Grounds on which health practitioner may be disciplined

(1) The Tribunal may make any 1 or more of the orders authorised by section 96 if, after conducting a hearing on a charge laid under section 87 against a health practitioner, it is satisfied that the practitioner—
(a) has been guilty of professional misconduct; or
(b) has been convicted of an offence against—
   (i) the Births, Deaths, and Marriages Registration Act 1995; or
   (ii) the Burial and Cremation Act 1964; or
   (iii) the Contraception, Sterilisation, and Abortion Act 1977; or
   (iv) the Coroners Act 1988; or
   (v) the Health Act 1956; or
   (vi) the Health and Disability Services (Safety) Act 2001; or
   (vii) the Human Tissue Act 1964; or
   (viii) the Injury Prevention, Rehabilitation, and Compensation Act 2001; or
   (ix) the Medicines Act 1981; or
   (x) the Misuse of Drugs Act 1975; or
   (xi) the Radiation Protection Act 1965; or
   (c) has been convicted by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 3 months or longer, and the circumstances of that offence reflect adversely on the practitioner’s fitness to practise; or
   (d) has performed a health service that forms part of a scope of practice of the profession in respect of which he or she is or was registered without being permitted to perform that service by his or her scope of practice; or
   (e) has failed to observe any conditions included in the practitioner’s scope of practice; or
   (f) has breached an order of the Tribunal under section 96.

(2) For the purposes of subsection (1), professional misconduct, in relation to a health practitioner,—
(a) means conduct that, in the judgment of the Tribunal,—
   (i) amounts to malpractice or negligence by that health practitioner in relation to that health practitioner’s scope of practice; or
(ii) brings or is likely to bring discredit to the profession that the health practitioner practised at the time that the conduct occurred; and
(b) includes any instance of the health practitioner practising his or her profession while not holding a current practising certificate.

(3) The Tribunal may not make an order under section 96 in respect of any offence for which a health practitioner has been convicted before the date of the practitioner’s registration if, at that date, the responsible authority was aware of the conviction.

(4) No person may be found guilty of a disciplinary offence under this Part merely because that person has adopted and practised any theory of medicine or healing if, in doing so, the person has acted honestly and in good faith.

Compare: 1995 No 95 s 109

96 Penalties
(1) In any case to which section 95 applies, the Tribunal may—
(a) order that the registration of the health practitioner be cancelled;
(b) order that the registration of the health practitioner be suspended for a period not exceeding 3 years;
(c) order that the health practitioner may, after commencing practice following the date of the order, for a period not exceeding 3 years, practise his or her profession only in accordance with any conditions as to employment, supervision, or otherwise that are specified in the order:
(d) order that the health practitioner be censured:
(e) subject to subsections (2) and (3), order that the health practitioner pay a fine not exceeding $30,000:
(f) order that the health practitioner pay part or all of the costs and expenses of and incidental to any or all of the following:
(i) any investigation made by the Health and Disability Commissioner under the Health and Disability Commissioner Act 1994 in relation to the subject matter of the charge:
(ii) any inquiry made by a complaints investigation committee in relation to the subject matter of the charge:

(iii) the prosecution of the charge by the Director of Proceedings or a complaints investigation committee, as the case may be:

(iv) the hearing by the Tribunal.

(2) In dealing with a matter that constitutes an offence for which the health practitioner has been convicted by a court, the Tribunal must not impose a fine.

(3) The Tribunal must have regard to the amount of any award of damages against the health practitioner under section 57 of the Health and Disability Commissioner Act 1994 in respect of the conduct concerned when determining—

(a) whether to make an order that he or she pay a fine; or

(b) the amount of any fine.

Compare: 1995 No 95 s 110

97 Orders limiting restoration of registration

(1) When making an order that the registration of a health practitioner be cancelled, the Tribunal may do either or both of the following things:

(a) fix a date before which he or she may not apply for registration again:

(b) impose 1 or more conditions that he or she must satisfy before he or she may apply for registration again.

(2) The conditions may include any or all of the following:

(a) a condition that the person undertake a specified course of education or training:

(b) a condition that the person undergo—

(i) any specified medical examination and treatment; or

(ii) any specified psychological or psychiatric examination, counselling, or therapy:

(c) a condition that the person attend any specified course of treatment or therapy for alcohol or drug abuse:

(d) any other condition designed to address the matter that gave rise to the cancellation of the person’s registration.
(3) The Tribunal must not impose a condition under **subsection (2)(b) or (c)** unless the person consents to the examination, treatment, counselling, or therapy concerned.

(4) If the Tribunal fixes a date before which the person may not apply for registration again, no application for registration from that person may be received or considered before that date.

(5) **Subsection (2) does not limit subsection (1)(b).**

**Compare: 1995 No 95 s 111**

### 98 Orders of Tribunal

(1) An order of the Tribunal must—

(a) be in writing; and

(b) contain a statement of the reasons for the order; and

(c) be signed by the chairperson or a deputy chairperson of the Tribunal.

(2) The executive officer of the Tribunal must ensure that a copy of an order under **section 91 or section 96** is given to—

(a) the Director of Proceedings or the complaints investigation committee that laid the charge; and

(b) the health practitioner concerned; and

(c) any complainant; and

(d) the responsible authority.

(3) An order made by the Tribunal takes effect on a date stated in the order, which, if the order is sent to the health practitioner by post, may not be earlier than 4 days after it is posted.

(4) The executive officer of the Tribunal must ensure that a copy of an order made under **section 88(4)** is given to the health practitioner concerned.

**Compare: 1995 No 95 s 112**

### Funding of Tribunal and recovery of costs and fines

### 99 Funding of Tribunal and disciplinary proceedings

(1) The costs of each proceeding against a health practitioner must be paid for by the responsible authority.

(2) In **subsection (1), costs**, in relation to a proceeding,—

(a) means—

   (i) the fees payable in respect of the proceeding to the members of the Tribunal; and
(ii) any actual and reasonable expenses incurred by or on behalf of the Tribunal in respect of the proceeding; and
(b) includes the proportion of the Tribunal’s fixed costs, including the remuneration of any employee or agent of the Tribunal, fairly attributable to the proceeding.

100 Recovery of fines and costs
(1) All costs and expenses of the Health and Disability Commissioner or Director of Proceedings ordered to be paid, under section 96(1)(f)(i) or (iii), by a health practitioner are recoverable in any court of competent jurisdiction from the health practitioner by the Health and Disability Commissioner as a debt due to the Health and Disability Commissioner.

(2) All other fines, costs, and expenses ordered to be paid, under section 96(1), are recoverable in any court of competent jurisdiction by the responsible authority as a debt due to the authority.

Compare: 1995 No 95 s 114

Part 5
Appeals

101 Rights of appeal
(1) A person may appeal to a District Court against any decision or direction of an authority to—
(a) decline to register the person as a health practitioner with the authority; or
(b) decline to issue a practising certificate to the person; or
(c) suspend his or her practising certificate or registration; or
(d) cancel his or her registration with the authority; or
(e) include conditions in the person’s scope of practice or the person’s proposed scope of practice; or
(f) vary the person’s scope of practice.

(2) A person may appeal to the High Court against the whole or any part of—
(a) an order made by the Tribunal under section 88(4) or section 96 in respect of the person; or
(b) a decision made by the Tribunal on an application by the person under section 90; or
(c) any order made by the Tribunal under section 91 in respect of the person or any decision to refuse to make such an order; or

(d) a decision of the Tribunal on an application under section 94.

(3) An appeal—

(a) must be brought to the appropriate court by way of notice of appeal in accordance with rules of court; and

(b) must be lodged within 20 working days after notice of the decision or order is communicated to the appellant, or within any further time a District Court Judge or, as the case requires, a High Court Judge allows on application made before or after the period expires.

Compare: 1995 No 95 s 116

102 Notice of right of appeal
When notifying a person under this Act of any decision or order against which section 101 gives him or her a right of appeal, the Registrar or, as the case requires, the executive officer of the Tribunal must also notify him or her in writing of the right of appeal and the time within which an appeal must be lodged.

Compare: 1995 No 95 s 115

103 Orders to have effect pending determination of appeal
A decision or order against which an appeal is lodged under this Part continues in force unless the District Court or the High Court orders otherwise.

Compare: 1995 No 95 s 117

104 Procedure on appeal
(1) An appeal under this Part must be heard as soon as is reasonably practicable after it is lodged.

(2) An appeal under this Part is by way of rehearing.

(3) On hearing the appeal, the appropriate court—

(a) may confirm, reverse, or modify the decision or order appealed against; and

(b) may make any other decision or order that the person or body that made the decision or order appealed against could have made.
(4) The Court must not review—
   (a) any part of a decision or order not appealed against; or
   (b) any decision or order not appealed against at all.

Compare: 1995 No 95 s 118(1)–(3)

105 Court’s decision final

Except as provided in section 109, the decision of a court on an appeal under this Part is final.

Compare: 1995 No 95 s 118(4)

106 Court may refer matter back for reconsideration

(1) Instead of determining an appeal under this Part, the appropriate court may direct the authority or Tribunal whose decision or order is appealed against to reconsider, either generally or in respect of any specified aspect, the whole or any part of the decision or order.

(2) In giving a direction under subsection (1), the court—
   (a) must state its reasons for the direction; and
   (b) may give any other directions it thinks just as to the matter referred back for reconsideration.

(3) The person or body whose decision or order is appealed against—
   (a) must reconsider the matter; and
   (b) in doing so, must—
      (i) take the court’s reasons into account; and
      (ii) give effect to the court’s directions.

Compare: 1995 No 95 s 119

107 Orders as to costs

On an appeal under this Part, the appropriate court may order any party to the appeal to pay to any other party to the appeal any or all of the costs incurred by the other party in respect of the appeal.

Compare: 1995 No 95 s 120(1)

108 Orders as to publication of names

(1) On any appeal under this Part, the appropriate court may, if, in its opinion, it is proper to do so, prohibit the publication of the name or particulars of the affairs of a health practitioner or any other person.
(2) In deciding whether to make an order under subsection (1), the Court must have regard to—
   (a) the interests of any person (including, without limitation, the privacy of any complainant); and
   (b) the public interest.

Compare: 1995 No 95 s 120(2)

109 Appeal on question of law

(1) A party to an appeal under this Part may appeal against any determination of law arising in the appeal.

(2) If the appeal is—
   (a) from a District Court, it must be made to the High Court;
   (b) from the High Court, it must be made to the Court of Appeal.

(3) The appeal must be heard and determined in accordance with the appropriate rules of court.

(4) Part IV of the Summary Proceedings Act 1957 (together with the other provisions of that Act that are applied in that Part) applies to the appeal—
   (a) so far as it is applicable and with all necessary modifications; but
   (b) only so far as it relates to appeals on questions of law.

(5) Subsection (4) overrides subsection (3).

Compare: 1995 No 95 s 121

Part 6

Structures and administration

Continuation and establishment of authorities

110 Authorities appointed

(1) Each body named in column 1 of Schedule 2—
   (a) continues in existence and is appointed as an authority under this Act in respect of the profession specified opposite to it in column 2 of that schedule; and
   (b) is to be known by the name by which it is identified in column 1 of that schedule.

(2) This subsection establishes a body corporate as the authority appointed in respect of the profession of midwifery; that authority is to be known as the Midwifery Council.
(3) This subsection establishes a body corporate as the authority appointed in respect of the profession of osteopathy; that authority is to be known as the Osteopathic Council.

(4) This subsection establishes a body corporate as the authority appointed in respect of the profession of pharmacy; that authority is to be known as the Pharmacy Council.

111 Authorities may be appointed in respect of additional professions

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister,—
(a) designate health services of a particular kind as a health profession; and
(b) establish a body corporate, to be known by a name stated in the order, as the authority appointed in respect of the profession designated under paragraph (a).

(2) The Minister may recommend that an Order in Council be made under subsection (1) only if satisfied of the matters stated in section 112.

(3) An Order in Council under subsection (1) is a regulation for the purposes of the Regulations (Disallowance) Act 1989.

112 Conditions for designating health services as health profession

Before making a recommendation under section 111(1), the Minister must, after consultation with any organisation that, in the Minister’s opinion, has an interest in the recommendation, be satisfied of the following matters:

(a) either—
(i) that the provision of the health services concerned poses a risk of harm to the public; or
(ii) that it is otherwise in the public interest that the provision of health services be regulated as a profession under this Act;

(b) that providers of the health services concerned are generally agreed on—
(i) the qualifications for any class or classes of providers of those health services; and
(ii) the standards that any class or classes of providers of those health services are expected to meet; and

(iii) the competencies for scopes of practice for those health services.

Status and functions of authorities

113 Status and capacity of authorities
(1) Every authority appointed by or under this Act is a body corporate with perpetual succession, and has and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.

(2) Each authority may exercise its rights and powers, and may incur liabilities or obligations, only for the purpose of performing its functions.

(3) For the purposes of the exercise or performance of the powers, duties, and functions of an authority, the persons who for the time being are the members of the authority are to be taken to be the authority.

(4) All decisions relating to the powers, duties, and functions of an authority are to be made—
   (a) by the authority; or
   (b) by a committee or person authorised to make the decision concerned under a delegation given under clause 17 or clause 18 of Schedule 3.

114 Functions of authorities
The functions of each authority appointed in respect of a health profession are as follows:
   (a) to prescribe the qualifications required for scopes of practice within the profession, and, for that purpose, to accredit and monitor educational institutions and degrees, courses of studies, or programmes:
   (b) to authorise the registration of health practitioners under this Act, and to maintain registers:
   (c) to consider applications for annual practising certificates:
   (d) to review and maintain the competence of health practitioners:
Health Practitioners
Competence Assurance

(e) to set programmes to ensure the ongoing competence of health practitioners:
(f) to receive and act on information from health practitioners, employers, and the Health and Disability Commissioner about the competence of health practitioners:
(g) to notify employers, the Accident Compensation Corporation, the Director-General of Health, and the Health and Disability Commissioner that the practice of a health practitioner may pose a risk of harm to the public:
(h) to consider the cases of health practitioners who may be unable to perform the functions required for the practice of the profession:
(i) to set standards of clinical competence, cultural competence, and ethical conduct to be observed by health practitioners of the profession:
(j) to promote education and training in the profession:
(k) to promote public awareness of the responsibilities of the authority:
(l) to exercise and perform any other functions, powers, and duties that are conferred or imposed on it by or under this Act or any other enactment.

115 Exclusion of liability
(1) Neither an authority nor a member, employee, agent, or committee of an authority nor a member of such a committee is under any criminal or civil liability in respect of—
(a) any act done or omitted in the course of the performance or exercise or intended performance or exercise of any of its functions, duties, or powers under this Act; or
(b) any words spoken or written at, or for the purposes of, a meeting, conference, hearing, inquiry or proceeding under this Act; or
(c) anything contained in any notice given under this Act.
(2) No person is under any civil liability in respect of anything done or omitted, or for any words spoken or written, in the course of making an assessment or a report under section 22.
(3) No person is under any civil liability in respect of anything done or omitted, or for any words spoken or written, in the
course of conducting or assisting in conducting any competence review, competence programme, or recertification programme.

(4) This section does not exclude the liability of any person for anything done or omitted in bad faith or without reasonable care.

Compare: 1995 No 95 s 135

Members of authorities

116 Membership of authorities

(1) The Minister—
(a) may, by notice in the Gazette, appoint up to 14 members for each authority; and
(b) must ensure that each authority has at any time at least 5 members.

(2) The membership of an authority must include,—
(a) 2 laypersons, if the authority has at any time 5 or 6 members:
(b) 3 laypersons, if the authority has at any time 7 or more members.

(3) Regulations made under this Act may provide that 1 or more health practitioners appointed, under subsection (1), as members of an authority must be practitioners (in this section referred to as elected practitioners) who have been elected in an election conducted by the authority in accordance with those regulations.

(4) If an elected practitioner ceases to hold office before the expiry of his or her term, the Minister may, by notice in the Gazette, appoint a person who has not been elected as a member of the authority for the remainder of the term of that elected practitioner.

(5) Before appointing a health practitioner (other than an elected practitioner) as a member of an authority, the Minister must consult with any group that promotes the interests of the health practitioners of the same class as the proposed appointee.
117 Term of office

(1) Each member of an authority takes office from a date specified for that purpose in the notice appointing the member or, if no date is specified in the notice, from the date on which the notice is published in the Gazette.

(2) Each member—
(a) is appointed for a term of 3 years or any shorter term that is specified in the notice of appointment; and
(b) may be reappointed from time to time, but is not eligible to be a member for more than 9 consecutive years; and
(c) continues in office after the expiry of his or her term of office (unless the member resigns or is removed from office) until—
(i) the member is reappointed; or
(ii) the member’s successor is appointed; or
(iii) the member is informed in writing by the Minister that the member is not to be reappointed.

(3) Despite subsection (2), a member of the authority whose term of office has expired or who has resigned from office continues in office for the purpose of completing any matter heard by the authority before the expiry of the member’s term of office or the member’s resignation, whether or not that member’s successor has come into office.

Compare: 1981 No 5 s 3A

118 Vacation of office

(1) Any member of an authority may at any time resign his or her office by giving notice to that effect to the Minister.

(2) A member of an authority must be considered to have vacated his or her office if—
(a) he or she dies; or
(b) he or she is adjudged bankrupt under the Insolvency Act 1967.

(3) Any member of an authority may be removed from office by the Minister, by notice given to the member, on the grounds of inability to perform the duties of the office, neglect of duty, or misconduct, proved to the satisfaction of the Minister.

(4) A member of an authority may be removed from office by the Minister, with the concurrence of the authority, by notice
given to the member, on the ground that the member’s performance on the authority is inadequate.

(5) The powers of an authority are not affected by any vacancy in its membership.

Compare: 1981 No 5 s 3B

Powers of Minister

119 Minister may ask for statistical information

(1) In this section, statistical information does not include information about an identifiable individual.

(2) The Minister may from time to time, by written notice to an authority, require the authority to supply him or her with any statistical information specified in the notice relating to the discharge of the functions of the authority or of any of its committees, or to any matters connected with those functions.

(3) Any statistical information required by the Minister under this section must be supplied within the time specified in the notice or within any extended time the Minister allows, and must be supplied in the manner and form notified to the authority concerned by the Minister.

(4) The authority is not required by this section to supply information that is not already in its possession.

(5) If the Minister is satisfied that compliance with a requirement under this section would involve an authority in monetary expense, the Minister must, out of money appropriated by Parliament, make a grant to the authority to enable it to meet that expense.

Compare: 1995 No 95 s 131

120 Minister may audit authorities

(1) For the purpose of ascertaining whether an authority is complying, or has complied, with the provisions of this Act, including, without limitation, the principles set out in section 12, the Minister may appoint an auditor to audit the records of the authority.

(2) The auditor must report to the Minister on the matters, stated in subsection (1), that are to be ascertained by the audit.

(3) The auditor—
(a) must be given access at all reasonable times to all records of the authority; and
(b) may require the Registrar of the authority to provide any information and explanations that, in the auditor’s opinion, may be necessary to enable the auditor to prepare the report.

(4) Within 12 sitting days of receiving the auditor’s report, the Minister must—
(a) present a copy of the report to the House of Representatives; and
(b) give a copy to the authority.

121 Minister may require authority to respond to concerns following audit

(1) If, after consideration of an auditor’s report completed under section 120 about an authority, the Minister has concerns about any of the authority’s policies or practices, the Minister may, by written notice to the authority,—
(a) set out the concerns and the reasons for them; and
(b) require the authority to provide the Minister with a written response within the time specified in the notice or within any extended time the Minister allows.

(2) The response must state, in respect of each concern set out in the Minister’s notice, whether the authority considers that the concern—
(a) is justified; or
(b) is justified in part; or
(c) is not justified.

(3) If the response states, in respect of any concern, that the authority accepts that the concern is justified or is justified in part, the response must also provide information on—
(a) the steps that the authority has taken or is taking or proposes to take to address the concern or, as the case may require, the part of the concern; and
(b) the time in which those steps have been, or are to be, taken.

(4) If the response states, in respect of any concern, that the authority does not consider that the concern is justified or is justified only in part, the response must set out the authority’s reasons for that statement.
122 Conciliation conference

(1) If it appears from a response provided, under section 121, by an authority that there is a significant difference of opinion between the Minister and the authority on any matter, the Minister may, by written notice to the authority, convene a conciliation conference.

(2) Before the Minister gives an authority a written notice under subsection (1), the Minister must consult with the authority about the proposed notice.

(3) A notice under subsection (1) must—
(a) appoint a time and place for the conference; and
(b) invite the chairperson of the authority to participate in the conference; and
(c) invite the chairperson to nominate 2 other members of the authority to participate in the conference.

(4) The conference is attended—
(a) by a person (the conciliator) appointed by the Attorney-General to preside over the conference; and
(b) by either—
(i) the Minister with up to 2 assistants; or
(ii) up to 3 representatives of the Minister; and
(c) by the chairperson of the authority and the members nominated under subsection (3)(c).

(5) The aim of the conference is to—
(a) clarify the nature of the difference in respect of which the conference has been convened; and
(b) resolve that difference.

(6) As soon as practicable after the conclusion of the conference, the conciliator must report to the Minister and to all the members of the authority on the matters that the parties to the conference resolved and on the matters that are still in dispute.

123 Disputes about overlapping scopes of practice

(1) This section applies if, after the publication of a notice under section 10(1), it appears that there is a dispute (in this section and in section 124 referred to as the dispute) between 2 or more authorities as to whether a scope of practice or any part of a scope of practice should form part of an authority’s profession.

(2) Each authority that is a party to the dispute must—
(a) use its best endeavours to resolve the dispute; and
(b) inform the Minister in writing of the nature and circumstances of the dispute; and
(c) for every month that the dispute continues, provide the Minister with a written report on the progress being made to resolve the dispute.

(3) The Minister may assist the authorities to resolve their dispute in any way the Minister sees fit, including, without limitation, by advising each authority in writing of 1 or more options for resolving the dispute that the Minister considers to be desirable.

(4) Each authority that is party to the dispute must, in endeavouring to resolve the dispute, take into account any advice that the Minister gives to the authority under subsection (3).

124 Minister may give directions to resolve dispute

(1) This section applies if—
(a) the Minister has, under section 123(3), attempted to assist the authorities to resolve their dispute; but
(b) it appears to the Minister to be unlikely that the dispute will be resolved.

(2) If this section applies, the Minister may, by written notice to any authority that is a party to the dispute, direct the authority to effect or contribute to the resolution of the dispute by doing or omitting anything that the Minister states in the notice.

(3) A direction under subsection (2) may, without limitation, require an authority to amend or replace a notice that the authority has published under section 10 or section 11.

(4) Every authority must comply with any directions given.

(5) Before giving any direction under subsection (2), the Minister must consult each authority affected by the direction.

125 Other provisions relating to directions

(1) Promptly after directing an authority under section 124, the Minister must publish the direction in the Gazette.

(2) Within 12 sitting days after directing an authority under section 124, the Minister must present a copy of the direction to the House of Representatives.
Financial matters and annual report

126 Authorities may prescribe fees
(1) Each authority may from time to time, by notice in the Gazette, prescribe the fees payable in respect of the following matters:
   (a) an application for registration with the authority:
   (b) an addition or alteration to the register maintained by the authority:
   (c) the issue of a practising certificate:
   (d) the issue of any other certificate, or a copy of any certificate:
   (e) the supply of a copy of any entry in the register:
   (f) inspection of the register, or of any other documents kept by the authority that are open for inspection:
   (g) the supply to any health practitioner of any documents, other than certificates of registration, required by him or her for the purpose of seeking registration overseas:
   (h) examinations set or approved by the authority:
   (i) any other matter that relates to anything the authority is required to do in order to carry out its functions.
(2) Different fees may be prescribed under this section for different classes of health practitioner.
(3) Any notice prescribing any fee under this section may exempt any class or classes of person from liability to pay any such fee, and may provide for the waiver or refund of any such fee.
Compare: 1995 No 95 s 126

127 Disciplinary levy
(1) Each authority may from time to time, by notice in the Gazette, impose on every health practitioner registered with the authority a disciplinary levy of any amount that it thinks fit for the purpose of funding the costs arising out of—
   (a) the appointment of, and any investigation by, any complaints investigation committee; and
   (b) proceedings of the Tribunal.
(2) Any notice imposing any levy under this section may exempt from liability to pay that levy any class or classes of health practitioner registered with the authority, and may provide for the waiver or refund of the whole or part of that levy.
Compare: 1995 No 95 s 127
128 Further provisions relating to fees and levy

(1) Any notice under section 126 or section 127 may at any time, by notice in the Gazette, be amended or revoked by the authority that issued the notice.

(2) Every notice under section 126 or section 127 comes into force on a date specified in the notice, being not less than 28 days after the date of publication of the notice in the Gazette.

(3) Every notice under section 126 or section 127 is a regulation for the purposes of the Regulations (Disallowance) Act 1989, but is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

(4) Every fee set by an authority under section 126, and every levy imposed by an authority under section 127, is payable, and recoverable as a debt due, to the authority.

(5) If any fee is payable to an authority under this Act, the Registrar of the authority may decline to do any act, or to permit any act to be done, or to receive any document in respect of which that fee is payable, until the fee is paid.

Compare: 1995 No 95 s 128

129 Application of fees, etc

(1) All fees, fines, levies, and other money required to be paid under this Act are payable to the relevant authority, and must be paid to the Registrar of the authority.

