

2009

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Health Practitioner Regulation National Law (ACT) Bill 2009

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THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Health Practitioner Regulation National Law (ACT) Bill 2009

A Bill for

An Act about health practitioner regulation, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Health Practitioner Regulation National Law (ACT)*
4 *Act 2009*.

5 **2 Commencement**

6 (1) This Act commences on—

7 (a) 1 July 2010; or

8 (b) if, before 1 July 2010, the Minister fixes another day (not later
9 than 1 July 2011) by written notice—the day fixed.

10 *Note 1* The naming and commencement provisions automatically commence on
11 the notification day (see Legislation Act, s 75 (1)).

12 *Note 2* A single day or time may be fixed, or different days or times may be
13 fixed, for the commencement of different provisions (see Legislation
14 Act, s 77 (1)).

15 (2) However, a date or time provided by a special commencement
16 provision for an amendment made by this Act has effect as the
17 commencement date or time of the amendment.

18 (3) In this section:

19 *special commencement provision*, for an amendment made by this
20 Act, is a provision, in brackets beginning with the text
21 ‘commencement:’, at the end of the amendment.

22 **Example**

23 An amendment followed by ‘(commencement: 1 July 2012)’ means that the
24 amendment commences on 1 July 2012.

25 *Note* An example is part of the Act, is not exhaustive and may extend, but
26 does not limit, the meaning of the provision in which it appears (see
27 Legislation Act, s 126 and s 132).

- 1 (4) The Legislation Act, section 79 (Automatic commencement of
2 postponed law) does not apply to this Act.

3 **3 Dictionary**

4 The dictionary at the end of this Act is part of this Act.

5 *Note 1* The dictionary at the end of this Act defines certain terms used in this
6 Act.

7 *Note 2* A definition in the dictionary applies to the entire Act unless the
8 definition, or another provision of the Act, provides otherwise or the
9 contrary intention otherwise appears (see Legislation Act, s 155 and
10 s 156 (1)).

11 **4 Terms used in Health Practitioner Regulation National
12 Law (ACT)**

13 Terms used in this Act and also in the *Health Practitioner
14 Regulation National Law (ACT)* have the same meanings in this Act
15 as they have in that Law.

16 **5 Notes**

17 A note included in this Act is explanatory and is not part of this Act.

18 *Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of
19 notes.

1 **Part 2** **Adoption of Health Practitioner**
2 **Regulation National Law**

3 **6** **Application of Health Practitioner Regulation National**
4 **Law**

5 The Health Practitioner Regulation National Law, as in force from
6 time to time, set out in the schedule to the Qld Act—

- 7 (a) applies as a territory law, as modified by schedule 1; and
8 (b) as so applying may be referred to as the *Health Practitioner*
9 *Regulation National Law (ACT)*; and
10 (c) so applies as if it were a part of this Act.

11 *Note* The Qld Act is accessible at www.legislation.qld.gov.au

12 **7** **Meaning of generic terms in Health Practitioner**
13 **Regulation National Law for purposes of this jurisdiction**

14 In the *Health Practitioner Regulation National Law (ACT)*:

15 *magistrates court* means the Magistrates Court.

16 *the State* means the Territory.

17 *this jurisdiction* means the ACT.

18 **8** **Responsible tribunal for Health Practitioner Regulation**
19 **National Law (ACT)**

20 The ACAT is declared to be the responsible tribunal for this
21 jurisdiction for the *Health Practitioner Regulation National Law*
22 *(ACT)*.

23 *Note* **Responsible tribunal**—see the *Health Practitioner Regulation National*
24 *Law (ACT)*, s 5.

1 **9** **Exclusion of territory laws**

2 The following territory laws do not apply to the *Health Practitioner*
3 *Regulation National Law (ACT)* or to instruments made under that
4 Law:

5 (a) the *Annual Reports (Government Agencies) Act 2004*;

6 (b) the *Auditor-General Act 1996*;

7 (c) the *Criminal Code 2002*;

8 (d) the *Financial Management Act 1996*;

9 (e) the *Freedom of Information Act 1989*;

10 (f) the *Legislation Act 2001*;

11 (g) the *Ombudsman Act 1989*;

12 (h) the *Public Sector Management Act 1994*.