(2) All fees, fines, and other money received by an authority must be applied by the authority as it considers appropriate in the performance of its functions and duties and the exercise of its powers.

(3) This section is subject to section 100.

(4) For the purposes of this section, fine does not include a fine imposed in respect of the commission of an offence against a provision of this Act.

130 Annual report

(1) As soon as practicable after the end of each financial year, each authority must deliver to the Minister a report on the operation of the authority during that financial year, and every report to the Minister must include the audited financial statements of the authority for that financial year.
(2) Within 16 sitting days of receiving the annual report from an authority, the Minister must present a copy of the report to the House of Representatives.

Corporate and administrative matters governed by Schedule 3

131 Further provisions relating to authorities in Schedule 3
The provisions set out in Schedule 3 apply to each authority.

Authorities to keep registers

132 Register
Each authority must maintain a register of the health practitioners registered with the authority.

133 Register may be kept in parts
Each authority may keep the register in separate parts and may, without limitation, have separate parts that identify health practitioners who—
(a) are required to practise subject to supervision; or
(b) are, by their scopes of practice, permitted to practise within any scope of practice; or
(c) hold current annual practising certificates; or
(d) do not hold current annual practising certificates.

134 Information to be registered
(1) The information to be entered in the register of each authority in respect of a health practitioner is—
(a) the health practitioner’s name:
(b) the health practitioner’s work address or an alternative contact address given by the health practitioner:
(c) particulars of the qualifications by virtue of which the health practitioner is registered:
(d) the scope of practice in respect of which the health practitioner is registered:
(e) any change to the scope of practice in respect of which the health practitioner is registered:
(f) any other matters the authority thinks appropriate.
(2) The work address or alternative contact address must be the physical address of the premises concerned.
(3) Information entered in the register under subsection (1)(f) does not form part of the register for the purposes of section 135 or section 145.

(4) If the registration of a health practitioner is suspended, the fact that it is suspended and any current conditions relating to its suspension must be entered on the relevant register.

(5) The Registrar must make all amendments to the register necessary to reflect—
   (a) any changes in the information referred to in subsection (4);
   (b) any changes notified to the Registrar in any other information referred to in subsection (1).

135 Certificates of registered information
On payment of the fee (if any) set by the Registrar’s authority, the Registrar must give a person who asks for it a certificate—
   (a) stating all the current information then entered in the register in relation to a particular person; and
   (b) stating that it is all the current information then entered in the register in relation to the person; and
   (c) that is signed and dated by the Registrar.

136 Health practitioners must notify changes of address
Within 1 month after an address entered on the register under section 134(1)(b), ceases to be current, the health practitioner concerned must give the Registrar written notice of the information the Registrar is required to enter on the register under section 134(1)(b).

137 Changes of name
(1) If satisfied that a health practitioner has changed his or her name, or that it is wrongly entered in the register, the responsible authority must direct the Registrar to correct the entry in the register relating to the health practitioner.

(2) Within 1 month after a health practitioner changes his or her name, the practitioner must give the Registrar of the responsible authority written notice of the practitioner’s new name.
138 **Health practitioner may ask for registration to be cancelled**

(1) On the written application of a health practitioner, the responsible authority may direct the Registrar to cancel the entry in the register relating to the health practitioner.

(2) The authority must not direct the Registrar to cancel the entry in the register relating to a health practitioner if there are criminal or disciplinary actions pending against the practitioner.

139 **Entry to be cancelled on death of health practitioner**

(1) Promptly after receiving a doctor’s certificate relating to the death of a person who appears to have been a health practitioner, a registrar under the Births, Deaths, and Marriages Registration Act 1995 must give the Registrar of the responsible authority written notice of the death, with particulars of its date and place.

(2) If there is an entry in the register relating to the health practitioner, the Registrar must, as soon as is practicable after receiving the notice, cancel it.

(3) An authority may direct its Registrar to cancel the entry in the register relating to a health practitioner if it believes on reasonable grounds (other than having received a doctor’s certificate) that a registered health practitioner has died.

(4) In this section, **doctor’s certificate** has the meaning given to that term by section 2 of the Births, Deaths, and Marriages Registration Act 1995.

140 **Revision of register**

(1) The Registrar of the responsible authority may at any time, and must if the Authority directs, ask whether a health practitioner wishes to have the entry in the register relating to him or her cancelled.

(2) The Registrar must ask by letter addressed to the health practitioner at his or her last known address.

(3) If the health practitioner tells the Registrar in writing that he or she wishes to have the entry in the register relating to him or her cancelled, the Registrar may cancel the entry in the register relating to the health practitioner.
(4) If the Registrar does not receive a reply to the letter within 6 months after it was posted, or if the letter is returned to the Registrar undelivered, the Registrar may give the health practitioner notice in writing at his or her last known address that the entry in the register relating to the health practitioner may be cancelled if the health practitioner does not respond within 10 working days after the date of the notice.

(5) If the Registrar does not receive a reply within 10 working days after the date of the notice, the authority may direct the Registrar to cancel the entry relating to the health practitioner.

141 Restoration of entries
(1) This section applies to a person if the entry in a register relating to him or her has been cancelled under section 139(3), or section 140(3) or (5).

(2) On the written application of a person to whom this section applies, the authority must direct the Registrar to restore the entry in the register relating to the person.

142 Cancellation of registration on authority’s direction
(1) The responsible authority may direct the Registrar of the authority to cancel the entry in the register relating to a health practitioner, and give him or her notice of the cancellation, if it is satisfied that he or she—
   (a) obtained registration by making a false or misleading representation or declaration (whether oral or written); or
   (b) was not entitled to be registered.

(2) The authority may not give a direction under subsection (1) unless it has first—
   (a) informed the health practitioner concerned why it may give a direction under that subsection in respect of the health practitioner; and
   (b) given the health practitioner a reasonable opportunity to make written submissions and be heard on the question, either personally or by his or her representative.

(3) If no appeal against a direction under subsection (1) has been made within the time provided by this Act, the authority may direct the Registrar to notify the cancellation in any publications the authority directs.
143 Removal of qualifications, or cancellation of registration, overseas

(1) The responsible authority may review the registration of a health practitioner who is registered by virtue of an overseas qualification if satisfied that—

(a) the educational establishment that gave him or her the overseas qualification has cancelled or suspended it (or taken action equivalent to cancelling or suspending it); or

(b) an overseas authority that maintains a register of people registered or licensed as health professionals has—

(i) removed his or her name from that register; or

(ii) suspended his or her registration; or

(iii) taken action equivalent to removing his or her name from that register or suspending his or her registration.

(2) The authority must take all reasonably practicable steps to ensure that the health practitioner is given—

(a) written notice containing sufficient detail to inform him or her clearly of the substance of the grounds on which the authority has decided to carry out the review; and

(b) any information in the authority’s possession relating to the cancellation, suspension, or removal concerned; and

(c) a reasonable opportunity to make written submissions and be heard on the matter, either personally or by his or her representative.

(3) Subsection (2)(b) is subject to section 150.

(4) Except as provided in subsection (2), the form of the review is at the authority’s discretion.

(5) After the review, the authority, if it thinks it appropriate to do so,—

(a) may direct the Registrar to note in the register the cancellation, suspension, or removal concerned; and

(b) may either—

(i) suspend the health practitioner’s registration for any period it thinks fit and direct the Registrar to note the suspension in the register; or

(ii) direct the Registrar to cancel the entry in the register relating to the health practitioner.
(6) The Registrar must take all reasonably practicable steps to ensure that the health practitioner is given a copy of any direction under subsection (5).

144 Cancellation or suspension not to affect existing liabilities

(1) The cancellation of the entry in a register relating to a health practitioner does not affect his or her liability for any act or default occurring before the cancellation.

(2) The suspension of a registered health practitioner’s registration does not affect his or her liability for any act or default occurring before the suspension.

145 Authorities to publish register

(1) Each authority must from time to time publish the register that it keeps, in any form it thinks fit.

(2) Publication may be in printed or electronic form.

(3) The authority may publish the register with some of the information it contains abbreviated, so long as all abbreviations are explained or easily understandable by members of the public.

(4) Subsections (2) and (3) do not limit the generality of subsection (1).

146 Inspection of register

(1) The Registrar of each authority must keep the published form of the register open for public inspection at the offices of the authority during its ordinary office hours.

(2) Each Registrar of an authority must ensure that there are available at the offices of the authority during its ordinary office hours—
   (a) copies of the published form of the register; or
   (b) suitable facilities for obtaining print-outs of the published form of the register.

(3) Each Registrar of an authority—
   (a) may refuse to allow a person to inspect the published form of the register if the person does not pay the fee (if any) set by the authority for inspecting it; and
   (b) may refuse to give a copy or print-out of the published form of the register or any part of it to any person who
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does not pay the fee (if any) set by the authority for such a copy or print-out.

Registrars

147 Authorities must appoint Registrars
(1) Each authority must appoint a Registrar and may appoint 1 or more Deputy Registrars.

(2) A Deputy Registrar appointed by an authority has and may, subject to the control of the Registrar of the authority, exercise the powers, duties, and functions of the Registrar.

148 Registrar must carry out authority’s decisions and comply with directions of authority and Tribunal
(1) Every Registrar must make the appropriate entry in the register if—
   (a) the authority—
      (i) cancels or suspends a health practitioner’s registration; or
      (ii) revokes the suspension of a health practitioner’s registration; or
      (iii) includes conditions in a health practitioner’s scope of practice; or
      (iv) cancels or varies any conditions included in a health practitioner’s scope of practice; or
   (b) the Tribunal makes an order that—
      (i) a health practitioner’s registration be cancelled or suspended; or
      (ii) for a stated period, he or she may practise as a health practitioner only in accordance with stated conditions.

(2) If an authority gives the Registrar a direction under this Act, he or she must promptly comply with it.
Part 7
Miscellaneous provisions, consequential amendments and repeals, and transitional provisions

Subpart 1—Miscellaneous provisions, consequential amendments, and repeals

Miscellaneous provisions

149 Certificate of Registrars to be evidence
(1) In the absence of proof to the contrary, a certificate purporting to be signed by the Registrar of an authority is for all purposes sufficient evidence of—
(a) whether any person was or was not registered, or was or was not the holder of a practising certificate, at a time or during a period stated in the certificate:
(b) any entry in a register maintained by an authority:
(c) any act, order, determination, or proceeding of an authority, a committee of an authority, or a complaints assessment committee.

(2) In the absence of proof to the contrary, a certificate purporting to be signed by the executive officer of the Tribunal is for all purposes sufficient evidence of any matter stated in the certificate relating to the proceedings of the Tribunal.

Compare: 1995 No 95 s 133

150 Authorities may withhold information in certain circumstances
Nothing in this Act requires an authority to make available to an individual information that could be withheld,—
(a) in the case of personal information about the individual, under the Privacy Act 1993; and
(b) in any other case, under the Official Information Act 1982 (as if it were official information).

Compare: 1995 No 95 s 134

151 Proceedings not invalid because of defect in appointment
(1) This section applies to every authority, every complaints investigation committee, and the Tribunal.
(2) No act or proceeding of a body to which this section applies, or of a person acting as a member of a body to which this section applies, is invalid merely because—
(a) there was a defect in the appointment of a person acting as a member of the body; or
(b) a person acting as a member of the body was incapable of being, or had ceased to be, a member of the body.

Compare: 1995 No 95 136

152 Notice and service of documents
(1) Unless this Act provides otherwise, if a provision of this Act requires or authorises any notice or other document, or any notification, to be given to a person, the notice, document, or notification must be given in writing to the person—
(a) by delivering it personally or by an agent (such as a courier) to the person; or
(b) by sending it by pre-paid post addressed to the person at the person’s usual or last known place of residence or business; or
(c) in any other manner a District Court Judge directs.

(2) In the absence of proof to the contrary, a notice, document, or notification sent by post to a person in accordance with sub-section (1)(b) must be treated as having been given to the person when it would have been delivered in the ordinary course of the post; and, in proving the delivery, it is sufficient to prove that the letter was properly addressed and posted.

(3) If a person is absent from New Zealand, a notice, document, or notification given to the person’s agent in New Zealand in accordance with subsection (1) must be treated as having been given to him or her.

(4) If a person has died, the notice, document, or notification may be given, in accordance with subsection (1), to his or her personal representative.

Compare: 1995 No 95 s 137

153 Publication of orders
(1) An authority may publish in any publication a notice stating—
(a) the effect of any order or direction it has made under this Act in respect of a health practitioner; and
(b) the name of the health practitioner.
(2) If the Tribunal makes an order under this Act in respect of a health practitioner, the executive officer of the Tribunal must publish, in any publication the Tribunal directs, a notice stating—
   (a) the effect of the order; and
   (b) the name of the health practitioner; and
   (c) a summary of the proceedings in which the order was made.

(3) If a court makes an order under this Act in respect of a health practitioner, the authority with which the health practitioner is or was registered must publish, in any publication the court directs, a notice stating—
   (a) the effect of the order; and
   (b) the name of the health practitioner; and
   (c) a summary of the proceedings in which the order was made.

(4) Subsections (2) and (3) apply subject to—
   (a) any order of the Tribunal under section 91; and
   (b) any order of the Court.

Compare: 1995 No 95 s 138

154 Application of Trans-Tasman Mutual Recognition Act 1997
Except as otherwise provided in Schedule 4 of the Trans-Tasman Mutual Recognition Act 1997, that Act prevails over this Act.

155 Reference to medical practitioners in other enactments
Every reference in any enactment to a medical practitioner or registered medical practitioner or duly qualified medical practitioner must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Medical Council of New Zealand and who is practising medicine in accordance with his or her scope of practice.

Compare: 1995 No 95 s 139

156 Reference to chiropractors in other enactments
Every reference in any enactment to a chiropractor or registered chiropractor must, unless a different intention appears,
be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Chiropractic Board and who is practising chiropractic in accordance with his or her scope of practice.

157 **Reference to dentists, etc, in other enactments**

(1) Every reference in any enactment to a dentist or registered dentist must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Dental Council and who is practising dentistry in accordance with his or her scope of practice.

(2) Every reference in any enactment to a clinical dental technician or registered clinical dental technician must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Dental Council and who is practising clinical dental technology in accordance with his or her scope of practice.

(3) Every reference in any enactment to a dental technician or registered dental technician must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Dental Council and who is practising dental technology in accordance with his or her scope of practice.

158 **Reference to dietitians in other enactments**

Every reference in any enactment to a dietitian or registered dietitian must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Dietitians Board and who is practising dietetics in accordance with his or her scope of practice.

159 **Reference to medical laboratory technologists, etc, in other enactments**

(1) Every reference in any enactment to a medical laboratory technologist or registered medical laboratory technologist must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Medical Laboratory Scientists Board
and who is practising medical laboratory science in accordance with his or her scope of practice.

(2) Every reference in any enactment to a medical radiation technologist or registered medical radiation technologist must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Medical Radiation Technologists Board and who is practising medical radiation technology in accordance with his or her scope of practice.

(3) Every reference in any enactment to a podiatrist or registered podiatrist must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Podiatrists Board and who is practising podiatry in accordance with his or her scope of practice.

160 Reference to nurses and midwives in other enactments

(1) Every reference in any enactment to a nurse or registered nurse must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Nursing Council and who is practising nursing in accordance with his or her scope of practice.

(2) Every reference in any enactment to a midwife or registered midwife must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Midwifery Council and who is practising midwifery in accordance with his or her scope of practice.

161 Reference to occupational therapists in other enactments

Every reference in any enactment to an occupational therapist or registered occupational therapist must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Occupational Therapy Board and who is practising occupational therapy in accordance with his or her scope of practice.
162 Reference to optometrists and opticians in other enactments
Every reference in any enactment to an optometrist or to a registered optometrist or a dispensing optician or a registered dispensing optician must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Optometrists and Dispensing Opticians Board and who is practising optometry or, as the case requires, optical dispensing in accordance with his or her scope of practice.

163 Reference to pharmacists in other enactments
Every reference in any enactment to a pharmacist or registered pharmacist must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Pharmacy Council and who is practising pharmacy in accordance with his or her scope of practice.

164 Reference to physiotherapists in other enactments
Every reference in any enactment to a physiotherapist or registered physiotherapist must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Physiotherapy Board and who is practising physiotherapy in accordance with his or her scope of practice.

165 Reference to psychologists in other enactments
Every reference in any enactment to a psychologist or registered psychologist must, unless a different intention appears, be taken to be a reference to a person who is, or is deemed to be, registered under this Act with the Psychologists Board and who is practising psychology in accordance with his or her scope of practice.

166 Regulations
The Governor-General may, by Order in Council made on the advice of the Minister given after consultation by the Minister with any authority affected by that advice, make regulations for any or all of the following purposes:
(a) regulating the procedure of—
   (i) all or any authorities:
   (ii) all complaints investigation committees or any class of complaints investigation committee:
   (iii) the Tribunal:
(b) specifying in respect of any particular authority the number of members of the authority to be appointed by the Minister in accordance with the results of elections conducted by or on behalf of the authority:
(c) providing in respect of elections required by paragraph (b), in relation to all authorities or any authority,—
   (i) for all health practitioners or any class of health practitioner registered, or deemed to be registered, with the authority to be eligible to vote at the elections:
   (ii) for the times (expressed by 1 or more dates or periods) and intervals at which the elections are to be conducted:
   (iii) for the manner in which the elections are to be conducted:
   (iv) for the method and procedures for determining the results of the election:
(d) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

167 False declarations and representations
Every person commits an offence and is liable on summary conviction to a fine not exceeding $10,000 who, for any purpose relating to this Act, either on his or her own behalf or on behalf of any other person,—
(a) either orally or in writing, makes any declaration or representation that, to his or her knowledge, is false or misleading in any material particular; or
(b) produces to an authority, the Tribunal, or a complaints investigation committee, or makes use of, any document knowing it to contain any declaration or representation of that kind; or
(c) produces to an authority, the Tribunal, or a complaints investigation committee, or makes use of, a document knowing that it is not genuine.

Compare: 1995 No 95 141

Consequential amendments, repeals, and revocations

168 Consequential amendments, repeals, and revocations

(1) The Acts specified in Schedule 4 are amended in the manner indicated in that schedule.

(2) The Accident Insurance Act 1998 continues to apply for the purposes of Part 10 or Part 11 of the Injury Prevention, Rehabilitation, and Compensation Act 2001 as if it were amended in the manner indicated in Schedule 5.

(3) The regulations and orders specified in Schedule 6 are amended in the manner indicated in that schedule.

(4) The Acts specified in Schedule 7 are repealed.

(5) The regulations and orders specified in Schedule 8 are revoked.

Repeal of Part VI of Medical Practitioners Act 1995 and savings

169 Savings for notices issued under section 68(1) of Medical Practitioners Act 1995

(1) Section 3(2), Part VI, and section 142(1)(b) of the Medical Practitioners Act 1995 are repealed.

(2) Despite subsection (1), every notice under section 68 of the Medical Practitioners Act 1995 that is in force immediately before the commencement of this section continues in force, and may be revoked, as if this Act had not been enacted.

(3) Part VI of the Medical Practitioners Act 1995, so far as applicable, continues to apply to—

(a) any information that became known solely as a result of an activity that, at the relevant time, was a quality assurance activity (within the meaning of section 66(1) of that Act); and

(b) any document brought into existence solely for the purpose of such an activity.
Subpart 2—Transitional provisions

Interpretation of terms used in this subpart

170 Interpretation
(1) In this subpart, unless the context otherwise requires,—

continuing authority means each authority specified in column 1 of Schedule 2.

Dental Technicians Board means the board continued by section 72(1) of the Dental Act 1988.

former registration Act means each of the following Acts:
(a) Chiropractors Act 1982:
(b) Dental Act 1988:
(c) Dietitians Act 1950:
(d) Medical Auxiliaries Act 1966:
(e) Medical Practitioners Act 1995:
(f) Nurses Act 1977:
(g) Occupational Therapy Act 1949:
(h) Optometrists and Dispensing Opticians Act 1976:
(i) Pharmacy Act 1970:
(j) Physiotherapy Act 1949:
(k) Psychologists Act 1981


(2) Wherever an authority is, in this subpart, referred to by a name that is specified in column 1 of Schedule 2, the reference is to the authority of that name specified in that schedule.

Persons registered under former registration Acts deemed to be registered under this Act

171 Persons registered under Chiropractors Act 1982 deemed to be registered under this Act
Every person who, immediately before the commencement of this subpart, was registered as a chiropractor under the Chiropractors Act 1982 (including a person who, immediately before that commencement, was so registered by virtue of a certificate of temporary registration under that Act) is, on the commencement of this subpart, deemed to be registered,
under this Act, with the Chiropractic Board as a practitioner of the profession of chiropractic.

172 Persons registered under Dental Act 1988 deemed to be registered under this Act

(1) Every person who, immediately before the commencement of this subpart, was registered as a dentist under the Dental Act 1988 (including a person who, immediately before that commencement, was so registered by virtue of a provisional certificate of registration or a certificate of temporary registration under that Act) is, on the commencement of this subpart, deemed to be registered, under this Act, with the Dental Council as a practitioner of the profession of dentistry.

(2) Every person who, immediately before the commencement of this subpart, was registered as a clinical dental technician under the Dental Act 1988 (including a person who, immediately before that commencement, was so registered by virtue of a provisional certificate of registration or a certificate of temporary registration under that Act) is, on the commencement of this subpart, deemed to be registered, under this Act, with the Dental Council as a practitioner of the profession of clinical dental technology.

(3) Every person who, immediately before the commencement of this subpart, was registered as a dental technician under the Dental Act 1988 (including a person who, immediately before that commencement, was so registered by virtue of a provisional certificate of registration or a certificate of temporary registration under that Act) is, on the commencement of this subpart, deemed to be registered, under this Act, with the Dental Council as a practitioner of the profession of dental technology.

173 Persons registered under Dietitians Act 1950 deemed to be registered under this Act

Every person who, immediately before the commencement of this subpart, was registered as a dietitian under the Dietitians Act 1950 (including a person who, immediately before that commencement, was so registered by virtue of a provisional certificate of registration or a certificate of temporary registration under that Act) is, on the commencement of this subpart,
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174 Persons registered under Medical Auxiliaries Act 1966
deemed to be registered under this Act

(1) Every person who, immediately before the commencement of this subpart, was registered as a medical laboratory technologist under the Medical Auxiliaries Act 1966 (including a person who, immediately before that commencement, was so registered by virtue of a provisional certificate of registration or a certificate of temporary registration under that Act) is, on the commencement of this subpart, deemed to be registered, under this Act, with the Medical Laboratory Scientists Board as a practitioner of the profession of medical laboratory science.

(2) Every person who, immediately before the commencement of this subpart, was registered as a medical radiation technologist under the Medical Auxiliaries Act 1966 (including a person who, immediately before that commencement, was so registered by virtue of a provisional certificate of registration or a certificate of temporary registration under that Act) is, on the commencement of this subpart, deemed to be registered, under this Act, with the Medical Radiation Technologists Board as a practitioner of the profession of medical radiation technology.

(3) Every person who, immediately before the commencement of this subpart, was registered as a podiatrist under the Medical Auxiliaries Act 1966 (including a person who, immediately before that commencement, was so registered by virtue of a provisional certificate of registration or a certificate of temporary registration under that Act) is, on the commencement of this subpart, deemed to be registered, under this Act, with the Podiatrists Board as a practitioner of the profession of podiatry.

175 Persons registered under Medical Practitioners Act 1995
deemed to be registered under this Act

Every person who, immediately before the commencement of this subpart, was registered as a medical practitioner under the Medical Practitioners Act 1995 (including a person who,
immediately before that commencement, was so registered by virtue of interim, probationary, or temporary registration under that Act) is, on the commencement of this subpart, deemed to be registered, under this Act, with the Medical Council of New Zealand as a practitioner of the profession of medicine.

176 **Persons registered under Nurses Act 1977 deemed to be registered under this Act**

(1) Every person who, immediately before the commencement of this subpart, was registered or enrolled as a nurse under the Nurses Act 1977 (including a person who, immediately before that commencement, was so registered or enrolled by virtue of a provisional certificate of registration or enrolment or a certificate of temporary registration or enrolment under that Act) is, on the commencement of this subpart, deemed to be registered, under this Act, with the Nursing Council as a practitioner of the profession of nursing.

(2) **Subsection (1)** does not apply to a person so far as the person was, immediately before the commencement of this subpart, registered under the Nurses Act 1977 in his or her capacity as a midwife.

(3) Every person who, immediately before the commencement of this subpart, was registered under the Nurses Act 1977 in his or her capacity as a midwife (including a person who, immediately before that commencement, was so registered by virtue of a provisional certificate of registration or enrolment or a certificate of temporary registration under that Act) is, on the commencement of this subpart, deemed to be registered, under this Act, with the Midwifery Council established by section 110(2) as a practitioner of the profession of midwifery.

177 **Persons registered under Occupational Therapy Act 1949 deemed to be registered under this Act**

Every person who, immediately before the commencement of this subpart, was registered as an occupational therapist under the Occupational Therapy Act 1949 (including a person who, immediately before that commencement, was so registered by virtue of a provisional certificate of registration under that Act) is, on the commencement of this subpart, deemed to be
registered, under this Act, with the Occupational Therapy Board as a practitioner of the profession of occupational therapy.

178 Persons registered under Optometrists and Dispensing Opticians Act 1976 deemed to be registered under this Act

(1) Every person who, immediately before the commencement of this subpart, was registered as an optometrist under the Optometrists and Dispensing Opticians Act 1976 (including a person who, immediately before that commencement, was so registered by virtue of a provisional certificate of registration or a certificate of temporary registration under that Act) is, on the commencement of this subpart, deemed to be registered, under this Act, with the Optometrists and Dispensing Opticians Board as a practitioner of the profession of optometry.

(2) Every person who, immediately before the commencement of this subpart, was registered as a dispensing optician under the Optometrists and Dispensing Opticians Act 1976 (including a person who, immediately before that commencement, was so registered by virtue of a provisional certificate of registration or a certificate of temporary registration under that Act) is, on the commencement of this subpart, deemed to be registered, under this Act, with the Optometrists and Dispensing Opticians Board as a practitioner of the profession of optical dispensing.

179 Persons registered under Pharmacy Act 1970 deemed to be registered under this Act

Every person who, immediately before the commencement of this subpart, was registered as a pharmacist under the Pharmacy Act 1970 is, on the commencement of this subpart, deemed to be registered, under this Act, with the Pharmacy Council established by section 110(4) of this Act as a practitioner of the profession of pharmacy.

180 Persons registered under Physiotherapy Act 1949 deemed to be registered under this Act

Every person who, immediately before the commencement of this subpart, was registered as a physiotherapist under the
Physiotherapy Act 1949 (including a person who, immediately before that commencement, was so registered by virtue of a provisional certificate of registration or a certificate of temporary registration under that Act) is, on the commencement of this subpart, deemed to be registered, under this Act, with the Physiotherapy Board as a practitioner of the profession of physiotherapy.

181 Persons registered under Psychologists Act 1981 deemed to be registered under this Act

Every person who, immediately before the commencement of this subpart, was registered as a psychologist under the Psychologists Act 1981 (including a person who, immediately before that commencement, was so registered by virtue of a provisional certificate of registration or a certificate of temporary registration under that Act) is, on the commencement of this subpart, deemed to be registered, under this Act, with the Psychologists Board as a practitioner of the profession of psychology.

Persons deemed registered under this Act deemed to have authorised scope of practice

182 Practitioners whose registration continued deemed to have authorised scope of practice

(1) This section applies to a practitioner (the practitioner) who, because of the person’s former registration under a former registration Act (the relevant former Act), is by this subpart deemed to be registered with an authority.

(2) On the commencement of this subpart, the authority is deemed to have authorised the practitioner’s scope of practice, which is deemed to consist of—

(a) health services of the kind that the practitioner was, immediately before that commencement, permitted to perform by virtue of his or her registration under the relevant former Act; and

(b) any conditions that, immediately before that commencement, were imposed by or under that Act on the practitioner’s registration or annual practising certificate or annual licence.
(3) The authority may, in accordance with this Act, vary, or include conditions in, a scope of practice that it is deemed to have been authorised under subsection (2).

Unexpired annual practising certificates and licences and continuation of exemptions

183 Continuation of annual practising certificates and licences issued under former registration Acts

(1) This section applies to every annual practising certificate and to every annual licence that—
(a) had been issued under a former registration Act to a person who, by this subpart, is deemed to be registered with an authority; and
(b) was in force immediately before the commencement of this subpart.

(2) Every such certificate and every such licence is deemed to be an annual practising certificate issued by the authority and continues in effect until the expiry of the period for which it had been issued under the former registration Act.

(3) To avoid doubt, subsection (2) is subject to section 32.

184 Continuation of exemptions from holding annual practising certificates or licences

(1) This section applies to every practitioner who,—
(a) because of the practitioner’s former registration under a former registration Act, is, under this subpart, deemed to be registered with an authority; and
(b) whose registration with that authority is to expire in accordance with a provision of this subpart; and
(c) who, immediately before the commencement of this subpart, was not required by that former registration Act to hold an annual practising certificate or an annual licence.

(2) So long as the practitioner is, by this subpart, deemed to be registered with the authority, the practitioner is not required to have an annual practising certificate to practise the profession in respect of which the authority is appointed.
Registrations subject to time limits under former registration Acts

185 Persons holding certificates of temporary registration under Chiropractors Act 1982

(1) This section applies to a person who is, by this subpart, deemed to be registered with the Chiropractic Board because the person held a certificate of temporary registration under the Chiropractors Act 1982.

(2) Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the certificate of temporary registration had been granted.

(3) The provisions of section 23(2) and (4) of the Chiropractors Act 1982 continue to apply with all necessary modifications to the registration of such a person, and the Chiropractic Board may, in accordance with those provisions as so modified, extend or cancel that registration.

186 Persons holding certificates of temporary registration under Dental Act 1988

(1) This section applies to a person who, by this subpart, is deemed to be registered with the Dental Council because the person held a certificate of temporary registration under the Dental Act 1988.

(2) Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the certificate of temporary registration had been granted.

(3) The provisions of section 35(2) and (5) of the Dental Act 1988 continue to apply with all necessary modifications to the registration of such a person under this subpart, and the Dental Council may, in accordance with those provisions as so modified, extend or cancel that registration.

187 Persons holding provisional certificates under Dental Act 1988

(1) This section applies to a person who is, by this subpart, deemed to be registered with the Dental Council because the person held a provisional certificate under the Dental Act 1988.
(2) Unless sooner renewed or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the provisional certificate had been granted.

(3) The provisions of sections 34(4) and (7) of the Dental Act 1988 continue to apply with all necessary modifications to the registration of such a person, and the Dental Council may, in accordance with those provisions as so modified, renew or cancel that registration.

188 Persons holding certificates of temporary registration under Dietitians Act 1950

(1) This section applies to a person who is, by this subpart, deemed to be registered with the Dietitians Board because the person held a certificate of temporary registration under the Dietitians Act 1950.

(2) Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the certificate of temporary registration had been granted.

(3) The provisions of section 18B(5) and (7) of the Dietitians Act 1950 continue to apply with all necessary modifications to the registration of such a person, and the Dietitians Board may, in accordance with those provisions as so modified, extend or cancel that registration.

189 Persons holding provisional certificates under Dietitians Act 1950

(1) This section applies to a person who is, by this subpart, deemed to be registered with the Dietitians Board because the person held a provisional certificate under the Dietitians Act 1950.

(2) Unless sooner renewed or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the provisional certificate had been granted.

(3) The provisions of sections 18A(2) and (4) of the Dietitians Act 1950 continue to apply with all necessary modifications to the registration of such a person, and the Dietitians Board may, in accordance with those provisions as so modified, renew or cancel that registration.
190 Persons holding certificates of temporary registration as medical laboratory technologists under Medical Auxiliaries Act 1966

(1) This section applies to a person who is, by this subpart, deemed to be registered with the Medical Laboratory Scientists Board because the person held a certificate of temporary registration under the Medical Auxiliaries Act 1966.

(2) Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the certificate of temporary registration had been granted.

(3) Regulation 8(3) and (5) of the Medical Laboratory Technologists Regulations 1989 (SR 1989/282) continues to apply with all necessary modifications to the registration of such a person, and the Medical Laboratory Scientists Board may, in accordance with those provisions as so modified, extend or direct the cancellation of that registration.

191 Persons holding certificates of temporary registration as medical radiation technologists under Medical Auxiliaries Act 1966

(1) This section applies to a person who is, by this subpart, deemed to be registered with the Medical Radiation Technologists Board because the person held a certificate of temporary registration under the Medical Auxiliaries Act 1966.

(2) Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the certificate of temporary registration had been granted.

(3) The provisions of regulation 9(1) and (3) of the Medical Radiation Technologists Regulations 1995 (SR 1995/32) continue to apply, with all necessary modifications, to the registration of such a person, and the Medical Radiation Technologists Board may, in accordance with those provisions as so modified, extend or direct the cancellation of that registration.

192 Persons holding certificates of temporary registration as podiatrists under Medical Auxiliaries Act 1966

(1) This section applies to a person who is, by this subpart, deemed to be registered with the Podiatrists Board because the
person held a certificate of temporary registration under the Medical Auxiliaries Act 1966.

(2) Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the certificate of temporary registration had been granted.

(3) The provisions of regulation 5(5) and (7) of the Podiatrists Regulations 1982 (SR 1982/53) continue to apply, with all necessary modifications, to the registration of such a person, and the Podiatrists Board may, in accordance with those provisions as so modified, extend or direct the cancellation of that registration.

193 Persons holding provisional certificates under Medical Auxiliaries Act 1966

(1) This section applies to a person who is, by this subpart, deemed to be registered under this Act because the person held a provisional certificate under the Medical Auxiliaries Act 1966.

(2) Unless sooner renewed or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the provisional certificate had been granted.

(3) The provisions of section 23(2) and (4) of the Medical Auxiliaries Act 1966 continue to apply with all necessary modifications to the registration of such a person, and the authority with which that person is, by this subpart, deemed to be registered may, in accordance with those provisions as so modified, renew or cancel that registration.

194 Medical practitioners holding probationary registration

(1) In this section, **probationer** means a person who, immediately before the commencement of this subpart, held probationary registration under the Medical Practitioners Act 1995.

(2) On the commencement of this subpart, the scope of practice of the probationer is deemed to be subject to conditions of the kind stated in sections 21(3)(a) and 22 of this Act, and continues to be subject to those conditions until they are cancelled by the Medical Council.

(3) Every person who, immediately before the commencement of this subpart, is, in relation to the probationer, an approved
person for the purposes of section 15 of the Medical Practitioners Act 1995 is deemed to be a person nominated by the Medical Council for the purposes of section 21(3)(d) or, as the case requires, section 21(3)(e) of this Act.

(4) Every person who, immediately before the commencement of this subpart, is, in relation to the probationer, an approved person, or a person of a kind approved, for the purposes of section 16 of the Medical Practitioners Act 1995 is deemed to be a health practitioner nominated by the Medical Council for the purposes of section 21(3)(a) of this Act.

(5) Section 16 of the Medical Practitioners Act 1995 continues, so far as applicable, to apply with all necessary modifications to every person appointed under that section as a supervisor of the probationer as if for the words in subsection (4)(b) “the probationer should be granted general registration” there were substituted the words “the condition requiring the practitioner to practise subject to supervision should continue to apply”.

(6) The provisions of section 18(1) and (3) of the Medical Practitioners Act 1995 continue to apply with all necessary modifications to the registration of the probationer so long as the conditions referred to in subsection (2) continue to apply to the probationer, and the Medical Council may, in accordance with those provisions as so modified, cancel the registration of the probationer.

195 Medical practitioners holding temporary registration

(1) This section applies to a person who, by this subpart, is deemed to be registered with the Medical Council of New Zealand because of the person’s temporary registration under the Medical Practitioners Act 1995.

(2) Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the person’s temporary registration had been granted.

(3) The provisions of sections 26 and 27 of the Medical Practitioners Act 1995 continue to apply with all necessary modifications to the registration of such a person under this subpart, and the Medical Council of New Zealand may, in accordance with those provisions as so modified, vary or cancel that registration.
Medical practitioners holding interim registration

(1) This section applies to a person who, by this subpart, is deemed to be registered with the Medical Council of New Zealand because of the person’s interim registration under the Medical Practitioners Act 1995.

(2) Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the person’s interim registration had been granted.

(3) The provisions of sections 31 and 32 of the Medical Practitioners Act 1995 continue to apply with all necessary modifications to the registration of such a person under this subpart, and the Medical Council of New Zealand may, in accordance with those provisions as so modified, vary or cancel that registration.

Persons holding certificates of temporary registration under Nurses Act 1977

(1) This section applies to a person who is, by this subpart, deemed to be registered with the Nursing Council because the person held a certificate of temporary registration under the Nurses Act 1977.

(2) Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the certificate of temporary registration had been granted.

(3) The provisions of section 31(5) and (8) of the Nurses Act 1977 continue to apply with all necessary modifications to the registration of such a person, and the Nursing Council may, in accordance with those provisions as so modified, extend or cancel that registration.

Persons holding provisional certificates under Nurses Act 1977

(1) This section applies to a person who is, by this subpart, deemed to be registered with the Nursing Council because the person held a provisional certificate under the Nurses Act 1977.

(2) Unless sooner renewed or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the provisional certificate had been granted.
(3) The provisions of section 30(2) and (4) of the Nurses Act 1977 continue to apply with all necessary modifications to the registration of such a person, and the Nursing Council may, in accordance with those provisions as so modified, renew or cancel that registration.

199 Persons holding provisional certificates under Occupational Therapy Act 1949

(1) This section applies to a person who is, by this subpart, deemed to be registered with the Occupational Therapy Board because the person held a provisional certificate under the Occupational Therapy Act 1949.

(2) Unless sooner renewed or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the provisional certificate had been granted.

(3) The provisions of section 18A(2) and (4) of the Occupational Therapy Act 1949 continue to apply with all necessary modifications to the registration of such a person, and the Occupational Therapy Board may, in accordance with those provisions as so modified, renew or cancel that registration.

200 Persons holding certificates of temporary registration under Optometrists and Dispensing Opticians Act 1976

(1) This section applies to a person who is, by this subpart, deemed to be registered with the Opticians Board because the person held a certificate of temporary registration under the Optometrists and Dispensing Opticians Act 1976.

(2) Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the certificate of temporary registration had been granted.

(3) The provisions of section 28(5) and (7) of the Optometrists and Dispensing Opticians Act 1976 continue to apply with all necessary modifications to the registration of such a person, and the Opticians Board may, in accordance with those provisions as so modified, extend or cancel that registration.
201  Persons holding provisional certificates of registration under Optometrists and Dispensing Opticians Act 1976

(1)  This section applies to a person who is, by this subpart, deemed to be registered with the Opticians Board because the person held a provisional certificate under the Optometrists and Dispensing Opticians Act 1976.

(2)  Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the provisional certificate had been granted.

(3)  The provisions of section 27(2) and (4) of the Optometrists and Dispensing Opticians Act 1976 continue to apply with all necessary modifications to the registration of such a person, and the Opticians Board may, in accordance with those provisions as so modified, extend or cancel that registration.

202  Persons holding certificates of temporary registration under Physiotherapy Act 1949

(1)  This section applies to a person who is, by this subpart, deemed to be registered with the Physiotherapy Board because the person held a certificate of temporary registration under the Physiotherapy Act 1949.

(2)  Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the certificate of temporary registration had been granted.

(3)  The provisions of section 18B(2) and (3) of the Physiotherapy Act 1949 continue to apply with all necessary modifications to the registration of such a person, and the Physiotherapy Board may, in accordance with those provisions as so modified, extend or cancel that registration.

203  Persons holding provisional certificates of registration under Physiotherapy Act 1949

(1)  This section applies to a person who is, by this subpart, deemed to be registered with the Physiotherapy Board because the person held a provisional certificate under the Physiotherapy Act 1949.

(2)  Unless sooner renewed or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the provisional certificate had been granted.
(3) The provisions of section 18A(2) and (4) of the Physiotherapy Act 1949 continue to apply with all necessary modifications to the registration of such a person, and the Physiotherapy Board may, in accordance with those provisions as so modified, renew or cancel that registration.

204 Persons holding certificates of temporary registration under Psychologists Act 1981
(1) This section applies to a person who is, by this subpart, deemed to be registered with the Psychologists Board because the person held a certificate of temporary registration under the Psychologists Act 1981.
(2) Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the certificate of temporary registration had been granted.
(3) The provisions of section 23(2) and (4) of the Psychologists Act 1981 continue to apply with all necessary modifications to the registration of such a person, and the Psychologists Board may, in accordance with those provisions as so modified, extend or cancel that registration.

205 Persons holding provisional certificates of registration under Psychologists Act 1981
(1) This section applies to a person who is, by this subpart, deemed to be registered with the Psychologists Board because the person held a provisional certificate under the Psychologists Act 1981.
(2) Unless sooner extended or cancelled, the registration of such a person under this subpart expires on the expiry of the period for which the provisional certificate had been granted.
(3) The provisions of section 22(2) and (3) of the Psychologists Act 1981 continue to apply with all necessary modifications to the registration of such a person, and the Psychologists Board may, in accordance with those provisions as so modified, extend or cancel that registration.
Pending applications for registration

206 Applications pending at commencement of this subpart to be dealt with under former registration Act

(1) Every application for, or concerning, registration under a former registration Act that is, immediately before the commencement of this subpart, pending before a continuing authority or before the Pharmaceutical Council or before the Dental Technicians Board must be considered and determined as if this Act had not been enacted.

(2) After determining an application of the kind referred to in subsection (1), the Pharmaceutical Council must promptly advise the Pharmacy Council of the determination.

(3) After determining an application of the kind referred to in subsection (1), the Dental Technicians Board must promptly advise the Dental Council of the determination.

(4) After determining an application of the kind referred to in subsection (1), being an application relating to registration as a midwife, the Nursing Council must promptly advise the Midwifery Council of the determination.

(5) When a determination of an application of the kind referred to in subsection (1) results in the registration, or in a change in the registration, of a person, that registration or change is deemed to have taken effect immediately before the commencement of this subpart.

(6) The Pharmaceutical Council and the Dental Technicians Board each—
(a) continues in existence for the purpose of giving effect to this section; and
(b) has all the powers necessary for that purpose.

Suspended practitioners

207 Provisions relating to persons whose registration is suspended

(1) The application of any of the sections of this subpart that deem a person to be registered with an authority is not precluded merely by the fact that the person was, immediately before the commencement of the relevant section, suspended from practising under a former registration Act.
(2) However, the registration that the person is deemed, by virtue of any of the sections of this subpart, to hold at the commencement of the relevant section is deemed to be suspended until that person’s suspension from practising under the former registration Act would have expired if this Act had not been enacted.

**Complaints and disciplinary proceedings**

208 Continuation of pending investigations, inquiries, and disciplinary proceedings

(1) All investigations, inquiries, and disciplinary proceedings under a former registration Act that have been commenced before the commencement of this subpart and that have not been completed before that commencement are to be continued and completed as if this Act had not been enacted.

(2) Every committee and tribunal constituted under a former registration Act in respect of complaints and disciplinary proceedings continues to have and may exercise all its powers, functions, and duties under that Act for the purpose of giving effect to subsection (1).

(3) For the purposes of subsection (1), any obligation of a complaints assessment committee appointed under section 45(2) or (3) of the Dental Act 1988 to inform the Dental Technicians Board of any matter is discharged by informing the Dental Council.

(4) For the purposes of subsection (1), any recommendation of a disciplinary committee appointed under section 30 of the Pharmacy Act 1970 must be made to the Pharmacy Council established under section 105(4) of this Act; and that Council may, for those purposes, exercise the disciplinary powers conferred by section 31 of the Pharmacy Act 1970 as if it were the Pharmaceutical Council.

(5) To avoid doubt, the relevant authority may impose a disciplinary levy to fund the work of a committee or tribunal that is undertaken for the purposes specified in subsection (1).

(6) To avoid doubt, for the purposes of subsection (5), the relevant authority,—

(a) in relation to a complaint or disciplinary proceeding against a clinical dental technician or a dental technician, is the Dental Council:
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(b) in relation to a complaint or disciplinary proceeding against a pharmacist, is the Pharmacy Council established under section 110(4).

209 Complaints about conduct before commencement of this subpart

(1) An authority may deal with a complaint about the conduct of a health practitioner or former health practitioner under Part 4, even though the conduct is alleged to have occurred before the commencement of this subpart.

(2) Subsection (1) does not apply if an inquiry or investigation into the conduct concerned has been commenced under a former registration Act or under the Health and Disability Commissioner Act 1994.

(3) If the conduct concerned occurred before 1 July 1996, the authority may not forward a complaint about that conduct to the Health and Disability Commissioner but may refer the complaint to a complaints investigation committee; in any such case, section 67 has no application.

210 Charges about conduct before commencement of this subpart

(1) The Tribunal may consider a charge against a health practitioner or a former health practitioner in respect of conduct alleged to have occurred before the commencement of this subpart, but only if the Tribunal is satisfied that,—

(a) at the time of the occurrence of the conduct, the health practitioner or former health practitioner was registered under a former registration Act and could have been charged under that Act in respect of that conduct; and

(b) the health practitioner or former health practitioner has not been charged under a former registration Act in respect of that conduct.

(2) If, after conducting a hearing on a charge of the kind referred to in subsection (1), the Tribunal finds the health practitioner or former health practitioner guilty of a disciplinary offence under section 95 in respect of conduct that occurred before the commencement of this subpart, the Tribunal may not impose on that person, in respect of that conduct, any order in the
nature of a penalty that could not have been made against that person at the time when the conduct occurred.

(3) In this section and in section 209, former health practitioner includes a person who was registered under a former registration Act and who would have been deemed to have been registered with an authority had the person still been registered under that former registration Act on the commencement of the relevant section of this subpart.

Period of transition for membership of continuing authorities

211 Meaning of period of transition
In sections 212 to 214, period of transition, in relation to a continuing authority, means the period that commences on the commencement of this subpart and ends on the earlier of—
(a) a date notified in writing by the Minister to the members of the authority:
(b) the expiry of the term of the person holding the office of chairperson or President, as the case may be, of the authority.

212 Membership of continuing authorities during period of transition
(1) During the period of transition, the persons who, immediately before the commencement of this subpart, held office as members of a continuing authority are the members of the authority.

(2) Unless sooner vacating office or removed from office under section 118, the persons referred to in subsection (1) cease to be members at the end of the period of transition, and no compensation may be paid in respect of that cessation of office.

(3) Subsection (1) does not affect the application to the continuing authority of the provisions of this Act concerning the functions and powers of an authority, including the provisions governing the requirements for a quorum.

213 Special provision in respect of Dental Council
Section 212(1) applies to the Dental Council subject to the modification that the persons who, immediately before the commencement of this subpart, held office as members of the
Dental Technicians Board are also members, during the period of transition, of the Dental Council.

214 Vacancies may be filled by Minister
(1) During the period of transition, the Minister may, by notice in the Gazette, appoint any person to fill any vacancy that occurs during that period in the membership of a continuing authority.
(2) Section 212(1) applies to a person appointed under subsection (1).

Registars to make necessary entries

215 Registrars to give effect to transitional provisions
The Registrar of every continuing authority and the Registrar of the Midwifery Council must each, as soon as practicable after the commencement of this subpart, and without further authority than this section, make all necessary entries in the register of the authority to give effect to this subpart.

Continuation of status of educational institutions

216 Approved educational institutions deemed to be institutions accredited by authorities
(1) Every educational institution that, immediately before the commencement of this subpart, is approved or accredited or endorsed for the purposes of a former registration Act is deemed to be an educational institution accredited by the relevant authority for the purposes of section 11(2)(a).
(2) To avoid doubt, an authority may at any time, by notice under section 11, revoke the status conferred on an institution by subsection (1).

Provisions relating to dissolution of Pharmaceutical Society and Dental Technicians Board

217 Vesting of assets of Pharmaceutical Society and Dental Technicians Board
(1) On the date that this Act comes into force, the assets and liabilities of the Pharmaceutical Society vest in the Pharmacy Council.
(2) On the date that this Act comes into force, the assets and liabilities of the Dental Technicians Board vest in the Dental Council.

(3) Sections 6, 8, and 9, and the First Schedule of the Health Sector (Transfers) Act 1993 apply in respect of the vesting of assets and liabilities by this section as if those assets and liabilities were transferred under section 5 of that Act.

(4) For the purposes of applying the Health Sector (Transfers) Act 1993 in accordance with subsection (3),—

(a) in relation to the assets and liabilities vested by subsection (1), the Pharmaceutical Society is the transferor and the Pharmacy Council is the transferee; and

(b) in relation to the assets and liabilities vested by subsection (2), the Dental Technicians Board is the transferor and the Dental Council is the transferee.

(5) In this section, unless the context otherwise requires, assets, liabilities, and transfer have the same meaning as in section 2(1) of the Health Sector (Transfers) Act 1993.

218 Dissolution of Pharmaceutical Society and Dental Technicians Board

On the date that this Act comes into force, the Pharmaceutical Society and the Dental Technicians Board are each dissolved.

Part 8
Amendments to Health and Disability Commissioner Act 1994

219 Health and Disability Commissioner Act 1994 called principal Act in this Part

In this Part, the Health and Disability Commissioner Act 1994 is called “the principal Act”.  

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220 Interpretation

(1) Section 2(1) of the principal Act is amended by omitting from the definition of Deputy Commissioner the word “the”, and substituting the word “a”.

(2) Section 2(1) of the principal Act is amended by omitting from the definition of disciplinary proceedings the words “any
health registration enactment”, and substituting the words “the Health Practitioners Competence Assurance Act 2002”.

(3) Section 2(1) of the principal Act is amended by repealing the definitions of health professional body, health registration enactment, and registered health professional.

(4) Section 2(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“health practitioner—

“(a) has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002; and

“(b) includes—

“(i) a former health practitioner within the meaning of that section; and

“(ii) a person who is receiving training or gaining experience under the supervision of a health practitioner

“health professional body has the same meaning as that given to the term authority by section 5(1) of the Health Practitioners Competence Assurance Act 2002”.

221 Definition of health care provider
Section 3 of the principal Act is amended by repealing paragraph (h), and substituting the following paragraph:

“(h) any health practitioner:”.