13 *Note* The *Health Practitioner Regulation National Law (ACT)*, s 198
14 provides that the provisions about appeals in the Law apply despite the
15 *ACT Civil and Administrative Tribunal Act 2008*, but does not otherwise
16 limit that Act.

17 **10** **Regulation-making power**

18 The Executive may make regulations for this Act.

19 *Note* Regulations must be notified, and presented to the Legislative
20 Assembly, under the Legislation Act.

1 **Part 3 Local provisions**

2 **Division 3.1 Amendment of legislation**

3 **11 Legislation amended—sch 2**

4 This Act amends the legislation mentioned in schedule 2.

5 **Division 3.2 Transitional provisions**

6 **12 Transitional regulations**

7 (1) A regulation may prescribe transitional matters necessary or
8 convenient to be prescribed because of the enactment of this Act.

9 (2) A regulation may modify this part (including in relation to another
10 territory law) to make provision in relation to anything that, in the
11 Executive's opinion, is not, or is not adequately or appropriately,
12 dealt with in this part.

13 (3) A regulation under subsection (2) has effect despite anything
14 elsewhere in this Act or another territory law.

15 **13 Annual reports for old boards**

16 (1) This section applies if—

17 (a) a health profession board (the *old board*) under the *Health*
18 *Professionals Act 2004* as in force immediately before the
19 commencement of this Act ceases, or has ceased, to exist on or
20 immediately before the commencement of this Act; and

21 (b) some or all of the functions of the board become, or have
22 become, functions of a national board under the *Health*
23 *Practitioner Regulation National Law (ACT)*.

1 (2) The old board is taken to continue to exist under the *Health*
2 *Professionals Act 2004*, as in force immediately before the
3 commencement of this Act—

4 (a) for the purpose of preparing the old board’s annual report for
5 the financial year ending before the commencement of this
6 Act; and

7 (b) for the time it takes to prepare the annual report.

8 (3) This section expires 6 months after the day this Act commences.

9 **14 Expiry—pt 3**

10 This part expires 2 years after the day it commences.

1 **Schedule 1** **Modifications—Health**
2 **Practitioner Regulation**
3 **National Law**

4 (see s 6)

5 **[1.1] New section 35A**

6 *insert*

7 **35A National Board consideration of criminal history**

8 (1) In making a decision under this Act that relates to an individual's
9 criminal history, a National Board must consider—

10 (a) the individual's criminal record; and

11 (b) the inherent requirements of the profession, division or
12 recognised specialty, for which the individual is seeking
13 registration; and

14 (c) whether or not there is a high degree of direct connection
15 between the individual's criminal record and the inherent
16 requirements of the profession, division or recognised
17 specialty.

18 (2) If guidelines have been made by the National Board for this section,
19 the board must also consider the guidelines when making the
20 decision.

21 **[1.2] Section 150 (1)**

22 *omit everything before paragraph (a), substitute*

23 (1) If a National Board receives a complaint, the board must, as soon as
24 practicable after its receipt—

[1.3] New section 150 (4A)

insert

(4A) The action that may be taken in relation to a notification or complaint, or part of a notification or complaint, from most serious to least serious, is as follows:

- (a) deal with the notification or complaint, or part, under part 8, division 7 (Immediate action);
- (b) refer the notification or complaint, or part, to the responsible tribunal under part 8, division 12 (Referring matter to responsible tribunals);
- (c) refer the notification or complaint, or part, to the health complaints entity to be considered under the *Human Rights Commission Act 2005*;
- (d) investigate the notification or complaint, or part, under part 8, division 8 (Investigations);
- (e) deal with the notification or complaint, or part, as a professional standards matter under part 8, division 11 (Panels);
- (f) deal with the notification or complaint, or part, as a health matter under part 8, division 11 (Panels);
- (g) take action under part 8, division 10 (Action by National Board);
- (h) decide to take no further action in relation to the notification, complaint, or part, in accordance with section 151 (When National Board may decide to take no further action).

Modification [1.4]

[1.4] Section 150 (5)*omit*

If an investigation, conciliation or other action taken by a health complaints entity

substitute

If an investigation or other action taken by a health complaints entity, other than a conciliation,

[1.5] New section 150 (5A)*insert*

(5A) If a notification or complaint is referred to the health complaints entity for consideration under subsection (4A) (c), the health complaints entity must report the results of the consideration to the National Board as soon as practicable.