222 Section 4 repealed
The principal Act is amended by repealing section 4.

223 New section 9 substituted
The principal Act is amended by repealing section 9, and substituting the following section:

“9 Deputy Commissioners

“(1) There may be appointed 1 or more Deputy Health and Disability Commissioners.

“(2) A Deputy Commissioner is appointed in the same manner as the Commissioner, except that the Minister must, before recommending a person for appointment as Deputy Commissioner, consult with the Commissioner.
“(3) Sections 10 to 13 apply to every Deputy Commissioner in the same manner as they apply to the Commissioner.

“(4) A Deputy Commissioner has and may exercise or perform any of the powers, duties, and functions of the Commissioner that the Commissioner may delegate to that Deputy Commissioner either generally or in any particular case.

“(5) A delegation under subsection (4) may be subject to any stated restrictions or conditions.

“(6) In the case of absence from duty of the Commissioner (from any cause) or on the occurrence of a vacancy in the office of Commissioner (whether because of death, resignation, or otherwise) and from time to time while the absence or vacancy continues, all or any of the powers, duties, and functions of the Commissioner may be exercised and performed by—

“(a) a Deputy Commissioner who has, before the occurrence of the absence or vacancy, been nominated for the purpose by the Commissioner by a written notice that is in effect at the time of the absence or vacancy; or

“(b) if there is no such notice at that time, by the Deputy Commissioner longest in that office.

“(7) The fact that a Deputy Commissioner exercises any power, duty, or function under this section is, in the absence of proof to the contrary, sufficient evidence of his or her authority to do so.”

224 Functions of Commissioner

(1) Section 14(1)(c) of the principal Act is amended by omitting the words “disability services providers, and purchasers,”, and substituting the words “and disability services providers”.

(2) Section 14(1) of the principal Act is amended by inserting, after paragraph (d), the following paragraph:

“(da) to act as the initial recipient of complaints about health care providers and disability services providers, and to ensure that each complaint is appropriately dealt with.”
225 New Part IV heading, headings, and sections 31 to 44 substituted

The principal Act is amended by repealing the Part IV heading, the headings above sections 31, 35, and 41, and sections 31 to 44, and substituting the following headings and sections:

“Part IV
“Complaints and investigations

“Receipt of complaints

“31 General right to make complaints
“(1) Any person may complain orally or in writing to an advocate or to the Commissioner alleging that any action of a health care provider or a disability services provider is or appears to be in breach of the Code.
“(2) If a complaint is made under subsection (1) to an advocate and the advocate is unable to resolve the complaint, the advocate must—
“(a) refer the complaint to the Commissioner; and
“(b) inform the parties concerned of that referral and the reasons for it.

“32 Complaints referred to Commissioner
For the purposes of this Part, a complaint that is referred to the Commissioner under section 31(2) of this Act or section 61(1) of the Health Practitioners Competence Assurance Act 2002 must be treated as if it had been made to the Commissioner.

“33 Preliminary assessment
“(1) As soon as reasonably practicable after receiving a complaint, the Commissioner must make a preliminary assessment of the complaint to decide—
“(a) whether to take 1 or more of the following courses of action:
“(i) to refer the complaint to an agency or person in accordance with section 34 or section 36:
“(ii) to refer the complaint to an advocate:
“(iii) to call a conference, under section 61, of the parties concerned:
“(iv) to investigate the complaint himself or herself; or
“(b) whether to take no action on the complaint.
“(2) The Commissioner must promptly notify the complainant and the health care provider or the disability services provider to whom the complaint relates of the Commissioner’s preliminary assessment.

“(3) This section does not preclude the Commissioner from revising a preliminary assessment and from subsequently exercising 1 or more of his or her other powers in relation to the complaint concerned.

“(4) If the Commissioner revises a preliminary assessment, the Commissioner must promptly notify the following persons and agencies of the revised assessment:

“(a) the complainant:
“(b) the health care provider or the disability services provider to whom the complaint relates:
“(c) any agency or any person to whom the complaint has, in accordance with section 34 or section 36, been referred:
“(d) any advocate to whom the complaint has been referred.

“Referral of complaints to agencies, statutory officers, or advocates

“34 Referral of complaint to agencies involved in health sector

“(1) At any time after completing a preliminary assessment of a complaint, the Commissioner may refer the complaint, in whole or in part,—

“(a) to the appropriate health professional body if it appears from the complaint that the competence of a health practitioner or his or her fitness to practise or the appropriateness of his or her conduct may be in doubt; or

“(b) to the Accident Compensation Corporation if it appears from the complaint that the aggrieved person may be entitled to cover under the Injury Prevention, Rehabilitation, and Compensation Act 2001; or

“(c) to the Director-General of Health if it appears from the complaint that failures or inadequacies in the systems or practices of the health care provider or the disability services provider concerned may harm the health or safety of members of the public; or

“(d) to the health care provider or the disability services provider to whom a complaint relates if the complaint
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does not raise questions about the health or safety of members of the public and can, in the Commissioner’s opinion, be appropriately resolved by the provider.

“(2) At any time before or after referring a complaint, in whole or in part, to an agency mentioned in subsection (1), the Commissioner may consult with that body as to the most appropriate means of dealing with the complaint.

“(3) After referring a complaint, in whole or in part, to an agency mentioned in subsection (1), the Commissioner must notify the complainant and the health care provider or the disability services provider to whom the complaint relates of the action that has been taken.

“(4) The Commissioner may refer a complaint, in whole or in part, to more than 1 agency mentioned in subsection (1), as long as each referral is authorised by a paragraph of that subsection.

“(5) A reference of a complaint under subsection (1) does not preclude the Commissioner from investigating, or continuing to investigate, the complaint himself or herself.

“35 Agencies to keep Commissioner informed about referred complaints
Each agency to which a complaint is referred under section 34 must—
“(a) promptly acknowledge receipt of the complaint; and
“(b) promptly advise the Commissioner of any significant step taken in its consideration or examination of the complaint; and
“(c) promptly advise the Commissioner of the outcome of its consideration or examination of the complaint.

“36 Referrals of complaints to certain statutory officers
“(1) If, at any time after completing a preliminary assessment of a complaint, the Commissioner considers that the complaint relates, in whole or in part, to a matter that is more properly within the scope of the functions of one of the statutory officers specified in subsection (4), the Commissioner must promptly consult with that officer in order to determine the appropriate means of dealing with the complaint.

“(2) As soon as reasonably practicable after consulting with the officer concerned, the Commissioner must determine whether
the complaint should be dealt with, in whole or in part, under this Act.

“(3) If the Commissioner determines that the complaint should be dealt with, in whole or in part, by one of the officers specified in subsection (4), the Commissioner must promptly—

“(a) refer the complaint or, as the case requires, the appropriate part of the complaint to that officer; and

“(b) notify the complainant and the health care provider or the disability services provider to whom the complaint relates of the action that has been taken.

“(4) The statutory officers referred to in subsection (1) are—

“(a) the Chief Commissioner under the Human Rights Act 1993:

“(b) the Chief Ombudsman:

“(c) the Privacy Commissioner.

“37 Commissioner may refer complaint to advocate

“(1) At any time after completing a preliminary assessment of a complaint (whether or not the Commissioner is investigating, or continuing to investigate, the complaint himself or herself), the Commissioner may refer the complaint to an advocate for the purpose of resolving the matter by agreement between the parties concerned.

“(2) On a referral of a complaint, under subsection (1), the advocate must—

“(a) use his or her best endeavours to resolve the complaint by agreement between the parties concerned; and

“(b) report the results of those endeavours to the Commissioner.

“(3) Every report made under subsection (2)(b) must record—

“(a) the terms of any agreement reached between the parties concerned; and

“(b) if agreement is not reached on all matters, those matters on which agreement is reached and those matters on which no agreement is reached; and

“(c) any other matters that the advocate thinks fit.

“(4) A copy of every report made under subsection (2)(b) must, on request, be made available by the Commissioner to each of the parties concerned.
“Decision to take no action

38 Commissioner may decide to take no action on complaint

(1) At any time after completing a preliminary assessment of a complaint (whether or not the Commissioner is investigating, or continuing to investigate, the complaint himself or herself), the Commissioner may, at his or her discretion, decide to take no action or, as the case may require, no further action on the complaint if the Commissioner considers that, having regard to all the circumstances of the case, any action or further action is unnecessary or inappropriate.

(2) The Commissioner’s consideration under subsection (1) may, in particular, take into account any of the following matters:

(a) the length of time that has elapsed between the date when the subject matter of the complaint arose and the date when the complaint was made:

(b) whether the subject matter of the complaint is trivial:

(c) whether the complaint is frivolous or vexatious or is not made in good faith:

(d) whether the person alleged to be aggrieved does not want any action taken or, as the case may be, continued:

(e) whether there is in all the circumstances an adequate remedy or right of appeal, other than the right to petition the House of Representatives or to make a complaint to an Ombudsman, that it would be reasonable for the person alleged to be aggrieved to exercise.

(3) Subsection (2) does not detract from the generality of subsection (1).

(4) In any case where the Commissioner decides to take no action, or no further action, on a complaint, the Commissioner must inform the following persons and agencies of that decision and the reasons for it:

(a) the complainant:

(b) the health care provider or the disability services provider to whom the complaint relates:

(c) any agency or any person to whom the complaint has, in accordance with section 34 or section 36, been referred:

(d) any advocate to whom the complaint has been referred.
“Commissioner required to share certain information

“39 Commissioner to inform agencies of certain risks
“(1) Whenever the Commissioner has reason to believe that a health practitioner is endangering or is likely to endanger the health or safety of members of the public, the Commissioner must promptly notify the appropriate health professional body of that belief and the reasons for it.

“(2) Whenever the Commissioner has reason to believe that failures or inadequacies in the systems or practices of a health care provider or a disability services provider are harming or are likely to harm the health or safety of members of the public, the Commissioner must promptly notify the Director-General of Health of that belief and the reasons for it.

“(3) If, during or after an investigation, the Commissioner is of the opinion that there is evidence of a significant breach of duty or misconduct on the part of a health care provider or disability services provider or an officer or employee or member of a health care provider or disability services provider, the Commissioner must promptly refer the matter to the appropriate person or authority.

“Investigations by Commissioner

“40 Commissioner may investigate breaches of Code
“(1) The Commissioner may decide to investigate any action of a health care provider or a disability services provider if the action is, or appears to the Commissioner to be, in breach of the Code.

“(2) The Commissioner may investigate an action of that kind either on complaint or on the Commissioner’s own initiative.

“41 Complainant and provider to be notified of investigation
Before proceeding to investigate a matter under this Part, the Commissioner—
“(a) must inform the complainant (if any), the health care provider or the disability services provider to whom the investigation relates, and any person alleged to be aggrieved (if not the complainant) of the Commissioner’s intention to make the investigation; and
“(b) must inform the health care provider or the disability services provider to whom the investigation relates of—
“(i) the details of the complaint (if any) or, as the case may be, the subject matter of the investigation; and
“(ii) the right of that person to submit to the Commissioner, within a reasonable time, a written response in relation to the complaint or, as the case may be, the subject matter of the investigation.

“42 On notification of investigation health professional body not to take disciplinary action until further notice

“(1) In any case where, after deciding to investigate the action of a health care provider or a disability services provider, it appears to the Commissioner that the investigation directly concerns a health practitioner, the Commissioner must promptly give notice of the investigation to the health professional body with which the health practitioner was registered at the time to which the investigation relates.

“(2) Once the health professional body has received the notice, no disciplinary action under the Health Practitioners Competence Assurance Act 2002 may be taken in relation to any subject matter of the investigation until—
“(a) the Commissioner notifies the health professional body—
“(i) that the matter is not to be investigated, or investigated further, under this Act; or
“(ii) that the complaint or matter has been resolved; or
“(iii) that the matter is not to be referred to the Director of Proceedings under section 45(f); or
“(b) the Director of Proceedings notifies the health professional body of his or her decision under section 49 not to institute disciplinary proceedings in relation to the matter.

“(3) This section does not prevent any action under the Health Practitioners Competence Assurance Act 2002—
“(a) in suspending or restricting the practice of a health practitioner because of questions about the practitioner’s competence or fitness to practise or the appropriateness of the practitioner’s conduct; or
“(b) in bringing and completing disciplinary proceedings initiated by a charge laid by the Director of Proceedings.

“43 Information about result of investigation
“(1) As soon as reasonably practicable after the Commissioner completes an investigation, the Commissioner must advise the persons specified in subsection (2)—
“(a) of the results of the investigation; and
“(b) of any further action that the Commissioner proposes to take or that the Commissioner proposes to take no further action.

“(2) The persons referred to in subsection (1) are—
“(a) any complainant whose complaint led to the investigation:
“(b) any person alleged to be aggrieved (if not the complainant):
“(c) the health care provider or the disability services provider whose action was the subject of the investigation:
“(d) if the investigation directly concerns a health practitioner, the health professional body with which the practitioner was registered at the time to which the investigation relates.

“44 Consultation required before matter referred to Director of Proceedings
“(1) The Commissioner may not, under section 45(f), refer a matter to the Director of Proceedings for a decision as to whether proceedings should be instituted or action taken in respect of a person unless the Commissioner has given that person an opportunity to comment on that proposed referral.

“(2) The Commissioner must have regard to any relevant factors of the kind specified in subsection (3) when the Commissioner considers whether or not to refer, under section 45(f), a matter to the Director of Proceedings for a decision as to whether proceedings should be instituted or any action taken.

“(3) The kinds of factors referred to in subsection (2) are—
“(a) the wishes of the complainant (if any) and the aggrieved person (if not the complainant) in relation to the matter; and
“(b) any comments made under subsection (1) in relation to the matter; and
“(c) the need to ensure that appropriate proceedings are instituted in any case where the public interest (whether for reasons of public health or public safety or for any other reason) so requires.”

226 Procedure after investigation
(1) Section 45 of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
“(b) report the Commissioner’s opinion, with reasons, together with any recommendations that the Commissioner thinks fit, to all or any of the following:
“(i) any professional body:
“(ii) the Accident Compensation Corporation:
“(iii) any other person that the Commissioner considers appropriate:”.
(2) Section 45 of the principal Act is amended by adding, as subsection (2), the following subsection:
“(2) On referring a matter to the Director of Proceedings under subsection (1)(f), the Commissioner must advise the Director of Proceedings of any relevant factors of the kind specified in section 44(3).”

227 Implementation of recommendations of Commissioner
Section 46(2) of the principal Act is amended by adding the word “; and”, and also by adding the following paragraph:
“(c) may report to the appropriate health professional body the name of any health practitioner who fails to take any such action.”

228 Section 48 repealed
Section 48 of the principal Act is repealed.

229 Functions of Director of Proceedings
Section 49 of the principal Act is amended by repealing subsections (2) and (3).
Proceedings before Human Rights Review Tribunal
Section 50(2) of the principal Act is amended by omitting the expression “49(2)”, and substituting the expression “44(1)”.

Aggrieved person may bring proceedings before Tribunal
Section 51 of the principal Act is amended by repealing paragraphs (a) and (b), and substituting the following paragraphs:

“(a) the Commissioner, having found a breach of the Code on the part of the person to whom that section applies, has not referred the matter to the Director of Proceedings under section 45(f); or

“(b) the Director of Proceedings declines or fails to take proceedings.”

Powers of Human Rights Review Tribunal
Section 54(5) of the principal Act is amended by repealing the words “registered health professional” in both places where they occur, and substituting in each case the words “health practitioner”.

Mediation conference
Section 61(1) of the principal Act is amended by omitting the words “of an investigation by”, and substituting the words “of a complaint made to, or an investigation by,”.

Further provisions relating to delegations
Section 69 of the principal Act is amended by inserting, before the expression “section 68” wherever it occurs in subsections (1), (3), (4), and (6), the words “section 9 or”.

Revocation of delegations
Section 71(1) of the principal Act is amended by inserting, before the expression “section 68”, the words “section 9 or”.

First Schedule repealed
The principal Act is amended by repealing the First Schedule.
237 Second Schedule amended

(1) Clause 3 of the Second Schedule of the principal Act is amended by repealing subclause (5), and substituting the following subclause:

“(5) There must be paid to each Deputy Commissioner—
“(a) a salary at a rate agreed between the Minister and the Deputy Commissioner; and
“(b) any allowances agreed between the Minister and the Deputy Commissioner.”

(2) Clause 4 of the Second Schedule of the principal Act is amended by adding the following subclause:

“(5) For the purposes of this clause, Commissioner includes any Deputy Commissioner.”

(3) Clause 5 of the Second Schedule of the principal Act is amended by omitting the words “the Deputy Commissioner”, and substituting the words “a Deputy Commissioner”.

238 Transitional provisions

(1) Sections 206 to 213 apply, with all necessary modifications, to any complaint received, before the commencement of this Part, under section 31 or section 33 of the principal Act (as in force before that commencement) in respect of which no investigation has, before that commencement, been commenced under Part IV of the principal Act.

(2) All investigations under the principal Act that have been commenced before the commencement of this Part and that have not been completed before that commencement are to be continued and completed as if this Act had not been enacted.

Part 9

Amendments to the Medicines Act 1981

239 Medicines Act 1981 called principal Act in this Part

In this Part, the Medicines Act 1981 is called “the principal Act”.

1981 No 118
240 Interpretation

(1) Section 2(1) of the principal Act is amended by inserting, after the definition of approved laboratory, the following definition:

“authorised prescriber means a practitioner, registered midwife, or designated prescriber”.

(2) Section 2(1) of the principal Act is amended by inserting, after the definition of disease, the following definition:

“dispensing, in relation to a medicine, includes, without limitation,—

“(a) the preparation of that medicine for sale to the public (whether in response to the issue of a prescription or a request by an individual to be supplied with the medicine); and

“(b) the packaging, labelling, recording, and delivery of that medicine”.

(3) Section 2(1) of the principal Act is amended by repealing the definitions of dentist, licensing authority, medical practitioner, optician, pharmacist, pharmacy, registered health professional, and registered midwife, and substituting, in their appropriate alphabetical order, the following definitions:

“dentist means a health practitioner who is, or is deemed to be, registered with the Dental Council of New Zealand continued by the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dentistry

“licensing authority—

“(a) means the Director-General; and

“(b) to avoid doubt, includes any person or persons acting as the Director-General’s delegate as a consequence of a delegation under section 41 of the State Sector Act 1988

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“optometrist means a health practitioner who is, or is deemed to be, registered as an optometrist with the Optometrists and Dispensing Opticians Board continued by the Health Practitioners Competence Assurance Act 2002
“**pharmacist** means a health practitioner who is, or is deemed to be, registered with the Pharmacy Council established by the **Health Practitioners Competence Assurance Act 2002** as a practitioner of the profession of pharmacy

“**pharmacy** means a place where pharmacy practice is carried on

“**registered health professional** means a health practitioner who is, or is deemed to be, registered with an authority established or continued by the **Health Practitioners Competence Assurance Act 2002** as a practitioner of a particular health profession

“**registered midwife** means a health practitioner who is, or is deemed to be, registered with the Midwifery Council established by the **Health Practitioners Competence Assurance Act 2002** as a practitioner of the profession of midwifery”.

(4) Section 2(1) of the principal Act is amended by inserting, after the definition of **pharmacy**, the following definition:

“**pharmacy practice** includes, without limitation, the following:

“(a) the compounding and dispensing of prescription medicines, restricted medicines, or pharmacy-only medicines:

“(b) the supply of a medicine by a pharmacist to suit the needs of a particular person:

“(c) the sale of prescription medicines, restricted medicines, or pharmacy-only medicines”.

### 241 New sections 5A and 5B inserted

The principal Act is amended by inserting, after section 5, the following sections:

#### “5A Meaning of holding an interest in a pharmacy

“(1) For the purposes of this Act, a person holds an interest in a pharmacy if the person has, or acquires, any direct or indirect estate or interest in the pharmacy (whether by way of shares in a company or by way of charge, loan, guarantee, indemnity, or otherwise) that affects the ownership, management, or control of the pharmacy practice carried on in the pharmacy.

“(2) For the purposes of **subsection (1)**, a person acquires a direct or indirect estate or interest in a pharmacy if the acquisition is made in the person’s name, or in the name of a nominee, or the
acquisition is made by the person by means of any device or arrangement.

“(3) Despite subsections (1) and (2),—
“(a) a person does not hold an interest in a pharmacy merely by—
“(i) making, in good faith and in the ordinary course of business to facilitate the carrying on of the pharmacy, any loan of money; or
“(ii) holding any security for repayment of that loan:
“(b) a person does not hold an interest in a pharmacy that is being carried on by an administrator of the estate of a deceased pharmacist, or by an administrator of the estate of a deceased operator of a pharmacy, merely by holding an interest in that estate.

“(4) Despite subsection (3), any covenant, condition, or stipulation, expressed or implied in any contract or agreement restricting the operator of a pharmacy in the purchase of pharmaceutical requirements or other stock in trade is to be treated, for the purposes of this Act, as a device or arrangement affecting the management and control of the pharmacy practice carried on in that pharmacy.

Compare: 1970 No 143 s 2(2)–(4)

“5B Meaning of operating a pharmacy
For the purposes of this Act, a person operates a pharmacy if the person—
“(a) establishes, or carries on business in, a pharmacy; or
“(b) establishes, owns, or is responsible for the management or control of a hospital in which there is a pharmacy; or
“(c) establishes, or is responsible for the management or control of a pharmacy carried on, on a not for profit basis.”

242 Manufacturers, wholesalers, and packers of medicines to be licensed
(1) The heading to section 17 of the principal Act is amended by omitting the words “and packers of medicines”, and substituting the words “packers of medicines, and operators of pharmacies”.

140
(2) Section 17(1) of the principal Act is amended by omitting paragraph (c), and substituting the following paragraphs:

“(c) pack or label any medicine; or
“(d) operate any pharmacy.”.

(3) Section 17 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

“(2) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding $40,000.”

243 Sale of medicines by retail

(1) Section 18(1) of the principal Act is amended by omitting paragraphs (a) and (b), and substituting the following paragraphs:

“(a) any prescription medicine unless—
“(i) the medicine is sold, supplied, or distributed by a pharmacist in a pharmacy or hospital; or
“(ii) the medicine is supplied in accordance with a standing order by a person who is authorised to supply and administer any specified class or description of prescription medicine under that standing order; or
“(b) any restricted medicine unless the medicine is sold, supplied, or distributed by a pharmacist in a pharmacy or hospital; or
“(c) any pharmacy-only medicine unless the medicine is sold, supplied, or distributed by—
“(i) a person under the supervision of a pharmacist in a pharmacy or a hospital; or
“(ii) a person who sells, supplies, or distributes the medicine in any shop described in section 51(2) and in accordance with a licence issued under Part III”.

(2) Section 18(5) of the principal Act is amended by omitting the expression “$1,000”, and substituting the expression “$40,000”.

244 Administering prescription medicines

Section 19 of the principal Act is amended by repealing subsection (4).
245 **Exemptions for practitioners and others**
Section 25 of the principal Act is amended by repealing subsection (4).

246 **Exemptions for agents and employees**
Section 31 of the principal Act is amended by adding the following subsection:

“(4) Subsection (3)(a) does not apply in respect of any authority conferred by section 26 on a pharmacist or on a pharmacist employed or engaged by a person who is not a pharmacist but who holds a licence to operate a pharmacy.”

247 **New heading and sections 42A to 42C inserted**
The principal Act is amended by inserting, after section 42, the following heading and sections:

“**Restrictions on operation of pharmacies**

“42A **Every pharmacy must be under supervision of pharmacist**
No person may operate any pharmacy that is not for the time being under the immediate supervision and control of a pharmacist.

Compare: 1970 No 143 s 41

“42B **Security of pharmacies**

“(1) Every person who operates a pharmacy must ensure that any medicines referred to in subsection (2) are secured in a manner that prevents access being readily gained to those medicines by any person other than a pharmacist engaged at the pharmacy or a person authorised by a pharmacist engaged at the pharmacy.

“(2) The medicines to which subsection (1) applies are prescription medicines, restricted medicines, and pharmacy-only medicines that are dispensed, displayed for sale, or stored, within the pharmacy or within any storage area used for the purposes of the pharmacy.

“(3) The requirements imposed by subsection (1) are in addition to the requirements imposed by section 47.
“42C Restriction on authorised prescribers holding interest in pharmacies

“(1) No authorised prescriber may hold an interest in a pharmacy other than a pharmacy for which the person holds a licence to operate, except with the consent of the licensing authority and in accordance with any conditions or restrictions imposed by that authority.

“(2) No person who has an interest in a pharmacy may permit or enable any authorised prescriber to hold or acquire that or any other interest in the pharmacy contrary to subsection (1).

“(3) The licensing authority may not give its consent under subsection (1) unless it is satisfied that there are sufficient safeguards to prevent the issue of prescriptions, the manner in which prescriptions are issued, or the other provision of health care by the authorised prescriber from being influenced by the commercial or financial interests of the authorised prescriber or any other person holding an interest in the pharmacy.”

248 Applications for licences

(1) Section 50 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

“(1) Every application for a licence must be made in the prescribed form to the Director-General or to any person designated for the purpose by the Director-General by notice in the Gazette.”

(2) Section 50 of the principal Act is amended by repealing subsections (4) and (5), and substituting the following subsections:

“(4) An application may be made either by an individual who is a New Zealand resident on the person’s own behalf or by an appropriate officer of a body corporate that is incorporated in New Zealand on behalf of that body corporate.