[1.6] Section 151 (1)*omit*

A National Board

substitute

Subject to section 150, a National Board

[1.7] Section 152 (2)*substitute*

(2) The notice must advise the registered health practitioner or student of—

(a) the nature of the notification; and

(b) the powers that the board might exercise in relation to the notification; and

1 (c) the procedural rights that the health practitioner or student has
2 under this Act.

3 (2A) If a National Board approves a form for the notice, the notice must
4 be in the approved form.

5 **[1.8] Section 160 (1)**

6 *omit*

7 A National Board

8 *substitute*

9 Subject to section 150, a National Board

10 **[1.9] New section 166 (3)**

11 *insert*

12 (3) The National Board to which the report is given must give a copy of
13 the report to the health complaints entity as soon as practicable.

14 **[1.10] Section 167**

15 *omit everything before paragraph (a), substitute*

16 **167 Joint decision by National Board and health complaints**
17 **entity**

18 (1) The National Board must consider the investigator's report jointly
19 with the health complaints entity and attempt to reach agreement on
20 how the matter that is the subject of the report is to be dealt with.

21 (2) After consideration under subsection (1), the National Board must
22 decide—

Modification [1.11]

[1.11] New section 167 (3) and (4)*insert*

(3) However, if the National Board and the health complaints entity are not able to reach agreement on how the matter is to be dealt with, the decision of the board under subsection (2) must be to take the most serious action proposed by either the board or the health complaints entity.

(4) The actions that may be taken in relation to the matter, from most serious to least serious, are the actions set out in section 150 (4A).

[1.12] New section 172 (2) (ca) and (cb)*insert*

(ca) the powers that the board might exercise in relation to the assessment; and

(cb) the procedural rights that the health practitioner or student has under this Act.

[1.13] New section 172 (3)*insert*

(3) If a National Board approves a form for the notice, the notice must be in the approved form.

[1.14] Section 175*omit*

The assessor must

substitute

(1) The assessor must

[1.15] New section 175 (2)

insert

- (2) If the report relates to a performance assessment, the National Board to which the report is given must give a copy of the report to the health complaints entity as soon as practicable.

[1.16] Section 177

omit everything before paragraph (a), substitute

177 Joint decision by National Board and health complaints entity

- (1) The National Board must consider the report and discussions held with the registered health practitioner or student under section 176 (3).
- (2) If the assessor's report relates to a performance assessment, the consideration must be joint consideration with the health complaints entity, and the National Board and health complaints entity must attempt to reach agreement on how the registered health practitioner or student is to be dealt with.
- (3) After consideration, the National Board may decide to—

[1.17] New section 177 (4) and (5)

insert

- (4) If the report relates to a performance assessment and the National Board and the health complaints entity are not able to reach agreement on what to do in relation to the registered health practitioner or student, the decision of the board under subsection (3) must be to take the most serious action proposed by either the board or the health complaints entity.
- (5) The actions that may be taken under subsection (4), from most serious to least serious, are the actions set out in section 150 (4A).

Modification [1.18]

[1.18] New section 178 (1A)*insert*

(1A) This section also applies if—

- (a) on jointly considering a notification, complaint or other matter, the health complaints entity is satisfied on reasonable grounds that the National Board should take action under subsection (2) (a), (b) or (c) in relation to a registered health practitioner or student registered by the board; and
- (b) the action proposed by the health complaints entity to be taken by the board is more serious than any other action proposed by the board to be taken.

[1.19] New section 178 (4)*insert*

(4) If this section applies in relation to a registered health practitioner or student registered by the board because of subsection (1A), the National Board must—

- (a) jointly consider with the health complaints entity the action to be taken under subsection (2) (a), (b) or (c); and
- (b) take the action agreed after joint consideration.

[1.20] New section 184 (3)*insert*

(3) The panel must also give a copy of the notice to the health complaints entity as soon as practicable.

[1.21] New section 185 (4)*insert*

(4) A panel must have regard to evidence given by the health complaints entity under section 186A.

[1.22] New section 186A

insert

186A Role of health complaints entity

At a hearing of a panel, the health complaints entity may—

- (a) be represented; and
- (b) give evidence about the consideration of a complaint or other matter by the health complaints entity; and
- (c) be present at the hearing even if not giving evidence.