“(5) If a person authorised to receive an application under subsection (1) is satisfied that an application complies with the requirements of this section and of any regulations made under this Act that are applicable to the application, the person must refer the application to the licensing authority.”
249 Grant of licences

(1) Section 51(1) of the principal Act is amended by omitting the words “section 52 of this Act”, and substituting the words “sections 52, 55A, and 55B”.

(2) Section 51(1)(f) of the principal Act is amended by adding the words “or, in the case of an application for a licence to operate a pharmacy, in respect of medicines that are manufactured, stored, packed, labelled, or sold on the premises or in any other place for which the licence to operate is sought”.

(3) Section 51(2) of the principal Act is amended by adding the words “in respect of which a licence to operate has been, or is deemed to have been, issued”.

(4) Section 51 of the principal Act is amended by inserting, after subsection (6), the following subsections:

“(6A) If the licensing authority is satisfied that the holder of a licence to operate a pharmacy has failed to comply with any conditions affecting the licence, the licensing authority may, instead of or as well as exercising the powers conferred by subsection (6),—

“(a) impose on the holder of the licence a penalty not exceeding $40,000:

“(b) forbid the licence holder or any person with an interest in a pharmacy from holding any interest in or operating a pharmacy for a period, not exceeding 5 years, specified by the licensing authority.

“(6B) A penalty imposed under subsection (6A) may be recovered in a court of competent jurisdiction as a debt due to the licensing authority.”

(5) Section 51(7) of the principal Act is amended by inserting, after the words “cancels a licence”, the words “under this section or under section 55A”.

250 Effect of licences

(1) Section 52(1) of the principal Act is amended by adding the following paragraph:

“(e) a licence to operate a pharmacy authorises the establishment of the pharmacy and the carrying on of pharmacy practice in the pharmacy.”
Section 52(2) of the principal Act is amended by adding the words “(including, without limitation, any conditions that restrict or prohibit the licence holder from undertaking any specified activity or using any specified process)”.

### 251 Duration of licence

Section 53 of the principal Act is amended by repealing subsection (1) and substituting the following subsection:

“(1) Subject to subsections (2) and (3) and to section 55G, every licence, unless sooner cancelled under section 55A(3) or section 83, continues in force for a period of 1 year and then expires.”

### 252 New sections 55A to 55G inserted

The principal Act is amended by inserting, after section 55, the following sections:

“55A Additional criteria to be satisfied by pharmacy operators

“(1) The licensing authority must not grant an application for a licence to operate a pharmacy unless the authority is satisfied that, in addition to satisfying the criteria set out in section 51(1)—

“(a) the applicant is a person who is qualified under any of sections 55D, 55E, or 55G, to be granted a licence to operate a pharmacy; and

“(b) the applicant is a person who is able to satisfy the condition set out in section 55C.

“(2) If the licensing authority has reasonable grounds to believe that the holder of a licence to operate a pharmacy has ceased to be a person who satisfies each of the criteria set out in subsection (1), the licensing authority may suspend the licence for a reasonable period to enable the authority to consider the case.

“(3) If, after giving the holder of a licence to operate a pharmacy whose licence is suspended under subsection (2), a reasonable opportunity to be heard and after considering any evidence adduced or submissions made by the licensee, the licensing authority is satisfied that the holder has ceased to satisfy all of the criteria set out in subsection (1), the licensing authority may cancel that licence.”
“55B Licensing authority may require further information
“(1) The licensing authority, may for one or more of the purposes set out in subsection (2), require an applicant for a licence to operate a pharmacy to supply information additional to that contained in the application.
“(2) The purposes referred to in subsection (1) are—
“(a) the determination of the nature of the interest held by any person in the pharmacy:
“(b) the assessment required by section 51(1)(b) (which requires an applicant who is an individual to be a fit and proper person and an applicant who is a body corporate to be of good repute):
“(c) the assessment required by section 55A(1).
“(3) If the applicant fails to supply the information requested within 3 months of the date of the request, or within any further time allowed by the licensing authority, the application lapses.

“55C Mandatory condition of licence to operate pharmacy
It is a condition of every licence to operate a pharmacy that the holder of the licence must not request or require any pharmacist who is employed or engaged in duties at a pharmacy to act in a way that is inconsistent with the applicable professional or ethical standards of pharmacy practice.

“Restrictions on persons allowed to operate pharmacies
“55D Restriction on companies operating pharmacies
“(1) No company may be granted a licence to operate a pharmacy unless any of subsections (2) to (4) applies.
“(2) A company may be granted a licence to operate a pharmacy if—
“(a) at all times at least 51% of the share capital of the company is owned by a pharmacist or pharmacists, and effective control of the company is vested in that pharmacist or those pharmacists; or
“(b) it is exempt from the requirements set out in paragraph (a) under an Order in Council made under section 105C or complies with any modification of those requirements authorised by an Order in Council made under that section; or
“(c) it is deemed to have been issued with a licence under section 114A(2); or
“(d) the pharmacy is in a hospital owned or operated by the company; or
“(e) it is a company that, at the commencement of this section, was lawfully operating a pharmacy.

“(3) **Subsection (2)(e)** ceases to apply to a company if there is or are a change or changes in the ownership of shares representing 25% of the share capital of the company after the commencement of this section.

“(4) For the purposes of **subsection (2)**, **pharmacist** includes an administrator of the estate of a deceased pharmacist, and an assignee within the meaning of the Insolvency Act 1967 of the estate of a pharmacist, until—

“(a) the expiry of the period of 1 year after the date of the death of the deceased pharmacist, or the date on which the pharmacist was adjudicated bankrupt, has expired; or

“(b) subject to any conditions that the licensing authority proposes, the expiry of any extended period or periods permitted by the licensing authority.

Compare: 1970 No 143 s 42

**55E  Restriction on individuals operating or holding majority interest in pharmacies**

“(1) No person, either alone or in partnership, may be granted a licence to operate a pharmacy, or hold a majority interest, in a pharmacy unless—

“(a) that person is a pharmacist, and at all times a pharmacist has an interest in the pharmacy of at least 51% of the value of the business or businesses undertaken in the pharmacy; or

“(b) that person is exempt from the requirements set out in **paragraph (a)** under an Order in Council made under section 105C or complies with any modification of those requirements authorised by that Order in Council; or

“(c) the person is deemed to have been issued with a licence under section 114A(2); or

“(d) the pharmacy is in a hospital owned or operated by the person; or
“(e) that person, at the commencement of this section, was lawfully operating a pharmacy.

“(2) For the purposes of subsection (1), a person does not hold an interest in a pharmacy merely by reason of the person’s membership of a company, or of any other body of persons (whether corporate or unincorporate) other than a partnership, that is lawfully carrying on business in a pharmacy.

“(3) For the purposes of subsection (1),—

“person does not include a company

“pharmacist includes the following persons:

“(a) an administrator of the estate of a deceased pharmacist:

“(b) an assignee, within the meaning of the Insolvency Act 1967, carrying on a pharmacy in his or her capacity as assignee of the estate of a pharmacist:

“(c) a liquidator carrying on a pharmacy under the authority of section 260 and the Sixth Schedule of the Companies Act 1993:

“(d) a receiver or manager of the property of a company carrying on, subject to the Receiverships Act 1993, a pharmacy comprised in that property.

“(4) Subsection (3) does not entitle any person to carry on business in a pharmacy after—

“(a) the expiry of 1 year after the date of the death of the deceased pharmacist, or the date on which the pharmacist was adjudicated bankrupt, or the date of the first appointment of a liquidator, receiver, or manager, in respect of a company that has carried on a pharmacy; or

“(b) subject to any conditions that the licensing authority imposes, the expiry of any extended period or periods permitted by the licensing authority.

“(5) In this section and in section 55F, majority interest, in relation to a pharmacy, means an interest in the pharmacy of more than 49% of the value of the business or businesses undertaken in the pharmacy.

Compare: 1970 No 143 s 43
“55F Prohibition on operating or holding of majority interest in more than 5 pharmacies

“(1) Despite sections 55D and 55E, no person, either alone or in partnership, may operate or hold a majority interest in more than 5 pharmacies unless subsection (3) or subsection (4) applies.

“(2) Subsection (1) does not apply to any person referred to in section 55E(3), to the extent that 1 or more pharmacies, or interests in 1 or more pharmacies, are lawfully included in the estate or property that the person is administering, unless section 55E(4) applies.

“(3) Subsection (1) does not apply to any person who, while attempting to sell 1 pharmacy of which the person is the operator, carries on business in no more than 5 other pharmacies for a period not exceeding 3 months, or, subject to any conditions that the licensing authority imposes, any extended period or periods permitted by the authority.

“(4) Subsection (3) is subject to sections 55D and 55E.

Compare: 1970 No 143 s 45

“55G Exemption for mortgagees in possession

“(1) Despite sections 55D and 55E, a mortgagee in possession of a pharmacy may be granted a licence to operate that pharmacy for a period of 3 months or, subject to any conditions that the licensing authority imposes, for any extended period or periods permitted by the licensing authority.

“(2) In this section, mortgagee in possession has the same meaning as in section 2 of the Property Law Act 1952.

Compare: 1970 No 143 s 47”.

253 New section 76A inserted

The principal Act is amended by inserting, after section 76, the following section:

“76A Offences in relation to authorised prescribers

Every pharmacist, person licensed to operate a pharmacy, or operator or manager of a pharmacy commits an offence against this Act who gives, offers, or agrees to give to any authorised prescriber or to any other person any money or other consideration as a commission on prescriptions.

Compare: 1970 No 143 s 49(1)(a)”.
254 New section 105C inserted
The principal Act is amended by inserting, after section 105B, the following section:

“105C Orders in Council providing for exemption from, or modifications of, restrictions on pharmacy ownership and operation

“(1) The Governor-General may, by Order in Council made on the recommendation of the Minister—
“(a) exempt any person or class of person from any of the requirements of section 55D(2)(a) or section 55E(1)(a):
“(b) modify the application of the provisions of section 55D(2)(a) or section 55E(1)(a) in respect of any person or class of person.

“(2) The Minister must not recommend the making of any Order in Council under subsection (1) unless in the opinion of the Minister, health services or access to those services will be improved by the making of that Order in Council.”

255 New sections 114A to 114B inserted
The principal Act is amended by inserting, after section 114, the following sections:

“114A Certain persons deemed to have licence to operate pharmacy

“(1) Every person who, immediately before the commencement of this section, was entitled under the Pharmacy Act 1970 to establish or to carry on a business in a pharmacy, and had established or was carrying on a business in a pharmacy, is deemed, on the commencement of this section, to have been issued under section 51 with a licence to operate that pharmacy that is subject to—
“(a) any conditions relating to the establishment or carrying on of business in that pharmacy imposed by the pharmacy authority and in force immediately before the commencement of this section; and
“(b) the condition set out in section 55C.

“(2) Every person who, immediately before the commencement of this section, owned or was responsible for the management of a hospital or other place in which pharmacy practice was undertaken in reliance on any authority conferred by this Act or any regulations made under this Act is deemed, on the
commencement of this section, to have been issued with a licence to operate that pharmacy that is subject to the condition set out in section 55C.

“(3) The licensing authority must, as soon as is reasonably practicable after the commencement of this section, send to every person to whom a licence is deemed to have been issued under subsection (1) or subsection (2) a copy of that licence, that includes—

“(a) the conditions referred to in subsection (1)(a) and (b) or, as the case requires, the condition referred to in subsection (2); and

“(b) notice of the revocation or variation of any of those conditions under subsection (4)(a); and

“(c) any conditions imposed by the licensing authority under subsection (4)(b).

“(4) Despite subsections (1) to (3), the licensing authority may, in respect of any licence that is deemed to be issued under subsection (1) or subsection (2),—

“(a) vary or revoke any condition referred to in subsection (1)(a); and

“(b) impose any other condition that it considers appropriate.

“114B Expiry of section 114A

Section 114A expires 1 year after the date of its commencement.”
### Schedule 1

#### Provisions applying to Health Practitioners

**Disciplinary Tribunal**

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#### 1 Deputy chairperson

(1) If—

(a) the chairperson of the Tribunal becomes incapable of acting as chairperson because of illness, absence, or any other reason; or

(b) there is a vacancy in the office of chairperson,—

any deputy chairperson of the Tribunal has and may exercise or perform all the functions, duties, and powers of the chairperson.

(2) A deputy chairperson is, while acting for the chairperson, to be regarded as the chairperson of the Tribunal.

(3) No act done by a deputy chairperson while acting for the chairperson, and no act done by the Tribunal while the deputy chairperson is acting for the chairperson, may in any proceedings be questioned on the ground that the occasion for the deputy chairperson so acting had not arisen or had ceased.

(4) If there are 2 or more deputy chairpersons of the Tribunal,—

(a) the Minister may from time to time, by written notice, nominate which of those deputy chairpersons is, in the circumstances specified in subclause (1), to exercise or perform the functions, duties, and powers of the chairperson; and
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(b) references in this clause to the deputy chairperson are to be read as references to the deputy chairperson for the time being so nominated.

Compare: 1995 No 95 First Schedule cl 1

2 Term of office

(1) The chairperson and each deputy chairperson of the Tribunal—
(a) is appointed for a term not exceeding 3 years; and
(b) takes office from the date of the notice of appointment or any later date specified in the notice; and
(c) is, subject to subclause (2), eligible for reappointment from time to time.

(2) No person may hold office as the chairperson or as a deputy chairperson of the Tribunal for more than 9 consecutive years.

(3) Despite subclauses (1) and (2), any person whose term of office as the chairperson or as a deputy chairperson of the Tribunal has expired or who has resigned from office as chairperson or as a deputy chairperson of the Tribunal continues in office for the purpose of completing any proceedings heard by the Tribunal before the expiry of the person’s term of office or the person’s resignation, whether or not that person’s successor has come into office.

Compare: 1995 No 95 First Schedule cl 2

3 Vacation of office

(1) Any person who holds office as the chairperson or as a deputy chairperson of the Tribunal may resign his or her office by giving notice to that effect to the Minister.

(2) A person who holds office as the chairperson or as a deputy chairperson of the Tribunal is to be taken to have vacated his or her office if—
(a) he or she dies; or
(b) he or she is adjudged bankrupt under the Insolvency Act 1967; or
(c) he or she becomes a member of an authority; or
(d) he or she has been convicted by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 3 months or longer.
(3) Any person who holds office as the chairperson or as a deputy
Chairperson of the Tribunal may at any time be removed from
Office by the Minister, by notice given to the person, on the
grounds of inability to perform the functions of the office, or
for neglect of duty, or misconduct, proved to the satisfaction
of the Minister.

Compare: 1995 No 95 cl 3 of First Schedule

4 Conference of chairpersons of authorities to be convened
for purposes of Tribunal

(1) The Director-General of Health may from time to time, by
written notice given to every chairperson of an authority,
convene a conference of the chairpersons of authorities.

(2) The chairpersons present at a conference convened under this
clause must elect one of their number to preside at the
conference.

(3) The quorum necessary for the transaction of business at a
conference convened under this clause is 6.

(4) Clause 8 of Schedule 3 applies with all necessary modifications
to a conference convened under this clause.

5 Conference to determine remuneration of Tribunal and
nominate authority for servicing purposes

(1) A conference convened under clause 4 may do any 1 or more of
the following:

(a) fix the remuneration (by way of fees, salary, or other-
wise) and allowances to be paid to the members of the
Tribunal and to any officer of the Tribunal:

(b) nominate 1 or more authorities to employ or engage
persons to be officers of the Tribunal:

(c) nominate 1 or more authorities that are to hold property
(whether real or personal) for the purposes of the
Tribunal:

(d) amend or replace any nominations made under paragraph
(b) or paragraph (c).

(2) An authority that employs or engages a person under a nomi-
nation under subclause (1)(b) must do so in consultation with the
chairperson of the Tribunal.
(3) The fact that an officer of a Tribunal is an employee of an authority does not entitle the authority to direct the officer as to the discharge of the officer’s duties.

6 Procedure of Tribunal

(1) Subject to this Act and to any regulations made under this Act, the Tribunal may—
   (a) regulate its procedure in any manner it thinks fit; and
   (b) prescribe or approve forms for the purposes of hearings.
(2) The Tribunal must publish any rules of procedure it makes.
(3) The Tribunal must observe the rules of natural justice at each hearing.

Compare: 1995 No 95 cl 5 of First Schedule

7 Evidence

(1) The Tribunal may receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matters before it, whether or not that statement, document, information, or matter would be admissible in a court of law.
(2) Subclause (1) is subject to clause 6(3).
(3) The Tribunal may take evidence on oath, and for that purpose any member or officer of the Tribunal may administer an oath.
(4) The Tribunal may permit a person appearing as a witness before it to give evidence by tendering a written statement and, if the Tribunal thinks fit, verifying it by oath.
(5) The Evidence Act 1908 applies to the Tribunal in the same manner as if the Tribunal were a court within the meaning of that Act.
(6) Subclause (5) is subject to subclauses (1) to (3).

Compare: 1995 No 95 cl 6 or First Schedule

8 Powers of investigation

(1) For the purposes of dealing with the matters before it, the Tribunal or any person authorised by it in writing to do so may—
   (a) inspect and examine any papers, documents, records, or things:
(b) require any person to produce for examination any papers, documents, records, or things in that person’s possession or under that person’s control, and to allow copies of or extracts from any such papers, documents, or records to be made;

(c) require any person to furnish, in a form approved by or acceptable to the Tribunal, any information or particulars that may be required by it, and any copies of or extracts from any such papers, documents, or records.

(2) The Tribunal may, if it thinks fit, require that any written information or particulars or any copies or extracts furnished under this clause be verified by statutory declaration or otherwise as the Tribunal may require.

(3) For the purposes of its proceedings, the Tribunal may, on its own initiative or on the application of any party to the proceedings, order that any information or particulars, or a copy of the whole or any part of any paper, document, or record, furnished or produced to it be supplied to any person appearing before the Tribunal, and in the order impose any terms and conditions that it thinks fit in respect of such supply and of the use that is to be made of the information, particulars, or copy.

Compare: 1995 No 95 cl 7 of First Schedule

9 Witness summons

(1) The Tribunal may, on its own initiative or on the application of any party to the proceedings, issue a witness summons to any person requiring that person to attend before the Tribunal to give evidence at the hearing of the proceedings.

(2) The witness summons must state—

(a) the place where the person is to attend; and
(b) the date and time when the person is to attend; and
(c) the papers, documents, records, or things that that person is required to bring and produce to the Tribunal; and
(d) the entitlement to be tendered or paid a sum in respect of allowances and travelling expenses; and
(e) the penalty for failing to attend.

(3) The power to issue a witness summons may be exercised by the Tribunal, the chairperson, a deputy chairperson, or by any officer of the Tribunal purporting to act by the direction or
with the authority of the Tribunal, the chairperson, or a deputy chairperson.

Compare: 1995 No 95 cl 8 of First Schedule

10 Service of summons

(1) A witness summons may be served—
   (a) by delivering it personally to the person summoned; or
   (b) by posting it by registered letter addressed to the person summoned at that person’s usual place of residence or business.

(2) The summons must,—
   (a) if it is served under subclause (1)(a), be served at least 24 hours before the attendance of the witness is required; or
   (b) if it is served under subclause (1)(b), be served at least 10 days before the date on which the attendance of the witness is required.

(3) If the summons is posted by registered letter, it must be regarded for the purposes of subclause (2)(b) to have been served at the time when the letter would be delivered in the ordinary course of post.

Compare: 1995 No 95 cl 9 of First Schedule

11 Witnesses’ allowances

(1) Every witness attending before the Tribunal to give evidence under a summons is entitled to be paid witnesses’ fees, allowances, and travelling expenses according to the scales for the time being prescribed by regulations made under the Summary Proceedings Act 1957, and those regulations apply accordingly.

(2) On each occasion on which the Tribunal issues a summons under clause 9(1), the Tribunal, or the person exercising the power of the Tribunal under clause 9(3), must fix an amount that, on the service of the summons, or at some other reasonable time before the date on which the witness is required to attend, must be paid or tendered to the witness.

(3) The amount fixed under subclause (2) must be the estimated amount of the allowances and travelling expenses to which, in the opinion of the Tribunal or person, the witness will be
entitled according to the prescribed scales if the witness attends at the time and place specified in the summons.

(4) If a party to the proceedings has requested the issue of the witness summons, the fees, allowances, and travelling expenses payable to the witness must be paid by that party.

(5) If the Tribunal has on its own initiative issued the witness summons, the Tribunal may direct that the amount of those fees, allowances, and travelling expenses—
   (a) form part of the costs of the proceedings; or
   (b) be paid out of the funds of the authority with which the health practitioner or former health practitioner to whom the proceedings relate is or was registered.

Compare: 1995 No 95 cl 10 of First Schedule

12 Privileges and immunities
(1) Every person has the same privileges in relation to the giving of information to the Tribunal, the answering of questions put by the Tribunal, and the production of papers, documents, records, and things to the Tribunal that witnesses have in courts of law.

(2) Witnesses and counsel appearing before the Tribunal have the same privileges and immunities that witnesses and counsel have in proceedings in a District Court.

Compare: 1995 No 95 cl 11 of First Schedule

13 Non-attendance or refusal to co-operate
(1) Every person commits an offence who, after being summoned to attend to give evidence before the Tribunal or to produce to the Tribunal any papers, documents, records, or things, without sufficient cause,—
   (a) fails to attend in accordance with the summons; or
   (b) refuses to be sworn or to give evidence, or, having been sworn, refuses to answer any question that the person is lawfully required by the Tribunal or any member of it to answer concerning the proceedings; or
   (c) fails to produce any such paper, document, record, or thing.

(2) Every person commits an offence who—
   (a) wilfully obstructs or hinders the Tribunal or any member of it or any authorised person in any inspection or
examination of papers, documents, records, or things under \text{clause 8(1)(a)}; or
\item without sufficient cause, fails to comply with any requirement of the Tribunal or any authorised person made under \text{clause 8(1)(b) or (c)}; or
\item without sufficient cause, acts in contravention of, or fails to comply with, any order made by the Tribunal under \text{clause 8(3)} or any term or condition of the order.
\end{itemize}

(3) \text{Every person who commits an offence against subclause (1) or subclause (2) is liable on summary conviction to a fine not exceeding } $1,500.\text{.}

(4) \text{No person summoned to attend before the Tribunal may be convicted of an offence against subclause (1) unless there was tendered or paid to that person travelling expenses in accordance with clause 11.}

Compare: 1995 No 95 cl 12 of First Schedule

14 \textbf{Contempt of Tribunal}

(1) \text{Every person commits an offence and is liable on summary conviction to a fine not exceeding } $10,000 \text{ who—}
\begin{itemize}
\item\text{assaults, threatens, or intimidates, or intentionally insults, the Tribunal or any member of it or any adviser to, or officer of, the Tribunal, during a sitting of the Tribunal, or in going to, or returning from, any sitting; or}
\item\text{intentionally interrupts the proceedings of the Tribunal or otherwise misbehaves while the Tribunal is sitting; or}
\item\text{intentionally and without lawful excuse disobeys an order or direction of a member of the Tribunal in the course of any proceedings before the Tribunal.}
\end{itemize}

(2) \text{A member of the Tribunal may order the exclusion from a sitting of the Tribunal of any person whose behaviour, in that member’s opinion, constitutes an offence against subclause (1), whether or not that person is charged with the offence; and any member of the police may take any steps that are reasonably necessary to enforce such an exclusion.}

Compare: 1995 No 95 cl 13 of First Schedule
15 **Exclusion of liability**

Neither the Tribunal nor any member, employee, or agent of the Tribunal is under any civil liability in respect of—

(a) any act done or omitted in the course of the performance or exercise or intended performance or exercise of any of their functions, duties, or powers under this Act; or

(b) any words spoken or written at, or for the purposes of, a hearing or an inquiry or other proceedings under this Act; or

(c) anything contained in any notice given under this Act.

(2) Subsection (1) does not exclude the liability of any person for anything done or omitted in bad faith.

Compare: 1995 No 95 s 135(1), (2)

16 **Power to amend charges**

(1) The Tribunal may, at any time during the hearing of any charge laid under section 87, amend the charge in any way.

(2) The Tribunal may, at the request of the health practitioner concerned, if the Tribunal is of the opinion that the practitioner would be embarrassed in his or her defence by reason of an amendment made or proposed to be made under this clause, adjourn the hearing.

Compare: 1995 No 95 cl 14 of First Schedule

17 **Legal and medical assessors**

(1) The Tribunal may from time to time appoint a legal assessor, who, subject to subclause (3) may—

(a) be present at any hearing of the Tribunal; and

(b) at any time advise the Tribunal on matters of law, procedure, or evidence.

(2) The Tribunal may from time to time appoint a medical assessor, who subject to subclause (3), may—

(a) be present at any hearing of the Tribunal; and

(b) at any time advise the Tribunal on medical matters.

(3) A person appointed under this clause must not be present during the deliberations of the Tribunal.

Compare: 1995 No 95 cl 15 of First Schedule
## Schedule 2

### Bodies continued in existence and appointed as authorities in respect of health professions

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Proceedings generally

1 Procedure
(1) Each authority may regulate its procedure in any manner that it thinks fit.

(2) Subclause (1) is subject to this Act and any regulations made under this Act.

Compare: 1995 No 95 cl 13(2) of Second Schedule

2 Information authorities may act on
Each authority must observe the rules of natural justice but, subject to that requirement, may receive as evidence any statement, document, information, or matter, whether or not it would be admissible in a court of law.

Compare: 1995 No 95 cl 13(1) of Second Schedule

3 Chairperson and deputy chairperson
(1) At its first meeting in each year, each authority must elect 1 of its members to be the chairperson of the authority, and another to be the deputy chairperson of the authority.
(2) A member who holds the office of chairperson or deputy chairperson continues in office until his or her successor is elected, and is eligible for re-election (subject to section 118).

(3) A member who holds the office of chairperson or deputy chairperson may—
   (a) at any time be removed from the office of chairperson or deputy chairperson by the authority; or
   (b) at any time resign his or her office by giving notice to that effect to the Registrar of the authority.

(4) If a person who holds the office of chairperson or deputy chairperson ceases to be a member of the authority, the authority must elect 1 of its members to fill that vacancy in the office of chairperson or deputy chairperson as soon as reasonably practicable.

Compare: 1995 No 95 cl 1 of Second Schedule

4 Deputy chairperson may act for chairperson

(1) The deputy chairperson of an authority has and may exercise or perform all the functions, duties, and powers of the chairperson if—
   (a) the chairperson of the authority is at any time incapable of acting as chairperson because of illness, absence, or any other reason; or
   (b) there is a vacancy in the office of chairperson.

(2) The deputy chairperson is, while acting for the chairperson, to be regarded as the chairperson of the authority.

(3) No act done by the deputy chairperson while acting for the chairperson and no act done by the authority while the deputy chairperson is acting for the chairperson, may in any proceedings be questioned on the ground that the occasion entitling the deputy chairperson to act had not arisen or had ceased.

Compare: 1995 No 95 cl 2 of Second Schedule

Conduct of meetings, conflict of interest, and resolutions passed without meetings

5 Meetings

(1) Meetings of every authority are held at—
   (a) times appointed by each authority; and
   (b) subject to clause 9, places appointed by the authority.
(2) The Registrar of each authority must give each member of the authority notice of a meeting of the authority, but the Registrar is not required to give notice to a member who is absent from New Zealand.

(3) At meetings of authorities, the quorum necessary for the trans- action of business is,—
   (a) 3 members, in the case of an authority that at any time has 5 or 6 members; and
   (b) 4 members, in the case of an authority that at any time has 7 or 8 members; and
   (c) 5 members, in the case of an authority that at any time has 9 or 10 members; and
   (d) 6 members, in the case of an authority that at any time has 11 or more members.

(4) Each quorum must include at least 1 member who is a layperson.

(5) For the purposes of determining the quorum, a member who is a representative under clause 6 may be counted only once.

(6) A meeting of an authority at which the quorum is present is competent to perform or exercise any of the functions, duties, and powers exercisable by the authority.

Compare: 1995 No 95 cl 8 of Second Schedule

6 Members representing other members

(1) A member of an authority may be represented by another member of the authority (that other member is in this clause referred to as a representative).

(2) A member may, by written notice to the appropriate Registrar, appoint a representative to represent the member on the authority, for 1 or more specific meetings that have been called or are proposed to be called, whenever the member is absent or unable to act as a member of the authority.

(3) The appointment of a representative ceases if—
   (a) the person who appointed the representative revokes, by written notice, the appointment; or
   (b) the person who appointed the representative ceases to be a member of the authority; or
   (c) the representative ceases to be a member of the authority.
(4) A notice referred to in subclause (2) or subclause (3) may be sent by electronic transmission.

(5) Subject to subclause (6), a representative may vote on behalf of the member whom he or she represents, and has and may exercise all the powers, rights, privileges, and duties of that member.

(6) A representative may not, in his or her capacity as representative,—
   (a) act as chairperson or deputy chairperson of the authority; or
   (b) vote on any matter arising under Part 4.

(7) The voting and other powers that a person has as a representative are in addition to the powers that the person has as a member of the authority.

Compare: 1995 No 95 cl 7 of Second Schedule

7 Chairperson to preside at meetings
(1) The chairperson of each authority presides at each meeting of the authority if he or she is present and willing to preside.

(2) If the chairperson is not present or willing to preside at a meeting of the authority, the deputy chairperson, if present and willing to preside, presides.

(3) If neither the chairperson nor the deputy chairperson is present and willing to preside at a meeting of the authority, the members present must elect a member who is present to preside at that meeting.

Compare: 1995 No 95 cl 9 of Second Schedule

8 Voting at meetings
(1) All questions arising at any meeting of an authority are decided by a majority of the votes cast by the members present.

(2) The person presiding at the meeting has a deliberative vote, and, in the case of an equality of votes, also has a casting vote.

Compare: 1995 No 95 cl 10(1),(2) of Second Schedule
9  Teleconference meetings

(1) The contemporaneous linking together by telephone or video-link or other means of communication of a number of members of an authority, being not less than the appropriate quorum stated in clause 5(3), whether or not 1 or more of those members are out of New Zealand, is to be taken as constituting a meeting of the authority to which the provisions of this Act apply if the following conditions are met:

(a) notice must have been given, by letter or telephone or electronic transmission, to every member of the authority entitled to receive notice of a meeting of the authority; and

(b) each member taking part in the meeting must—

(i) be linked by telephone or video-link or other means of communication for the purposes of the meeting; and

(ii) at the commencement of the meeting acknowledge, to all the other members taking part, the member’s presence for the purpose of a meeting of the authority; and

(iii) be able throughout the meeting to hear each of the other members taking part; and

(iv) on any vote, individually express his or her vote to the meeting.

(2) A member may not stop participating in a meeting held under this clause by disconnecting the member’s telephone or video-link or other means of communication without the express consent of the person presiding at the meeting.

(3) A minute of the proceedings at a meeting held under this clause is sufficient evidence of those proceedings, and the observance of all necessary formalities, if certified as a correct minute by the person presiding at the meeting.

Compare: 1995 No 95 cl 12 of Second Schedule

10  Member may not be present if subject of authority consideration

No member of an authority is entitled to be present or vote or otherwise participate in the capacity of a member of the authority at any part of a meeting of the authority where any matter
relating to the member’s registration, suspension, competence, fitness to practise, or discipline under this Act is being considered.

Compare: 1995 No 95 cl 10(3) of Second Schedule

11 Meaning of interested
(1) For the purposes of clauses 12 to 14, a member of an authority is interested in a transaction of, or other matter relating to, the authority only if the member—
   (a) is a party to, or will or may derive a material financial benefit from, the transaction or matter; or
   (b) has a material financial interest in another party to the transaction or a person to whom the matter relates; or
   (c) is a director, officer, member, or trustee of another party to, or a person who will or may derive a material financial benefit from, the transaction or matter; or
   (d) is the parent, child, spouse, or de facto partner (whether of the same or opposite sex) of another party to, or a person who will or may derive a material financial benefit from, the transaction or matter; or
   (e) is otherwise directly or indirectly materially interested in the transaction or matter.

(2) However, a member of an authority is not interested in a transaction or other matter merely because he or she is a member of the authority.

12 Obligation to disclose interest
A member of an authority who is interested in a transaction or proposed transaction of, or other matter relating to, the authority must disclose the nature of the interest in accordance with clause 13 as soon as practicable after the member becomes aware that he or she is interested.

13 Method of disclosure of interest
(1) If clause 12 applies, the member must ensure that the details listed in subclause (2) are entered in an interests register and disclosed to—
   (a) the chairperson; or
(b) if neither the chairperson nor the deputy chairperson is able to act or the positions of the chairperson and deputy chairperson are vacant, the Minister.

(2) The details are—
(a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
(b) the nature and extent of the interest (if the monetary value cannot be quantified).

14 Consequences of interest
A member of an authority who is interested in a transaction or proposed transaction of, or other matter relating to, the authority—
(a) must not vote or take part in any deliberation or decision that relates to the matter; and
(b) is to be disregarded for the purpose of forming a quorum for that part of a meeting of the authority during which a deliberation or decision relating to the matter occurs or is made.

15 Resolution assented to by members
(1) The chairperson of an authority may circulate, by letter or electronic transmission, to each member of the authority a document setting out a draft resolution and requesting each member to assent to the resolution within a specified period of at least 3 clear days.

(2) If a majority of the members of the authority, by letter or electronic transmission, signs or assents to a resolution circulated under subclause (1), the resolution is as valid and effective as if it had been passed at a meeting of the authority duly called and constituted.

(3) Any such resolution may consist of several documents that are similar in form, each signed or appearing to have been sent by 1 or more members.

(4) Every such resolution must be tabled at the next meeting of the authority held after the date on which the resolution takes effect.

Compare: 1995 No 95 cl 11 of Second Schedule
Matters of administration

16 Appointment of committees
Each authority may from time to time appoint 1 or more committees of the authority, and—
(a) any such committee may include or consist of persons who are not members of the authority; and
(b) each authority must regulate the procedure of each committee that it appoints in any manner that it thinks fit; and
(c) each authority may at any time discharge, alter, or reconstitute any committee that it has appointed.

Compare: 1995 No 95 cl 14 of Second Schedule

17 Delegation by authorities
(1) Each authority may from time to time, by written notice, delegate any of its functions, duties, or powers (other than any power under section 66 or section 68) to a committee appointed under clause 16 or to its Registrar.

(2) The Registrar of an authority may not under a delegation under this clause—
(a) exercise a power of decision in respect of any matter that the Registrar is required to submit or refer to the authority; or
(b) review a decision made by the Registrar or by a Deputy Registrar; or
(c) order or direct the Registrar or a Deputy Registrar to take any action.

(3) Unless otherwise provided by this clause or in the delegation, a delegate may perform or exercise a function, duty, or power of the authority delegated to the delegate under this clause in the same manner and with the same effect as if the delegate were the authority, but may not further delegate the function, duty, or power.

(4) Any delegation under this clause may be revoked at any time, and the delegation of a function, duty, or power does not prevent the authority from exercising the function, duty, or power itself.
(5) Every delegate purporting to act under a delegation under this clause is, until the contrary is proved, presumed to be acting in accordance with the terms of the delegation.

Compare: 1995 No 95 cl 14 of Second Schedule

18 Delegation by Registrars

(1) Each Registrar of an authority may, by written notice, delegate any of his or her functions, duties, or powers, either generally or specifically, to a person employed, engaged, or authorised by the authority.

(2) Unless otherwise provided in the delegation, the delegate may perform or exercise a function, duty, or power of the Registrar delegated to him or her under this clause in the same manner and with the same effect as if the delegate were the Registrar, but may not further delegate the function, duty, or power.

(3) Any delegation under this clause may be revoked at any time, and the delegation of a function, duty, or power does not prevent the Registrar from personally performing or exercising the function, duty, or power.

(4) Every delegate purporting to act under a delegation under this clause is, until the contrary is proved, presumed to be acting in accordance with the terms of the delegation.

(5) A delegation under this clause does not cease to have effect merely because the Registrar by whom it was made ceases to hold office.

Dealings with third parties by authorities

19 Method of contracting

(1) A contract or other enforceable obligation may be entered into by an authority as provided in subsections (2) to (5).

(2) An obligation that, if entered into by an individual, is required to be by deed may be entered into on behalf of an authority in writing, signed under the name of the authority by—

(a) 2 or more of its members; or

(b) 1 or more attorneys appointed by the authority in accordance with clause 20.

(3) An obligation that, if entered into by an individual, is required to be in writing may be entered into on behalf of an authority
in writing by a person acting under the authority’s express or implied authorisation.

(4) An obligation that, if entered into by an individual, is not required to be in writing may be entered into on behalf of an authority in writing or orally by a person acting under the authority’s express or implied authorisation.

20 Attorneys
An authority may, by an instrument in writing executed as a deed, appoint a person as its attorney authorised to sign on its behalf, either generally or in relation to a specified matter, documents of a contractual nature.

21 Presumptions and savings of certain transactions
(1) The validity or enforceability of any deed, agreement, right, or obligation entered into, conferred on, or incurred by an authority is not affected by a failure of the authority to comply with any provision of this Act.

(2) A person purporting to execute any documentation on behalf of an authority in accordance with a direction of, or a delegation given by, the authority is, in the absence of proof to the contrary, presumed to be acting in accordance with that direction or delegation.
Schedule 4
Acts amended

Adult Adoption Information Act 1985 (1985 No 127)
Repeal the definition of doctor in section 11(1) and substitute:

“doctor means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Alcoholism and Drug Addiction Act 1966 (1966 No 97)
Insert in section 2, after the definition of managers:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from section 27 the word “registered” in both places where it occurs.

Armed Forces Discipline Act 1971 (1971 No 53)
Insert in section 2(1), in their appropriate alphabetical order:

“dental practitioner means a health practitioner who is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dentistry

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from section 72(1) the words “duly registered medical or dental practitioner” in both places where they occur and substitute in each case the words “medical practitioner or dental practitioner”.

Repeal the definition of qualified medical practitioner in section 187(1) and substitute:

“qualified medical practitioner—

“(a) means a medical practitioner; and

“(b) includes a person who holds medical qualifications obtained in a country outside New Zealand that are
Armed Forces Discipline Act 1971 (1971 No 53)—continued
recognised by the Chief of Defence Force for the
purposes of this Part.”

Births, Deaths, and Marriages Registration Act 1995
(1995 No 16)
Repeal the definitions of doctor and midwife in section 2 and
substitute, in their appropriate alphabetical order:

“doctor means a health practitioner who is, or is deemed to
be, registered with the Medical Council of New Zealand
continued by section 110(1)(a) of the Health Practitioners
Competence Assurance Act 2002 as a practitioner of the
profession of medicine

“midwife means a health practitioner who is, or is deemed to
be, registered with the Midwifery Council established by
section 110(2) of the Health Practitioners Competence
Assurance Act 2002 as a practitioner of the profession of
midwifery”.

Boilers, Lifts, and Cranes Act 1950 (1950 No 53)
Omit from section 42(6) the word “registered”.
Add to section 42:

“(9) Medical practitioner means a health practitioner who is, or is
deemed to be, registered with the Medical Council of New
Zealand continued by section 110(1)(a) of the Health Practitioners
Competence Assurance Act 2002 as a practitioner of the
profession of medicine.”

Burial and Cremation Act 1964 (1964 No 75)
Insert in section 2(1), in their appropriate alphabetical order:

“doctor means a health practitioner who is, or is deemed to
be, registered with the Medical Council of New Zealand
continued by section 110(1)(a) of the Health Practitioners
Competence Assurance Act 2002 as a practitioner of the
profession of medicine

“midwife means a health practitioner who is, or is deemed to
be, registered with the Midwifery Council established by
section 110(2) of the Health Practitioners Competence
Assurance Act 2002 as a practitioner of the profession of
midwifery”.

Repeal section 46A(a) and substitute:
Burial and Cremation Act 1964 (1964 No 75)—continued
“(a) a written certificate that the child was born dead, signed—
“(i) by a doctor who was present at the birth or examined the child after birth; or
“(ii) if no doctor was present at the birth or examined the child after birth, by a midwife; or”.

Cancer Registry Act 1993 (1993 No 102)
Add to section 6:
“(3) In subsection (1), medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine.”

Children, Young Persons, and their Families Act 1989
(1989 No 24)
Insert in section 2, in their appropriate alphabetical order:
“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine
“psychologist means a health practitioner who is, or is deemed to be, registered with the Psychologists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of psychology”.

Omit from sections 49(1), 53(2) and (3), 401(4), and 409(4) the word “registered”.

Civil Aviation Act 1990 (1990 No 98)
Omit from the definitions of aviation examiner, convener, deputy convener, and medical examiner in section 2 the word “registered”.
Insert in section 2, in their appropriate alphabetical order:
“health professional means a person who is, or is deemed to be, registered with an authority established or continued by section 110 of the Health Practitioners Competence Assurance Act 2002 as a practitioner of a particular health profession
“medical practitioner means—
Civil Aviation Act 1990 (1990 No 98)—continued

“(a) a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine; or

“(b) a person in a jurisdiction other than New Zealand who is entitled, licensed, or registered to practise medicine in that jurisdiction”.

Repeal the definition of registered medical practitioner in section 2.

Omit from sections 27C(3), (4), and (5)(b), 27J(4), 27N(1) and (5) and the heading to section 27N the word “registered” wherever it occurs.

Contraception, Sterilisation, and Abortion Act 1977
(1977 No 112)

Insert in section 2, in their appropriate alphabetical order:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“nurse means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing”.

Repeal the definition of practising obstetrician or gynaecologist in section 2 and substitute:

“practising obstetrician or gynaecologist means a medical practitioner—

“(a) whose scope of practice includes obstetrics or gynaecology; or

“(b) who, in the opinion of the Supervisory Committee, is experienced in 1 or both of those branches of medicine

“scope of practice has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002”.

Omit from sections 4(1) and (3) and 5(1) and (2) the word “registered” wherever it occurs.

Repeal section 5(3) and substitute:
Contraception, Sterilisation, and Abortion Act 1977
(1977 No 112)—continued
“(3) Without limiting anything in Part 4 of the Health Practitioners
Competence Act 2002, every medical practitioner who fails to
comply with subsection (1) or subsection (2) is guilty of
professional misconduct, and must be dealt with under that
Act accordingly.”
Omit from sections 8(1) and (3), 10(2), 30(1), 32(1), (2)(a), (4), and
(7), 33(3) and (4), 33A, 34, and 46(1) the word “registered”
wherever it occurs.
Repeal section 46(4) and substitute:
“(4) Nothing in this section limits or affects the provisions of
section 5.”

Coroners Act 1988 (1988 No 111)
Repeal the definition of doctor in section 2 and substitute:
“doctor means a health practitioner who is, or is deemed to
be, registered with the Medical Council of New Zealand
continued by section 110(1)(a) of the Health Practitioners
Competence Assurance Act 2002 as a practitioner of the
profession of medicine”.

Courts Martial Appeals Act 1953 (1953 No 100)
Insert in section 2(1), after the definition of court martial:
“medical practitioner means a health practitioner who is, or
is deemed to be, registered with the Medical Council of New
Zealand continued by section 110(1)(a) of the Health
Practitioners Competence Assurance Act 2002 as a practitioner
of the profession of medicine”.

Crimes Act 1961 (1961 No 43)
Insert in section 2(1), after the definition of justified:
“medical practitioner means a health practitioner who is, or
is deemed to be, registered with the Medical Council of New
Zealand continued by section 110(1)(a) of the Health
Practitioners Competence Assurance Act 2002 as a practitioner
of the profession of medicine”.
Omit from section 187A(4) the word “registered”.
Insert in section 204A(1), after the definition of female genital
mutilation:
“midwife means a health practitioner who is, or is deemed to
be, registered with the Midwifery Council established by
Health Practitioners Competence Assurance Schedule 4

Crimes Act 1961 (1961 No 43)—continued

section 110(2) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of midwifery”.

Repeal the definition of registered midwife in section 204A(1).

Omit from paragraph (b) of the definition of trainee health professional in section 204A(1) the word “registered” in both places where it occurs.

Omit from sections 204A(3)(b)(iii) and 312D(2) the word “registered” wherever it occurs.


Insert in section 2(1), in their appropriate alphabetical order:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“nurse means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing”.

Omit from sections 49, 51(a), and 52(1)(b) the word “registered”.

Criminal Justice Act 1985 (1985 No 120)

Insert in section 2(1), after the definition of Manager Community Corrections:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from section 41(5) the word “registered”.

Disabled Persons Community Welfare Act 1975 (1975 No 122)

Repeal the definition of medical practitioner in section 2 and substitute:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health
Disabled Persons Community Welfare Act 1975
(1975 No 122)—continued

Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.
Omit from section 22(2) the word “registered”.

Add to section 125:

“(5) In subsection (4)(a)(ii), psychologist means a health practitioner who is, or is deemed to be, registered with the Psychologists Board continued by section 110(1)(a) of the Health Practitioners Act 2002 as a practitioner of the profession of psychology.”

Education Act 1989 (1989 No 80)
Repeal the definition of doctor in section 2(1) and substitute:

“doctor means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Electoral Act 1993 (1993 No 87)
Insert in section 3(1), after the definition of Maori electoral population:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.
Omit from sections 56(3) and (4), 152B(3), and 153G(4) the word “registered”.

Electricity Act 1992 (1992 No 122)
Repeal section 16(2)(b)(ii) and substitute:

“(ii) receiving medical treatment from a health practitioner who is, or is deemed to be, registered with an authority established or continued by section 110 of the Health Practitioners Competence Assurance Act 2002 as a practitioner of a particular health profession.”
Evidence Act 1908 (1908 No 56)
Insert in section 2, in their appropriate alphabetical order:

''medical practitioner'' means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

''psychologist'' means a health practitioner who is, or is deemed to be, registered with the Psychologists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of psychology

''scope of practice'' has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002''.

Repeal section 23G(1) and substitute:

“(1) For the purposes of this section, a person is an expert witness if that person is—

“(a) a medical practitioner whose scope of practice includes psychiatry, practising or having practised in the field of child psychiatry and with experience in the professional treatment of sexually abused children; or

“(b) a psychologist practising or having practised in the field of child psychology and with experience in the professional treatment of sexually abused children.”

Evidence Amendment Act (No 2) 1980 (1980 No 27)
Omit from sections 16 and 32(1) and (2)(b) the word “registered”.

Repeal section 32(3) and substitute:

“(3) In this section—

“clinical psychologist—

“(a) means a psychologist who is, by his or her scope of practice, permitted to diagnose and treat persons suffering from mental and emotional problems; and

“(b) includes any person acting in a professional character on behalf of the clinical psychologist in the course of the treatment of any patient by that psychologist

“protected communication means a communication to a medical practitioner or a clinical psychologist by a patient who believes that the communication is necessary to enable the medical practitioner or clinical psychologist to examine, treat, or act for the patient
Evidence Amendment Act (No 2) 1980 (1980 No 27)—
continued

“medical practitioner includes any person acting in his or
her professional character on behalf of a medical practitioner
in the course of the treatment of any patient by that medical
practitioner.”

Omit from section 33(1) and (3) the word “registered” wherever it
occurs.

Repeal section 33(4) and substitute:

“(4) In subsection (3)—

“clinical psychologist—

“(a) means a psychologist who is, by his or her scope of
practice, permitted to diagnose and treat persons suffer-
ing from mental and emotional problems; and

“(b) includes any person acting in a professional character
on behalf of the clinical psychologist in the course of
the treatment of any patient by that psychologist

“drug dependency means the state of periodic or chronic
intoxication, produced by the repeated consumption, smok-
ing, or other use of a controlled drug (within the meaning of
section 2(1) of the Misuse of Drugs Act 1975) detrimental to
the user, and involving a compulsive desire to continue con-
suming, smoking, or otherwise using the drug or a tendency to
increase the dose of the drug

“medical practitioner includes any person acting in his or
her professional character on behalf of a medical practitioner
in the course of the treatment of any patient by that medical
practitioner”.

Family Proceedings Act 1980 (1980 No 94)
Add to section 169:

“(6) In subsection (5), psychologist means a health practitioner
who is, or is deemed to be, registered with the Psychologists
Board continued by section 110(1)(a) of the Health Practitioners
Competence Assurance Act 2002 as a practitioner of the pro-
fession of psychology.”

Fire Service Act 1975 (1975 No 42)
Insert in section 2, after the definition of means of escape from fire:

“medical practitioner means a health practitioner who is, or
is deemed to be, registered with the Medical Council of New
Fire Service Act 1975 (1975 No 42)—continued

Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from section 72(5) the word “registered”.

Government Superannuation Fund Act 1956 (1956 No 47)

Insert in section 2(1), after the definition of liabilities:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from sections 61K(4) and 88F(5) the word “registered”.

Guardianship Act 1968 (1968 No 63)

Add to section 27A:

“(5) In subsection (4)(b), psychologist means a health practitioner who is, or is deemed to be, registered with the Psychologists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of psychology.”

Hazardous Substances and New Organisms Act 1996

(1996 No 30)

Repeal the definitions of medical practitioner and pharmacist in section 183(1) and substitute:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“pharmacist means a health practitioner who is, or is deemed to be, registered with the Pharmacy Council established by section 110(4) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of pharmacy

“pharmacy and pharmacy practice have the same meanings as in section 2(1) of the Medicines Act 1981”.

Repeal section 195(2) and substitute:
Hazardous Substances and New Organisms Act 1996
(1996 No 30)—continued
“(2) The authority conferred by subsection (1) extends only to the
sale of deadly poisons and dangerous poisons, and the pack-
ing, preparing, and labelling of poisons, in a pharmacy where
pharmacy practice is carried on.”

Health Act 1956 (1956 No 65)
Insert in section 2(1), after the definition of Medical Officer of
Health:
“medical practitioner means a health practitioner who is, or
is deemed to be, registered with the Medical Council of New
Zealand continued by section 110(1)(a) of the Health
Practitioners Competence Assurance Act 2002 as a practitioner
of the profession of medicine”.

Omit from sections 88(1), 90(1) and (2), 91, and the heading to that
section the word “registered” wherever it occurs.

Insert in section 2(1), after the definition of machinery:
“medical practitioner means a health practitioner who is, or
is deemed to be, registered with the Medical Council of New
Zealand continued by section 110(1)(a) of the Health
Practitioners Competence Assurance Act 2002 as a practitioner
of the profession of medicine”.