[1.23] New section 192 (3A)

insert

- (3A) The National Board must also, within 30 days after the panel makes its decision, give the health complaints entity a copy of the notice given to the registered health practitioner or student.

[1.24] Schedule 5, part 1, clause 2 (3)

substitute

- (3) For subclauses (1) and (2), it is not a reasonable excuse for an individual to fail to give stated information, answer a question or produce a document only because giving the information, answering the question or producing the document might tend to incriminate the individual.
- (4) However—
 - (a) the information, answer or document required to be given, answered or provided by the individual is not admissible in evidence against the individual in a criminal proceeding, other than a proceeding for—
 - (i) an offence against this schedule; or

Modification [1.25]

- 1 (ii) an offence in relation to the falsity of the information,
2 answer or document; and
- 3 (b) evidence that was discovered as a result of the information or
4 answer, and that could not have been discovered but for the
5 giving of the information or answering of the question, is not
6 admissible against the individual in a criminal proceeding.

[1.25] Schedule 6, part 1, clause 2 (3)

7
8 *substitute*

- 9 (3) For subclauses (1) and (2), it is not a reasonable excuse for an
10 individual to fail to give stated information, answer a question or
11 produce a document only because giving the information, answering
12 the question or producing the document might tend to incriminate
13 the individual.
- 14 (4) However—
- 15 (a) the information, answer or document required to be given,
16 answered or provided by the individual is not admissible in
17 evidence against the individual in a criminal proceeding, other
18 than a proceeding for—
- 19 (i) an offence against this schedule; or
- 20 (ii) an offence in relation to the falsity of the information,
21 answer or document; and
- 22 (b) evidence that was discovered as a result of the information or
23 answer, and that could not have been discovered but for the
24 giving of the information or answering of the question, is not
25 admissible against the individual in a criminal proceeding.

1 **Schedule 2** **Consequential amendments**

2 (see s 11)

3 **Part 2.1** **Administrative Decisions**
4 **(Judicial Review) Act 1989**

5 **[2.1] Schedule 1, new item 9A**

6 *insert*

9A	<i>Health Practitioner Regulation National Law (ACT)</i>	<ul style="list-style-type: none">• any decision
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7 **Part 2.2** **Children and Young People Act**
8 **2008**

9 **[2.2] Section 98**

10 *omit everything before subsection (2), substitute*

11 **98 Health practitioners and health professionals—**
12 **non-treating functions**

- 13 (1) The chief executive may, orally or in writing, authorise a health
14 practitioner (a *non-treating health practitioner*) or a health
15 professional (a *non-treating health professional*) to exercise
16 non-treating functions under the criminal matters chapters.

1 **[2.3] Section 208 (2) (b)**

2 *substitute*

3 (b) it allows monitoring of, and communication with, the young
4 detainee by the chief executive, health practitioners and health
5 professionals (other than non-treating health practitioners and
6 non-treating health professionals).

7 **[2.4] Section 211 (2) (a)**

8 *substitute*

9 (a) seek the advice of a health practitioner (other than a
10 non-treating health practitioner) about the action the chief
11 executive should take under subsection (4); and

12 **[2.5] Section 530 (2), definitions of *non-treating doctor*,
13 *non-treating health professional* and *non-treating nurse***

14 *substitute*

15 *non-treating doctor* means a doctor authorised under section 632
16 (Health practitioners and health professionals—non-treating
17 functions).

18 *non-treating health practitioner* means a health practitioner
19 authorised under section 632 (Health practitioners and health
20 professionals—non-treating functions).

21 *non-treating health professional* means a health professional
22 authorised under section 632 (Health practitioners and health
23 professionals—non-treating functions).

24 *non-treating nurse* means a nurse authorised under section 632
25 (Health practitioners and health professionals—non-treating
26 functions).

1 **[2.6] Division 16.4.3**

2 *substitute*

3 **Division 16.4.3 Non-treating health practitioners and**
4 **health professionals**

5 **632 Health practitioners and health professionals—**
6 **non-treating functions**

- 7 (1) An operating entity for a therapeutic protection place may, orally or
8 in writing, authorise a health practitioner (a ***non-treating health***
9 ***practitioner***) or a health professional (a ***non-treating health***
10 professional) to exercise non-treating functions under this chapter
11 for children and young people at the therapeutic protection place.

12 *Note* ***Health practitioner*** includes a doctor and nurse registered under the
13 ***Health Practitioner Regulation National Law (ACT)***.

- 14 (2) An operating entity must ensure, as far as practicable, that a child's
15 or young person's treating health practitioner or health professional
16 is not asked to exercise a function as a non-treating health
17 practitioner or non-treating health professional under this chapter in
18 relation to the child or young person.

- 19 (3) Subsection (2) does not apply if the operating entity believes on
20 reasonable grounds that—

21 (a) there is an imminent and serious threat to the personal safety of
22 the child or young person or someone else; and

23 (b) compliance with subsection (2) would exacerbate the threat.

- 24 (4) In this section:

25 ***treating health practitioner or health professional***, in relation to a
26 child or young person, means a health practitioner or health
27 professional who has a professional relationship with the child or
28 young person for the provision of health services.

1 **[2.7] Dictionary, note 2**

2 *insert*

- 3 • health practitioner

4 **[2.8] Dictionary, definition of *health professional***

5 *substitute*

6 *health professional* means a health professional registered under the
7 *Health Professionals Act 2004*.

8 **[2.9] Dictionary, definition of *health service***

9 *substitute*

10 *health service*—

11 (a) means a service provided to someone (the *service user*) for any
12 of the following purposes:

13 (i) assessing, recording, maintaining or improving the
14 physical, mental or emotional health, comfort or
15 wellbeing of the service user;

16 (ii) diagnosing or treating an illness, disability, disorder or
17 condition of the service user; and

18 (b) includes a service provided by—

19 (i) a health practitioner in the practitioner's capacity as a
20 health practitioner; and

21 (ii) a health professional in the professional's capacity as a
22 health professional.

1 **[2.10] Dictionary, new definition of *non-treating health***
2 ***practitioner***

3 *insert*

4 ***non-treating health practitioner***—

5 (a) for the criminal matters chapters—see section 98; and

6 (b) for chapter 16 (Care and protection—therapeutic protection of
7 children and young people)—see section 530.

8 **[2.11] Dictionary, definition of *paediatrician***

9 *substitute*

10 ***paediatrician*** means a doctor who is registered under the *Health*
11 *Practitioner Regulation National Law (ACT)* in the specialist area of
12 paediatric medicine.

13 **[2.12] Dictionary, definition of *psychiatrist***

14 *omit*

15 **[2.13] Further amendments, mentions of *health professional etc***
16

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
1	section 19 (2) (b)	health professional	health practitioner or health professional
2	section 20 (2)	health professional	health practitioner or health professional
3	section 109 (4) (a)	health professional	health practitioner or health professional
4	section 137, definition of <i>non-treating doctor</i>	Health professionals	Health practitioners and health professionals
5	section 161	health professional	health practitioner

Schedule 2 Consequential amendments
Part 2.2 Children and Young People Act 2008

Amendment [2.13]

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
6	section 180 (2)	health professionals	health practitioners and health professionals
7	section 180 (4) (b)	health professionals	health practitioners and health professionals
8	section 180 (4) (d)	health professionals	health practitioners, health professionals
9	Section 189	health professional	health practitioner
10	section 193 (1), example 2	health professional	health practitioner or health professional
11	section 235, definition of <i>drug</i> , paragraph (b) (i)	health professional	health practitioner
12	section 246, definition of <i>non-treating doctor</i>	Health professionals	Health practitioners and health professionals
13	section 344, example 1	health professionals	health practitioners
14	section 438 (2), example 3	health professional	health practitioner or health professional
15	section 573	health professional	health practitioner
16	section 842 (2), example 1	health professional	health practitioner
17	section 863 (1), example 4	health professional	health practitioner
18	section 874 (2) (d)	health professional	health practitioner
19	dictionary, definition of <i>health care treatment</i>	health professional	health practitioner or health professional

1 **Part 2.3** **Civil Law (Wrongs) Act 2002**

2 **[2.14] Section 84 (3)**

3 *substitute*

4 (3) In this section:

5 ***health service***—

6 (a) means a service provided to someone (the ***service user***) for any
7 of the following purposes:

8 (i) assessing, recording, maintaining or improving the
9 physical, mental or emotional health, comfort or
10 wellbeing of the service user;

11 (ii) diagnosing or treating an illness, disability, disorder or
12 condition of the service user; and

13 (b) includes a service provided by a health practitioner in the
14 practitioner's capacity as a health practitioner.