Repeal the definition of registered medical practitioner in section
2(1).

Omit from section 34(1) the word “registered”.

Repeal section 34(4) and substitute:
“(4) A departmental medical practitioner ceases to be a departmental
medical practitioner on ceasing to be a medical practitioner.”

Omit from section 36(c)(i) and (ii) the word “registered”.

Omit from clauses 3 and 5 of the First Schedule the word
“registered”.

Hospitals Act 1957 (1957 No 40)
Insert in section 2, after the definition of medical:
“medical practitioner means a health practitioner who is, or
is deemed to be, registered with the Medical Council of New
Zealand continued by section 110(1)(a) of the Health
Hospitals Act 1957 (1957 No 40)—continued
Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from section 135(3) the word “registered” wherever it occurs.

Repeal section 135(9) and substitute:
“(9) For the purposes of this section—

“Act means the Health Practitioners Competence Assurance Act 2002

“midwife—
“(a) means a health practitioner who is, or is deemed to be, registered with the Midwifery Council established by section 110(2) of the Act as a practitioner of the profession of midwifery; but
“(b) does not include any person for the time being suspended from practice under the Act

“nurse—
“(a) means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Act as a practitioner of the profession of nursing; but
“(b) does not include any person for the time being suspended from practice under the Act

“psychiatric nurse—
“(a) means a nurse whose scope of practice includes psychiatric nursing; but
“(b) does not include any person for the time being suspended from practice under the Act

“scope of practice has the same meaning as in section 5(1) of the Act.”

Omit from section 139(1) and (2) the word “registered”.

Human Tissue Act 1964 (1964 No 19)

Repeal the definition of medical practitioner in section 2(1) and substitute:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002”.

Repeal section 4A.
Repeal the definitions of chiropractor, clinical dental technician, dental technician, dentist, medical laboratory technologist, medical radiation technologist, midwife, nurse, occupational therapist, optometrist, osteopath, pharmacist, physiotherapist, podiatrist, registered health professional, and registered medical practitioner in section 6(1).

Insert in section 6(1), in their appropriate alphabetical order:

"chiropractor means a health practitioner who—

“(a) is, or is deemed to be, registered with the Chiropractic Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of chiropractic; and

“(b) holds a current practising certificate

"dental technician means a health practitioner who—

“(a) is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dental technology; and

“(b) holds a current practising certificate

"dentist means a health practitioner who—

“(a) is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dentistry; and

“(b) holds a current practising certificate

"health practitioner means a person who is, or is deemed to be, registered with an authority established or continued by section 110 of the Health Practitioners Competence Assurance Act 2002 as a practitioner of a particular health profession

"medical laboratory technologist means a health practitioner who—

“(a) is, or is deemed to be, registered with the Medical Laboratory Scientists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medical laboratory science; and

“(b) holds a current practising certificate
Injury Prevention, Rehabilitation, and Compensation Act
2001 (2001 No 49)—continued

*medical practitioner* means a health practitioner who—

“(a) is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine; and

“(b) holds a current practising certificate

*medical radiation technologist* means a health practitioner who—

“(a) is, or is deemed to be, registered with the Medical Radiation Technologists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medical radiation technology; and

“(b) holds a current practising certificate

*midwife* means a health practitioner who—

“(a) is, or is deemed to be, registered with the Midwifery Council established by section 110(2) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of midwifery; and

“(b) holds a current practising certificate

*nurse* means a health practitioner who—

“(a) is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing; and

“(b) holds a current practising certificate

*occupational therapist* means a health practitioner who—

“(a) is, or is deemed to be, registered with the Occupational Therapy Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of occupational therapy; and

“(b) holds a current practising certificate

*optometrist* means a health practitioner who—

“(a) is, or is deemed to be, registered with the Optometrists and Dispensing Opticians Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of optometry; and

“(b) holds a current practising certificate
Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)—continued

Assurance Act 2002 as a practitioner of the profession of optometry; and
“(b) holds a current practising certificate

“osteopath” means a health practitioner who—
“(a) is, or is deemed to be, registered with the Osteopathic Council established by section 110(3) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of osteopathy; and
“(b) holds a current practising certificate

“pharmacist” means a health practitioner who—
“(a) is, or is deemed to be, registered with the Pharmacy Council established by section 110(4) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of pharmacy; and
“(b) holds a current practising certificate

“physiotherapist” means a health practitioner who—
“(a) is, or is deemed to be, registered with the Physiotherapy Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of physiotherapy; and
“(b) holds a current practising certificate

“podiatrist” means a health practitioner who—
“(a) is, or is deemed to be, registered with the Podiatrists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of podiatry; and
“(b) holds a current practising certificate

“practising certificate” means an annual practising certificate issued by the relevant authority under section 25(3) or section 28(4) of the Health Practitioners Competence Assurance Act 2002

“registered health professional”—
“(a) means a chiropractor, dental technician, dentist, medical laboratory technologist, medical practitioner, medical radiation technologist, midwife, nurse, occupational therapist, optometrist, pharmacist, physiotherapist, or podiatrist; and
Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)—continued

“(b) includes any person referred to in paragraph (a) who holds an interim practising certificate but only when acting in accordance with any conditions of such interim certificate; and

“(c) includes a member of any occupational group included in the definition of registered health professional by regulations made under section 322

“scope of practice” has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002”.

Omit from paragraph (a) of the definition of treatment provider in section 6(1) the word “registered”.

Repeal section 93 and substitute:

“93 Medical assessor

“(1) A medical assessment must be undertaken by a medical practitioner who is described in subsection (2) or subsection (3).

“(2) A medical practitioner whose scope of practice includes general practice must also—

“(a) have an interest, and proven work experience, in disability management in the workplace or in occupational rehabilitation; and

“(b) have at least 5 years’ experience in general practice; and

“(c) meet at least 1 of the following criteria:

“(i) be a Fellow of the Royal New Zealand College of General Practitioners or hold an equivalent qualification:

“(ii) be undertaking training towards becoming a Fellow of the Royal New Zealand College of General Practitioners or holding an equivalent qualification:

“(iii) have undertaken relevant advanced training.

“(3) A medical practitioner whose scope of practice does not include general practice must—

“(a) have an interest, and proven work experience, in disability management in the workplace or in occupational rehabilitation; and

“(b) be a member of a recognised college.”

Omit from sections 37(1)(a), 94, and 102(2)(a) the word “registered” wherever it occurs.


Injury Prevention, Rehabilitation, and Compensation Act

2001 (2001 No 49)—continued

Repeal clause 27 of Schedule 1 and substitute:

“27 Medical assessor

“(1) A medical assessment must be undertaken by a medical practitioner who is described in subclause (2) or subclause (3).

“(2) A medical practitioner whose scope of practice includes general practice must also—

“(a) have an interest, and proven work experience, in disability management in the workplace or in occupational rehabilitation; and

“(b) have at least 5 years’ experience in general practice; and

“(c) meet at least 1 of the following criteria:

“(i) be a Fellow of the Royal New Zealand College of General Practitioners or hold an equivalent qualification;

“(ii) be undertaking training towards becoming a Fellow of the Royal New Zealand College of General Practitioners or holding an equivalent qualification;

“(iii) have undertaken relevant advanced training.

“(3) A person whose scope of practice does not include general practice must also—

“(a) have an interest, and proven work experience, in disability management in the workplace or in occupational rehabilitation; and

“(b) be a member of a recognised college.”

Omit from clauses 7(3)(b), 13(1)(b), 57(1) and (3)(b), and 61(4) and (6) of Schedule 1 the word “registered” wherever it occurs.

Repeal so much of Schedule 6 as relates to the Medical Practitioners Act 1995.

Judicature Act 1908 (1908 No 89)

Insert in section 2, after the definition of Master:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

188
Judicature Amendment Act 1991 (1991 No 60)

Justices of the Peace Act 1957 (1957 No 89)
Add to section 7, as subsection (2):
“(2) In subsection (1), medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine.”

Land Transport Act 1998 (1998 No 110)
Omit from the definition of doctor’s surgery in section 2(1) the word “registered”.
Repeal the definitions of medical officer, registered medical practitioner, and registered optometrist in section 2(1).
Insert in section 2(1), in their appropriate alphabetical order:
“medical officer means—
“(a) a person acting in a hospital and who, in the normal course of the person’s duties, takes blood specimens; or
“(b) a nurse; or
“(c) a medical laboratory technologist
“medical laboratory technologist means a health practitioner who is, or is deemed to be, registered with the Medical Laboratory Scientists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medical laboratory science
“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine
“nurse means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing
Land Transport Act 1998 (1998 No 110)—continued

“optometrist means a health practitioner who is, or is deemed to be, registered with the Optometrists and Dispensing Opticians Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of optometry”.

Omit from sections 13(3), 18(1) to (3), 60(1)(b) and (c), 64(1), 72, 73(1) to (5), 74(4), 75(2) to (4), 76(1)(c), 79(1), 99(3)(d), 100(1)(a)(i), 199(5), 209(1) the word “registered” wherever it occurs.

Law Practitioners Act 1982 (1982 No 123)

Add to section 59:

“(7) In subsection (4), medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine.”


Insert in section 2(1), after the definition of Maritime Safety Authority:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from section 446(9) the word “registered”.


Add to section 22:

“(3) In subsection (1A)(b), medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine.”

Maori Community Development Act 1962 (1962 No 133)

Omit from section 33(6)(a) the word “registered”.

Add to section 33:
Maori Community Development Act 1962 (1962 No 133)—continued

“(10) In subsection (6)(a), medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine.”

Mental Health (Compulsory Assessment and Treatment) Act 1992 (1992 No 46)
Repeal the definitions of medical practitioner and psychiatrist in section 2(1).
Insert in section 2(1), in their appropriate alphabetical order:
  “medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine
  “psychiatrist means a medical practitioner whose scope of practice includes psychiatry
  “psychologist means a health practitioner who is, or is deemed to be, registered with the Psychologists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of psychology
  “nurse means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing
  “registered health professional means a health practitioner who is, or is deemed to be, registered with an authority established or continued by section 110 of the Health Practitioners Competence Assurance Act 2002 as a practitioner of a particular health profession
  “scope of practice has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002”.

Insert in sections 10(2)(b), 12(2)(b), 14(2)(b), 61(c)(ii), 76(2)(b) and (4)(b), and 93(1)(a), before the words “health professionals”, the word “registered”.

191
Mental Health (Compulsory Assessment and Treatment) Act 1992 (1992 No 46)—continued

Insert in section 16(4), 18(4), and 71(2)(d), before the words “health professional”, the word “registered”.

Omit from section 111(1)(b) the word “registered”.

Misuse of Drugs Act 1975 (1975 No 116)
Repeal the definitions of dentist, medical practitioner, pharmacist, and registered midwife in section 2(1).

Insert in section 2(1), in their appropriate alphabetical order:

“dentist means a health practitioner who is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dentistry

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“midwife means a health practitioner who is, or is deemed to be, registered with the Midwifery Council established by section 110(2) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of midwifery

“pharmacist means a health practitioner who is, or is deemed to be, registered with the Pharmacy Council established by the Health Practitioners Competence Assurance Act 2002

“registered health professional means a health practitioner who is, or is deemed to be, registered with an authority established or continued by section 110 of the Health Practitioners Competence Assurance Act 2002 as a practitioner of a particular health profession”.

Omit from sections 8(1), (2)(aa), (ba), and (da), (2A)(a), 20(3)(fa), 23(1)(a), (1)(aa), (2)(ca), (6), (7), 24(1A), 33, and 37(1)(g) the word “registered” wherever it occurs.

Misuse of Drugs Amendment Act 1978 (1978 No 65)
Omit from section 16(2) the word “registered” in both places where it occurs.
New Zealand Public Health and Disability Act 2000
(2000 No 91)
Insert in section 6(1), in their appropriate alphabetical order:

“health professional body” has the same meaning as that given to the term authority by section 5(1) of the Health Practitioners Competence Assurance Act 2002

“health practitioner”—
“(a) has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002; and
“(b) includes—
“(i) a former health practitioner within the meaning of that section; and
“(ii) a person who is receiving training or gaining experience under the supervision of a health practitioner”.

Omit from section 23(1)(j) the words “health professionals” and substitute the words “health practitioners”.
Omit from section 73(1)(c)(i) the words “registered health professional” and substitute the words “health practitioner”.
Repeal clause 2(2)(c) of Schedule 5 and substitute:
“(c) information that became known solely as a result of a quality assurance activity within the meaning of Part 3 of the Health Practitioners Competence Assurance Act 2002.”

Repeal so much of Schedule 10 as relates to the definition of pathologist in regulation 2 of the Venereal Diseases Regulations 1982.

Official Information Act 1982 (1982 No 156)
Add to section 23:
“(6) In subsection (2A)(b), medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine.”

Parental Leave and Employment Protection Act 1987
(1987 No 129)
Insert in section 2(1), in its appropriate alphabetical order:
Parental Leave and Employment Protection Act 1987
(1987 No 129)—continued

“medical practitioner” means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Repeal the definition of midwife in section 2(1) and substitute:

“midwife” means a health practitioner who is, or is deemed to be, registered with the Midwifery Council established by section 110(2) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of midwifery”.

Omit from sections 13(1), 31(3)(b) and (c)(i), and 45(2) the word “registered”.

Penal Institutions Act 1954 (1954 No 51)
Insert in section 2(1), in their appropriate alphabetical order:

“dentist” means a health practitioner who is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dentistry

“medical practitioner” means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from section 28(5) the word “registered”.

Police Act 1958 (1958 No 109)
Insert in section 2, in their appropriate alphabetical order:

“medical practitioner” means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“psychologist” means a health practitioner who is, or is deemed to be, registered with the Psychologists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of psychology”.

Omit from section 28(5) the word “registered”.

194
Privacy Act 1993 (1993 No 28)
Insert in Part I of the Second Schedule, in its appropriate alphabetical order:

“Health Practitioners Competence Assurance Act 2002”

Protection of Personal and Property Rights Act 1988
(1988 No 4)
Insert in section 2, in their appropriate alphabetical order:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“psychologist means a health practitioner who is, or is deemed to be, registered with the Psychologists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of psychology”.

Repeal section 32(2)(c)(i) and substitute:

“(i) certificates from 2 medical practitioners (at least 1 of whom must be independent of the applicant or a relative of the applicant) as to the extent of the applicant’s lack of competence to manage his or her own affairs in relation to his or her property; and”.

Repeal section 33(3)(c) and substitute:

“(c) be accompanied by certificates from 2 medical practitioners (at least 1 of whom must be independent of the applicant and the person in respect of whom the application is made) as to whether or not that person—
“(i) lacks the competence to manage his or her own affairs in relation to his or her property, and, if so, to what extent; and
Protection of Personal and Property Rights Act 1988
(1988 No 4)—continued

“(ii) is able to understand the nature, purpose, and consequences of the application; and”.

Repeal section 87(1B)(a) and substitute:

“(a) a report from each of 2 medical practitioners (at least 1 of whom must be independent of the applicant or any relative of the applicant) as to the extent to which the person subject to the order has the competence or lacks the competence to manage his or her own affairs in relation to his or her property; and”.

Repeal 87(1F)(a) and substitute:

“(a) a report from each of 2 medical practitioners (at least 1 of whom must be independent of the applicant or any relative of the applicant) as to the extent to which the person subject to the order has the competence to manage his or her own affairs in relation to his or her property; and”.

Radiation Protection Act 1965 (1965 No 23)
Insert in section 2(1), in their appropriate alphabetical order:

“chiropractor means a health practitioner who is, or is deemed to be, registered with the Chiropractic Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of chiropractic

“dentist means a health practitioner who is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dentistry”.

Repeal the definition of medical practitioner in section 2(1) and substitute:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Repeal section 18(4) and (5) and substitute:

“(4) Licences for dental diagnostic purposes may be granted only to a dentist or to medical practitioners.
Radiation Protection Act 1965 (1965 No 23)—continued
“(5) Licences for chiropractic diagnostic purposes may be granted only to chiropractors.”

Sale of Liquor Act 1989 (1989 No 63)
Insert in section 2, in its appropriate alphabetical order:

“**pharmacist** means a health practitioner who is, or is deemed to be, registered with the Pharmacy Council established by section 110(4) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of pharmacy”.

Repeal section 5(3)(b) and (c) and substitute:

“(b) a pharmacist who supplies, keeps for sale, or sells any liquor exclusively for medicinal purposes; or
“(c) a person who supplies, keeps for sale, or sells exclusively to pharmacists any liquor for the purposes of paragraph (b); or”.

Securities Act 1978 (1978 No 103)
Omit from clause 2 of the Second Schedule the words “Medical Practitioners Act 1995” and substitute the words “Health Practitioners Competence Assurance Act 2002”.

Omit from clause 10 of the Second Schedule the words “Optometrists and Dispensing Opticians Act 1976” and substitute the words “Health Practitioners Competence Assurance Act 2002.”

Omit from clause 12 of the Second Schedule the words “Dental Act 1988” and substitute the words “Health Practitioners Competence Assurance Act 2002”.

Social Security Act 1964 (1964 No 136)
Repeal the definitions of **medical practitioner** and **psychologist** in section 3(1).

Insert in section 3(1), in their appropriate alphabetical order:

“**dentist** means a health practitioner who is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dentistry

“**medical practitioner** means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health
Social Security Act 1964 (1964 No 136)—continued

Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“midwife” means a health practitioner who is, or is deemed to be, registered with the Midwifery Council established by section 110(2) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of midwifery

“nurse” means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing

“occupational therapist” means a health practitioner who is, or is deemed to be, registered with the Occupational Therapy Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of occupational therapy

“physiotherapist” means a health practitioner who is, or is deemed to be, registered with the Physiotherapy Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of physiotherapy

“psychologist” means a health practitioner who is, or is deemed to be, registered with the Psychologists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of psychology”.

Repeal section 53A(3) and substitute:

“(3) In this section, rehabilitation professional means—

“(a) a person professionally engaged in the rehabilitation of persons from sickness or accident or with disabilities; and

“(b) a nurse; and

“(c) an occupational therapist; and

“(d) a physiotherapist; and

“(e) a psychologist.”

Omit from section 54B(1)(b) and (c) the word “registered”.

Repeal section 69C(2)(b)(ii) and substitute:
Social Security Act 1964 (1964 No 136)—continued

“(ii) ongoing supervision or treatment by a health practitioner.”

Repeal the definition of registered health professional in section 69C(8) and substitute:

“health practitioner—

“(a) has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002; and

“(b) includes—

“(i) a former health practitioner within the meaning of that section; and

“(ii) a person who is receiving training or gaining experience under the supervision of a health practitioner.”

Insert in section 69FA(1), in its appropriate alphabetical order:

“health practitioner—

“(a) has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002; and

“(b) includes—

“(i) a former health practitioner within the meaning of that section; and

“(ii) a person who is receiving training or gaining experience under the supervision of a health practitioner”.

Repeal the definition of medical services in section 69FA(1) and substitute:

“medical services means services supplied to a person by a health practitioner relating to the treatment or relief of the person’s disability condition or the rehabilitation of the person from that condition.”

State Sector Act 1988 (1988 No 20)

Insert in section 2, in its appropriate alphabetical order:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from section 82 the word “registered”.

Summary Offences Act 1981 (1981 No 113)

Insert in section 2(1), in its appropriate alphabetical order:
Summary Offences Act 1981 (1981 No 113)—continued

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from section 20(4) the word “registered”.

Summary Proceedings Act 1957 (1957 No 87)

Insert in section 2(1), in its appropriate alphabetical order:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from sections 175(1)(a) and 203(2)(i) the word “registered”.

Trans-Tasman Mutual Recognition Act 1997 (1997 No 60)

Repeal so much of Schedule 4 as relates to the Medical Practitioners Act 1995 and substitute:

“Health Practitioners Competence Assurance Act 2002, to the extent that it deals with health practitioners who are, or are deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of that Act as practitioners of the profession of medicine”.

Tuberculosis Act 1948 (1948 No 36)

Repeal the definition of medical practitioner in section 2(1) and substitute:

“medical practitioner—

“(a) means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine; and

“(b) includes a tuberculosis officer”.

Omit from section 30(h) the word “registered”.

Veterinarians Act 1994 (1994 No 107)

Insert in section 2, in its appropriate alphabetical order:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health
Veterinarians Act 1994 (1994 No 107)—continued

Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

War Pensions Act 1954 (1954 No 54)
Insert in section 2(1), in its appropriate alphabetical order:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from sections 5A(3)(c), 5E(3), 8(3), and 10(2) the word “registered” wherever it occurs.
Repeal the definitions of chiropractor, dental technician, dentist, laboratory technician, nurse, occupational therapist, optometrist, osteopath, physiotherapist, podiatrist, registered health professional, and registered medical practitioner in section 13(1).

Insert in section 13(1), in their appropriate alphabetical order:

**chiropractor** means a health practitioner who—

“(a) is, or is deemed to be, registered with the Chiropractic Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of chiropractic; and

“(b) holds a current practising certificate

**dental technician** means a health practitioner who—

“(a) is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dental technology; and

“(b) holds a current practising certificate

**dentist** means a health practitioner who—

“(a) is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dentistry; and

“(b) holds a current practising certificate

**health practitioner** means a person who is, or is deemed to be, registered with an authority established or continued by section 110 of the Health Practitioners Competence Assurance Act 2002 as a practitioner of a particular health profession

**medical laboratory technologist** means a health practitioner who—

“(a) is, or is deemed to be, registered with the Medical Laboratory Scientists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medical laboratory technology; and

“(b) holds a current practising certificate
Accident Insurance Act 1998 (1998 No 114)—continued

Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medical laboratory science; and

“(b) holds a current practising certificate

“medical practitioner means a health practitioner who—

“(a) is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine; and

“(b) holds a current practising certificate

“medical radiation technologist means a health practitioner who—

“(a) is, or is deemed to be, registered with the Medical Radiation Technologists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medical radiation technology; and

“(b) holds a current practising certificate

“nurse means a health practitioner who—

“(a) is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing; and

“(b) holds a current practising certificate

“occupational therapist means a health practitioner who—

“(a) is, or is deemed to be, registered with the Occupational Therapy Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of occupational therapy; and

“(b) holds a current practising certificate

“optometrist means a health practitioner who—

“(a) is, or is deemed to be, registered with the Optometrists and Dispensing Opticians Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of optometry; and

“(b) holds a current practising certificate

“osteopath means a health practitioner who—
Accident Insurance Act 1998 (1998 No 114)—continued

“(a) is, or is deemed to be, registered with the Osteopathic Council established by section 110(1)(3) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of osteopathy; and

“(b) holds a current practising certificate

*pharmacist means a health practitioner who—

“(a) is, or is deemed to be, registered with the Pharmacy Council established by section 110(4) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of pharmacy; and

“(b) holds a current practising certificate

*physiotherapist means a health practitioner who—

“(a) is, or is deemed to be, registered with the Physiotherapy Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of physiotherapy; and

“(b) holds a current practising certificate

*podiatrist means a health practitioner who—

“(a) is, or is deemed to be, registered with the Podiatrists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of podiatry; and

“(b) holds a current practising certificate

*practising certificate means an annual practising certificate issued by the relevant authority under section 25(3) or section 28(4) of the Health Practitioners Competence Assurance Act 2002

*registered health professional—

“(a) means a chiropractor, dental technician, dentist, medical laboratory technologist, medical practitioner, medical radiation technologist, midwife, nurse, occupational therapist, optometrist, pharmacist, physiotherapist, or podiatrist; and

“(b) includes any person referred to in paragraph (a) who holds an interim practising certificate but only when acting in accordance with any conditions of such interim certificate”.

Omit from the definition of treatment provider in section 13(1) the word “registered”.

204
Accident Insurance Act 1998 (1998 No 114)—continued
Omit from sections 14(2)(c) and (d), 45(1)(a), and 84(2)(a) the word “registered” wherever it occurs.
Repeal section 98 and substitute:

“98 Medical assessor
“(1) A medical assessment must be undertaken by a medical practitioner who is described in subsection (2) or subsection (3).

“(2) A medical practitioner who provides general medical services must—
“(a) have an interest, and proven work experience, in disability management in the workplace or in occupational rehabilitation; and
“(b) have at least 5 years experience in general practice; and
“(c) meet at least 1 of the following criteria:
“(i) be a fellow of the Royal New Zealand College of General Practitioners or hold an equivalent qualification:
“(ii) be undertaking training towards attaining fellowship of the Royal New Zealand College of General Practitioners or an equivalent qualification:
“(iii) have undertaken relevant advanced training.

“(3) A medical practitioner who does not provide general medical services must—
“(a) have an interest, and proven work experience, in disability management in the workplace or in occupational rehabilitation; and
“(b) be a member of a recognised college.”

Omit from clauses 42(1)(b), 59(1)(a) and (b), and 61(3) and (5) of Schedule 1 the word “registered”.
Repeal so much of Schedule 7 as relates to the Medical Practitioners Act 1995.
Schedule 6

Regulations amended

Abortion Regulations 1978 (SR 1978/50)
Omit from note 1 to form 3a of the Schedule the word “registered”.
Omit from item 3 to form 3b of the Schedule the word “registered”.
Omit from paragraph (b) of note 1 to form 3b of the Schedule the word “registered”.

Accident Insurance (Insurer Returns) Regulations 1999 (SR 1999/163)
Omit from regulation 7(r) the word “registered”.