15 **Part 2.4** **Corrections Management Act**
16 **2007**

17 **[2.15] Section 22**

18 *omit everything before subsection (2), substitute*

19 **22 Health practitioners—non-therapeutic functions**

20 (1) The chief executive must appoint a health practitioner to exercise
21 non-therapeutic functions at each correctional centre.

22 *Note* ***Health practitioner*** includes a doctor and nurse registered under the
23 *Health Practitioner Regulation National Law (ACT)*.

1 **[2.16] Section 65 (4), except note**

2 *substitute*

- 3 (4) A blood sample under this section may only be taken by a health
4 practitioner appointed under section 22 (Health practitioners—
5 non-therapeutic functions).

6 **[2.17] Section 140 (4)**

7 *omit everything before paragraph (a), substitute*

- 8 (4) A health practitioner appointed under section 22 (Health
9 practitioners—non-therapeutic functions) may administer a drug as
10 a restraint, or direct the use of another form of restraint, if the health
11 practitioner believes, on reasonable grounds, that is necessary and
12 reasonable—

13 **[2.18] Dictionary, note 2**

14 *insert*

- 15 • health practitioner

16 **[2.19] Dictionary, definitions of *health professional* and *health***
17 ***service***

18 *substitute*

19 ***health service***—

- 20 (a) means a service provided to someone (the ***service user***) for any
21 of the following purposes:
- 22 (i) assessing, recording, maintaining or improving the
23 physical, mental or emotional health, comfort or
24 wellbeing of the service user;
- 25 (ii) diagnosing or treating an illness, disability, disorder or
26 condition of the service user; and

1 (b) includes a service provided by a health practitioner in the
2 practitioner's capacity as a health practitioner.

3 **[2.20] Further amendments, mentions of *health professional* etc**

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
1	section 23 (1) (c)	Health professionals	Health practitioners
2	section 40 (3)	Health professionals	Health practitioners
3	section 53	health professionals	health practitioners
4	section 54 (4) (a)	health professional	health practitioner
5	section 79 (5)	Health professionals	Health practitioners
6	section 116	Health professionals	Health practitioners
7	section 117 (1)	Health professionals	Health practitioners
8	section 132, definition of <i>drug</i> , paragraph (b) (i)	health professional	health practitioner
9	section 134	Health professionals	Health practitioners

4 **Part 2.5 Crimes Act 1900**

5 **[2.21] Sections 315, 315A and 315D**

6 *omit*
7 professional
8 *substitute*
9 practitioner

10 **[2.22] Dictionary, note 2**

11 *insert*
12 • health practitioner

1 **Part 2.6 Crimes (Forensic Procedures)**
2 **Act 2000**

3 **[2.23] Sections 56 and 72**

4 *omit*

5 health professional

6 *substitute*

7 health practitioner

8 **[2.24] Dictionary, note 2**

9 *insert*

- 10
 - health practitioner

11 **[2.25] Dictionary, definition of *corrections health professional***

12 *substitute*

13 *corrections health practitioner*, for a correctional centre, means a
14 health practitioner appointed under the *Corrections Management*
15 *Act 2007*, section 22 (Health practitioners—non-therapeutic
16 functions) for the centre.

17 **[2.26] Dictionary, definition of *health professional***

18 *omit*

1 **Part 2.7** **Health Act 1993**

2 **[2.27] Section 2, note 1**

3 *substitute*

4 *Note 1* The dictionary at the end of this Act defines certain terms used in this
5 Act, and includes references (*signpost definitions*) to other terms
6 defined elsewhere in this Act.

7 For example, the signpost definition '*health facility*—see section 6.'
8 means that the term 'health facility' is defined in that section.