Accident Insurance (Insurer’s Liability to Pay Cost of Treatment) Regulations 1999 (SR 1999/104)
Omit from the definition of radiologist in regulation 2 the word “registered”.
Revoke the definition of registered specialist in regulation 2 and substitute:

“registered specialist means a medical practitioner whose scope of practice includes at least 1 recognised branch of medicine”.

Insert in regulation 2, in its appropriate alphabetical order:

“scope of practice has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002”.

Revoke the definition of vocational registration in regulation 2.
Omit from regulation 9(2) the words “who does not hold vocational registration in” and substitute the words “whose scope of practice does not include”.
Omit from regulation 9(3) the words “who holds vocational registration in” and substitute the words “whose scope of practice includes”.
Omit from regulation 10(1) and (5) and the heading to that regulation the word “registered”.
Revoke regulation 10(1A) and substitute:

“(1A) This regulation applies if the insured visits, or is visited by, a medical practitioner who either—

“(a) is not a registered specialist; or

“(b) is a registered specialist but, during the consultation, is not practising within a recognised branch of medicine that is included in his or her scope of practice.”

Revoke regulation 10A(2) and substitute:
Accident Insurance (Insurer’s Liability to Pay Cost of Treatment) Regulations 1999 (SR 1999/104)—continued

“(2) This regulation applies if the insured visits, or is visited by, a medical practitioner who—
“(a) is a registered specialist; and
“(b) during the consultation, is practising within a recognised branch of medicine that is included in his or her scope of practice.”

Omit from regulation 12(2)(b) the word “registered”.
Omit from item 8 of the Schedule the words “registered as a specialist under the Dental Act 1988”.
Omit from the heading to items 171 to 205 the word “registered”.

Accident Insurance (Occupational Hearing Assessment Procedures) Regulations 1999 (SR 1999/167)
Revoke the definition of *otolaryngologist* in regulation 2 and substitute:

“*otolaryngologist* means a medical practitioner—
“(a) whose scope of practice includes—
“(i) the branch of medicine of otolaryngology head and neck surgery; or
“(ii) a branch of medicine that is equivalent to the branch of medicine of otolaryngology head and neck surgery; and
“(b) who is, in performing any function under these regulations, practising within that branch of medicine; and
“(c) who is, in performing any function under these regulations, practising in accordance with any conditions included, or deemed to be included, in his or her scope of practice, including any conditions imposed by any order made under section 96 of the Health Practitioners Competence Assurance Act 2002 or section 110 of the Medical Practitioners Act 1995 or section 58 of the Medical Practitioners Act 1968; and
“(d) who is, if 1 or more conditions of the kind referred to in paragraph (c) apply to the medical practitioner, a suitable person, in the opinion of the insurer, to perform any function required or permitted by these regulations to be performed by an otolaryngologist”.

Insert in regulation 2, in its appropriate alphabetical order:
Accident Insurance (Occupational Hearing Assessment Procedures) Regulations 1999 (SR 1999/167)—continued

“scope of practice has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002”.

Accident Insurance (Review Costs and Appeals) Regulations 1999 (SR 1999/164)

Revoke the definition of registered specialist in regulation 2(1) and substitute:

“registered specialist means a medical practitioner whose scope of practice includes at least 1 of the following branches of medicine:

“(a) anaesthetics:
“(b) cardiothoracic surgery:
“(c) dermatology:
“(d) diagnostic radiology:
“(e) emergency medicine:
“(f) general surgery:
“(g) internal medicine:
“(h) neurosurgery:
“(i) obstetrics and gynaecology:
“(j) occupational medicine:
“(k) ophthalmology:
“(l) orthopaedic surgery:
“(m) otolaryngology head and neck surgery:
“(n) paediatric surgery:
“(o) paediatrics:
“(p) pathology:
“(q) plastic and reconstructive surgery:
“(r) psychological medicine or psychiatry:
“(s) public health medicine:
“(t) radiation oncology:
“(u) rehabilitation medicine:
“(v) sexual health medicine:
“(w) urology:
“(x) venereology”.

Insert in regulation 2(1), in its appropriate alphabetical order:

“scope of practice has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002.”

Boxing and Wrestling Regulations 1958 (SR 1958/72)

Insert in regulation 2, in its appropriate alphabetical order:
Boxing and Wrestling Regulations 1958 (SR 1958/72)—
continued

“medical practitioner” means a health practitioner who is, or is deemed to be registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from regulations 6(f) and 7(1)(f) the word “registered”.

Children, Young Persons, and their Families (Forms) Regulations 1989 (SR 1989/296)

Omit from form 2 in the Schedule the word “registered”.

Children, Young Persons, and their Families (Residential Care) Regulations 1996 (SR 1996/354)

Insert in regulation 2, in their appropriate alphabetical order:

“dentist” means a health practitioner who is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dentistry

“medical practitioner” means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“optometrist” means a health practitioner who is, or is deemed to be, registered with the Optometrists and Dispensing Opticians Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of optical dispensing

“psychologist” means a health practitioner who is, or is deemed to be, registered with the Psychologists Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of psychology”.

Omit from regulations 7(1)(a) and 14(2), (4), and (5) the word “registered” wherever it occurs.

Omit from regulation 53(2)(f)(iii) the word “optician” and substitute the word “optometrist”.

209
Coroners Regulations 1989 (SR 1989/110)
Omit from regulation 4(1) the words “medical practitioner” and substitute the word “doctor”.

Cremation Regulations 1973 (SR 1973/154)
Insert in regulation 2, in its appropriate alphabetical order:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Criminal Investigations (Blood Samples) Regulations 1996
(SR 1996/190)
Omit from forms 1 to 4 and 6 of the Schedule the word “registered” wherever it occurs.

Education (Home-Based Care) Order 1992 (SR 1992/238)
Omit from clause 5(35)(h) of the code of practice set out in the Schedule the words “medical practitioner” and substitute the word “doctor”.

Electoral Regulations 1996 (SR 1996/93)
Omit from regulations 44 and 55 the word “registered”.

Engine Drivers’ Examination Regulations 1952 (SR 1952/149)
Omit from regulation 20(1) the word “registered”.
Add to regulation 20:

“(3) In subclause (1), medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine.”

Factories and Commercial Premises (First Aid) Regulations 1985 (SR 1985/108)
Omit from regulation 8(1)(a) the word “registered”.
Add to regulation 8:

“(3) In subclause (1)(a), nurse means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing.”

210
Fish Export Processing Regulations 1995 (SR 1995/54)
Insert in regulation 2(1), in its appropriate alphabetical order:

"medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine."

Omit from clause 3 of Part III of the First Schedule the word “registered”.

Game Regulations 1975 (SR 1975/174)
Insert in regulation 2(1), in its appropriate alphabetical order:

"medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Omit from regulation 64(3) the word “registered”.

General Harbour (Ship, Cargo, and Dock Safety) Regulations 1968 (SR 1968/240)
Omit from regulation 118(8) the words “shall be either a registered nurse or registered male nurse within the meaning of the Nurses and Midwives Act 1945” and substitute the words “must be a nurse”.

Add to regulation 118:

“(12) In subclause (8), nurse means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing.”

Health (Bursaries) Regulations 1965 (SR 1965/141)
Insert in regulation 2, in their appropriate alphabetical order:

“dentist means a health practitioner who is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dentistry.

“dietitian means a health practitioner who is, or is deemed to be, registered with the Dietitians Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dietetics.”
Health (Bursaries) Regulations 1965 (SR 1965/141)—continued

"medical practitioner" means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

"nurse" means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing

"occupational therapist" means a health practitioner who is, or is deemed to be, registered with the Occupational Therapy Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of occupational therapy

"physiotherapist" means a health practitioner who is, or is deemed to be, registered with the Physiotherapy Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of physiotherapy.”

Revoke regulation 3 and substitute:

“3 Application
These regulations—

“(a) apply to bursaries of the classes specified in paragraph (b) awarded after the commencement of these regulations; but

“(b) do not apply to any variation after that commencement of bursaries awarded before that commencement:

“(i) Dental Bursaries, being bursaries awarded to assist persons to undertake or complete the course of study leading to the degree of Bachelor of Dental Surgery of a University in New Zealand to qualify as dentists:

“(ii) Dietetic Bursaries, being bursaries awarded to assist persons to undertake or complete the course of study leading to the degree of Bachelor of Home Science of a University in New Zealand, or the course of study leading to the Diploma in
Health (Bursaries) Regulations 1965 (SR 1965/141)—continued

Home Science of any such University, to qualify as dietitians:

“(iii) Medical Bursaries, being bursaries awarded to assist persons to undertake or complete the course of study leading to graduation in medicine and surgery at a University in New Zealand to qualify as medical practitioners:

“(iv) Nursing Bursaries, being bursaries awarded to assist persons to undertake or complete nursing programmes to qualify as nurses:

“(v) Occupational Therapy Bursaries, being bursaries awarded to assist persons to undertake or complete the course of training and instruction to qualify as occupational therapists:

“(vi) Physiotherapy Bursaries, being bursaries awarded to assist persons to undertake or complete the course of training and instruction to qualify as physiotherapists.”

Health Entitlement Cards Regulations 1993 (SR 1993/169)

Insert in regulation 2(1), in its appropriate alphabetical order:

“medical practitioner means a health practitioner who is, or is deemed to be registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Revoke the definition of pharmacist in regulation 2(1) and substitute:

“pharmacist means a health practitioner who is, or is deemed to be, registered with the Pharmacy Council established by section 110(4) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of pharmacy”.

Omit from paragraphs (b) and (c) of the definition of maternity services in regulation 17 the word “registered”.

Revoke the definitions of general practitioner, medical treatment, and registered midwife in regulation 17.

Insert in regulation 17, in their appropriate alphabetical order:
Health Entitlement Cards Regulations 1993 (SR 1993/169)—continued

“general practitioner” means a medical practitioner whose scope of practice includes the provision of general medical services

“medical treatment” means all medical and surgical treatment and nursing care and ancillary services provided by any health practitioner within the meaning of section 5(1) of the Health Practitioners Competence Assurance Act 2002

“midwife” means a health practitioner who is, or is deemed to be, registered with the Midwifery Council established by section 110(2) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of midwifery

“scope of practice” has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002”.

Health (Needles and Syringes) Regulations 1998 (SR 1998/254)
Insert in regulation 2, in their appropriate alphabetical order:

“dentist” means a health practitioner who is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dentistry

“medical practitioner” means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.

Revoke the definitions of pharmacist and registered pharmacy in regulation 2 and substitute, in their appropriate alphabetical order:

“pharmacist” means a health practitioner who is, or is deemed to be, registered with the Pharmacy Council established by section 110(4) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of pharmacy

“registered pharmacy” means a pharmacy within the meaning of the Medicines Act 1981”.

Health (Quarantine) Regulations 1983 (SR 1983/52)
Insert in regulation 2, in its appropriate alphabetical order:
Health (Quarantine) Regulations 1983 (SR 1983/52)—continued

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine.”

Omit from regulation 26(3)(c) the word “registered” in both places where it occurs.

Health (Retention of Health Information) Regulations 1996 (SR 1996/343)

Revoke regulation 4(h) and substitute:

“(h) a health practitioner within the meaning of section 2(1) of the Health Practitioners Competence Assurance Act 2002.”

Hospitals Regulations 1993 (SR 1993/156)

Insert in regulation 2(1), in their appropriate alphabetical order:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“nurse means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing

“psychiatric nurse means a nurse whose scope of practice includes psychiatric nursing

“scope of practice has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002.”

Omit from regulation 2(2) the words “or the Nurses Act 1977”.

Omit from the heading to regulation 4 the word “Registered”.

Revoke regulations 4(3) to (5) and substitute:

“(3) There must at all times be employed at a geriatric, medical, obstetric, or surgical hospital not fewer than the number of nurses specified in the second column of Schedule 2 in relation to the number of beds for which that hospital is licensed specified in the first column of that Schedule.
Hospitals Regulations 1993 (SR 1993/156)—continued
“(4) There must at all times be employed at a psychiatric hospital not fewer than the number of psychiatric nurses specified in the second column of Schedule 2 in relation to the number of beds for which that hospital is licensed specified in the first column of that Schedule.”

Omit from the heading to the Second Schedule the words “registered and enrolled”.

Omit from the heading to the second column of the Second Schedule the words “registered or enrolled”.

Revoke the third column of the Second Schedule.

Injury Prevention, Rehabilitation, and Compensation (Public Health Acute Services) Regulations 2002 (SR 2002/71)
Omit from regulation 3(2)(a) and (c) the word “registered”.

Omit from regulation 4(1) the word “registered” wherever it occurs.

Intellectually Handicapped Persons Homes Regulations 1955 (SR 1955/98)
Revoke the definition of registered nurse in regulation 2.

Insert in regulation 2, in their appropriate alphabetical order:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“nurse means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing

“psychiatric nurse means a nurse whose scope of practice includes psychiatric nursing

“psychopaedic nurse means a nurse whose scope of practice includes psychopaedic nursing

“scope of practice has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002”.

Omit from regulations 9(1) and (5) and 10(3) and (4) the word “registered” wherever it occurs.

Land Transport (Driver Licensing) Rule 1999 (SR 1999/100)
Insert in regulation 2(1), in their appropriate alphabetical order:
Land Transport (Driver Licensing) Rule 1999 (SR 1999/100)—continued

“medical practitioner” means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“occupational therapist” means a health practitioner who is, or is deemed to be, registered with the Occupational Therapy Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of occupational therapy

“optometrist” means a health practitioner who is, or is deemed to be, registered with the Optometrists and Dispensing Opticians Board continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of optometry

“registered health professional” means a health practitioner who is, or is deemed to be, registered with an authority established or continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of a particular health profession”.

Revoke the definitions of registered medical practitioner, registered occupational therapist, and registered optometrist in regulation 2(1).

Omit from regulations 38(1)(b), 41(1), 56(1)(d), 77(2), and 82(1)(d) the word “registered” wherever it occurs.

Lead Process Regulations 1950 (SR 1950/172)

Insert in regulation 2, in their appropriate alphabetical order:

“medical practitioner” means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“nurse” means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing.”

Omit from regulation 24(1) and (2) the word “registered”.

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Omit from regulation 72(3) the word “registered”.
Add to regulation 72:
“(9) In subclause (3), medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine.”

Medicines (Designated Prescriber: Nurses Practising in Aged Care and Child Family Health) Regulations 2001
(SR 2001/230)
Revoke the definitions of nurse, Nursing Council, and Registrar of Nurses in regulation 4 and substitute, in their appropriate alphabetical order:
“nurse—
“(a) means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing; but
“(b) does not include a health practitioner who is, or is deemed to be, registered with the Midwifery Council established by section 110(2) of that Act as a practitioner of the profession of midwifery

“Nursing Council means the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002”.
Omit from regulation 13(2) the word “Registrar of Nurses” and substitute the words “Nursing Council”.

Misuse of Drugs Regulations 1977 (SR 1977/37)
Insert in regulation 2(1), in their appropriate alphabetical order:
“dentist means a health practitioner who is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dentistry

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health
Misuse of Drugs Regulations 1977 (SR 1977/37)—continued

Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“midwife means a health practitioner who is, or is deemed to be, registered with the Midwifery Council established by section 110(2) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of midwifery

“nurse means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing

“pharmacist means a health practitioner who is, or is deemed to be, registered with the Pharmacy Council established by section 110(4) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of pharmacy

“pharmacy means a place where pharmacy practice is carried on

“pharmacy practice has the same meaning as in section 2(1) of the Medicines Act 1981”.

Revoke the definition of registered midwife in regulation 2(1).
Omit from regulations 4(5), 19(1)(b), 21(4A), 29(1)(c), (h), and (n), and (2), 30, 31(2A) and (4), 32, and 34 to 36 the word “registered” wherever it occurs.
Revoke regulation 26(1).
Omit from regulation 37(4) the words “within the meaning of the Pharmacy Act 1970”.

Obstetric Regulations 1986 (SR 1986/75)
Omit from the definition of domiciliary practice in regulation 2(1) the word “registered” in both places where it occurs.
Insert in regulation 2(1), in their appropriate alphabetical order:

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine
Obstetric Regulations 1986 (SR 1986/75)—continued

"midwife means a health practitioner who is, or is deemed to be, registered with the Midwifery Council established by section 110(2) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of midwifery

"nurse means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing

"obstetric nurse means a nurse whose scope of practice includes obstetric nursing

"scope of practice has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002”.

Omit from regulation 2(3) the words “or the Nurses Act 1977”.

Omit from regulation 3(1) the words “registered or enrolled”.

Revoke regulation 3(2) and substitute:

“(2) In addition to the requirements of subclause (1), the following requirements must be met:

“(a) in every obstetric unit there must be a midwife or an obstetric nurse on duty at all times:

“(b) in every maternity unit there must be a midwife in charge at all times:

“(c) in every maternity aftercare unit there must be a nurse with the appropriate experience and relevant training on duty at all times:

“(d) in the case of a maternity aftercare unit in which no midwife is employed, the unit must, while any mother and infant are residing there, be visited daily by a midwife.”

Omit from regulation 3(4) the words “registered as a midwife by virtue of the provisions of section 39 of the Nurses Act 1977” and substitute the word “a midwife”.

Omit from regulations 3, 6(1), and 7 to 10 the word “registered” wherever it occurs.

Old People’s Homes Regulations 1987 (SR 1987/336)

Add to regulation 38:
Old People’s Homes Regulations 1987 (SR 1987/336)—
continued

“(7) In subclause (1), medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine.”

Penal Institutions Regulations 2000 (SR 2000/81)
Revoke the definitions of health service provider, medical practitioner, nurse, and registered health professional in regulation 3.
Insert in regulation 3, in their appropriate alphabetical order:

“dentist means a health practitioner who is, or is deemed to be, registered with the Dental Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of dentistry

“health practitioner—

“(a) has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002; and

“(b) includes—

“(i) a former health practitioner within the meaning of that section; and

“(ii) a person who is receiving training or gaining experience under the supervision of a health practitioner

“health service provider—

“(a) includes a health practitioner and a person with skills and experience in health practices associated with a particular culture, religion, or belief; but

“(b) does not include a health practitioner appointed or engaged under section 6 or section 6A of the Act

“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine

“nurse means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand
Penal Institutions Regulations 2000 (SR 2000/81)—continued

continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of nursing”.
Revoke regulation 69(4).
Omit from regulations 146(3) and 157(1)(a) the words “registered health professional” and substitute in each case the words “health practitioner”.
Omit from clause 8 of Schedule 5 the words “registered health professional” and substitute the words “health practitioner”.

Toxic Substances Regulations 1983 (SR 1983/130)
Insert in regulation 2(1), in its appropriate alphabetical order:
“pharmacist means a health practitioner who is, or is deemed to be, registered with the Pharmacy Council established by section 110(4) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of pharmacy”.

Insert in regulation 2, in its appropriate alphabetical order:
“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine”.
Omit from regulations 30C(1), 31(3A), and 67(4) the word “registered”.

Venereal Diseases Regulations 1982 (SR 1982/215)
Insert in regulation 2, in their appropriate alphabetical order:
“medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 110(1)(a) of the Health Practitioners Competence Assurance Act 2002 as a practitioner of the profession of medicine
“pathologist means a medical practitioner whose scope of practice includes pathology
“scope of practice has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2002”.
Revoke the definition of pathologist in regulation 2.
Venereal Diseases Regulations 1982 (SR 1982/215)—continued
Omit from paragraphs (a) and (b) of form 4 of the Schedule the word “registered”.


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Schedule 7

Acts repealed

Births, Deaths, and Marriages Registration Amendment Act 1997 (1997 No 35)
So much of the Schedule as relates to the Dental Act 1988 and the Pharmacy Act 1970.

Chiropractors Act 1982 (1982 No 32)

So much of the First Schedule as relates to the Optometrists and Dispensing Opticians Act 1976 and the Pharmacy Act 1970.

Dental Act 1988 (1988 No 150)

District Courts Amendment Act 1998 (1998 No 76)
So much of the Schedule as relates to the Physiotherapy Amendment Act 1953.

Dietitians Act 1950 (1950 No 44)

Education Amendment Act 1990 (1990 No 60)
So much of the Second Schedule as relates to the Psychologists Act 1981.

Fees and Travelling Allowances Act 1951 (1951 No 79)
So much of the First Schedule as relates to the Dental Council of New Zealand, the Occupational Therapy Board, and the Physiotherapy Board.

So much of Schedule 2 as relates to the Chiropractors Act 1982, the Dental Act 1988, the Dietitians Act 1950, the Medical Practitioners Act 1995, paragraph (b) of the definition of pharmacist in section 2(1) of the Misuse of Drugs Act 1975, the Nurses Act 1977, the Occupational Therapy Act 1949, the Physiotherapy Act 1949, and the Psychologists Act 1981.

So much of Schedule 3 as relates to the Dietitians Regulations 1987, the Medical Laboratory Technologists Regulations 1989, the Medical Radiation Technologists Regulations 1995, and the Pharmacy Regulations 1975.
Health Sector (Transfers) Act 1993 (1993 No 23)
Section 31 and the heading above that section.
So much of the Fourth Schedule as relates to the Chiropractors Act 1982, the Dental Act 1988, the Dietitians Act 1950, the Nurses Act 1977, the Optometrists and Dispensing Opticians Act 1976, the Pharmacy Act 1970, the Physiotherapy Act 1949, the Psychologists Act 1981, and the Physiotherapy Amendment Act 1953.
So much of the Fourth Schedule as relates to section 30(2)(h) of the Tuberculosis Act 1948.

Human Rights Amendment Act 2001 (2001 No 96)
So much of Schedule 2 as relates to the Dental Act 1988.

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)
Repeal so much of Schedule 6 as relates to the Medical Practitioners Act 1995.

Medical Auxiliaries Act 1966 (1966 No 42)

Medical Practitioners Act 1995 (1995 No 95)

New Zealand Register of Osteopaths Incorporated Act 1978 (1978 No 19)

Nurses Act 1977 (1977 No 53)

Occupational Therapy Act 1949 (1949 No 9)

Optometrists and Dispensing Opticians Act 1976 (1976 No 61)

Pharmacy Act 1970 (1970 No 143)

Physiotherapy Act 1949 (1949 No 8)

Psychologists Act 1981 (1981 No 5)

Public Audit Act 2001 (2001 No 10)
So much of Schedule 4 as relates to the Nurses Act 1977.

Public Bodies Contracts Act 1959 (1959 No 98)
So much of Part II of the First Schedule as relates to the Dental Technicians Board, the Dental Council of New Zealand, the Medical Council of New Zealand, and the Nursing Council of New Zealand.

Public Finance Act 1989 (1989 No 44)
So much of the First Schedule as relates to the Pharmacy Act 1970.
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State Sector Act 1988 (1988 No 20)
So much of the Fifth Schedule as relates to the Psychologists Act 1981.

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Schedule 8

Regulations revoked

Chiropractors Amendment Act Commencement Order 1996
(SR 1996/111)

Chiropractors Order 1984 (SR 1984/82)

Chiropractors Order 1988 (SR 1988/163)

Chiropractors Order 1993 (SR 1993/277)

Chiropractors Order 1995 (SR 1995/218)

Chiropractors Order 1997 (SR 1997/344)

Chiropractors Order 1999 (SR 1999/234)

Dental Amendment Act Commencement Order 1996
(SR 1996/112)

Dental Regulations 1988 (SR 1988/289)

Dietitians Amendment Act Commencement Order 1996
(SR 1996/113)

Dietitians Regulations 1987 (SR 1987/63)

Medical Auxiliaries Act Commencement Order 1967
(SR 1967/278)

Medical Auxiliaries Act Commencement Order 1968
(SR 1968/247)

Medical Auxiliaries Act Commencement Order 1982
(SR 1982/50)

Medical Auxiliaries Amendment Act Commencement Order 1996
(SR 1996/114)

Medical Laboratory Technologists Regulations 1989
(SR 1989/282)

Medical Practitioners Act Commencement Order 1996
(SR 1996/162)

Medical Practitioners (Vocational Registration) Order 1999
(SR 1999/339)

Medical Radiation Technologists Regulations 1995
(SR 1995/32)
Nurses Amendment Act Commencement Order 1996  
(SR 1996/116)

Nurses Regulations 1986  (SR 1986/159)

Occupational Therapy Amendment Act Commencement Order 1996  
(SR 1996/117)

Occupational Therapy Regulations 1964  (SR 1964/81)

Optometrists And Dispensing Opticians Amendment Act Commencement Order 1996  
(SR 1996/118)

Optometrists And Dispensing Opticians Amendment Act Commencement Order 1996  
(SR 1996/344)

Optometrists and Dispensing Opticians Regulations 1997  
(SR 1997/345)

Pharmacy Amendment Act Commencement Order 1996  
(SR 1996/119)

Pharmacy Registration Regulations 1972  (SR 1972/94)

Pharmacy Regulations 1975  (SR 1975/269)

Physiotherapy Amendment Act Commencement Order 1996  
(SR 1996/120)

Physiotherapy Regulations 1979  (SR 1979/190)

Podiatrists Regulations 1982  (SR 1982/53)

Psychologists Act Commencement Order 1984  (SR 1984/234)

Psychologists Amendment Act Commencement Order 1996  
(SR 1996/121)