9 **[2.28] Section 6 (1), definition of *health facility*, paragraph (d)**

10 *omit*

11 health professional's

12 *substitute*

13 health practitioner's

14 **[2.29] Section 7, definition of *health service provider*,**
15 **paragraph (a)**

16 *omit*

17 health professional

18 *substitute*

19 health practitioner

20 **[2.30] Sections 45 and 72**

21 *omit*

22 health profession board

23 *substitute*

24 health board

1 **[2.31] Section 122, note**

2 *omit*

3 health profession board

4 *substitute*

5 health board

6 **[2.32] New part 8A**

7 *insert*

8 **Part 8A Offence—provision of health**
9 **services by non-health**
10 **practitioners**

11 **127 Provision of regulated health service by person not**
12 **health practitioner**

13 (1) A person commits an offence if—

14 (a) the person intentionally provides a regulated health service;
15 and

16 (b) the person is not a health practitioner.

17 Maximum penalty: 50 penalty units, imprisonment for 6 months or
18 both.

19 **Example—someone providing a regulated health service to someone in the**
20 **ACT when not a health practitioner**

21 A person (*Dr W*) provides a medical service by a video link from an island in the
22 south Pacific to Mary Smith in the ACT. Dr W advises Mary that she needs to
23 have her tonsils removed. Dr W is not a health practitioner. Dr W contravenes
24 this subsection.

25 *Note* An example is part of the Act, is not exhaustive and may extend, but
26 does not limit, the meaning of the provision in which it appears (see
27 Legislation Act, s 126 and s 132).

- 1 (2) This section does not apply to—
2 (a) a health service provided in an emergency; or
3 (b) the provision, by mail order, or over the internet or by other
4 electronic means, of manufactured aids to rehabilitation or
5 surgical prosthetics and orthotics; or
6 (c) a health service ordinarily provided in the ordinary course of
7 business by people other than health practitioners.

8 **Example—par (b)**
9 dental restorative or corrective devices

- 10 (3) In this section:
11 *regulated health service* means a health service ordinarily provided
12 by a health practitioner.

13 **[2.33] Part 9 heading**

14 *substitute*

15 **Part 9 Pharmacists and pharmacy**
16 **premises**

17 **128 Meaning of *community pharmacy*—pt 9**

18 In this part:

19 *community pharmacy*—see the *Medicines, Poisons and*
20 *Therapeutic Goods Act 2008*, dictionary.

- 1 **128A Complying pharmacy corporation**
- 2 A corporation is a *complying pharmacy corporation* if the
- 3 corporation—
- 4 (a) has a constitution that provides that—
- 5 (i) the object of the corporation is to practise as a
- 6 pharmacist; and
- 7 (ii) only an individual who is a pharmacist may be a director;
- 8 and
- 9 (iii) a director cannot be a director of another incorporated
- 10 pharmacist without the written consent of the board; and
- 11 (iv) all voting rights exercisable at a general meeting of the
- 12 corporation are exercisable only by or on behalf of
- 13 pharmacists who are directors or employees of the
- 14 corporation; and
- 15 (v) a shareholder in the corporation must be either a
- 16 pharmacist or a close relative of a shareholder; and
- 17 (b) has a constitution that ensures that each share in the
- 18 corporation is beneficially owned by—
- 19 (i) a pharmacist who is a director or employee of the
- 20 corporation; or
- 21 (ii) a close relative of a person mentioned in
- 22 subparagraph (i); and
- 23 (c) for a corporation that is to practise pharmacy as a trustee—is
- 24 only a party to a trust deed that relates to the corporation’s
- 25 practice as a pharmacist if—
- 26 (i) the deed provides that all beneficiaries are to be
- 27 pharmacists who are directors or employees of the
- 28 corporation or close relatives of the pharmacists; and

1 (ii) the proposed trust deed has been approved in writing by
2 the national board; and

3 (d) has a constitution that is appropriate to a corporation formed to
4 practise as a pharmacist.

5 **128B Standard of premises**

6 (1) To protect the public, premises where a pharmacist operates a
7 community pharmacy must—

8 (a) be under the direct, personal control of a pharmacist; and

9 (b) have direct access, or through access, to the premises; and

10 (c) comply with standards approved under subsection (2).

11 (2) The Minister may approve standards about premises for community
12 pharmacies for subsection (1) (c).

13 (3) An approved standard is a notifiable instrument.

14 *Note* A notifiable instrument must be notified under the Legislation Act.

15 (4) A pharmacist must comply with any standard approved under this
16 section.

17 (5) In this section:

18 *through access*, to premises, means access to the premises through
19 the public area of a shopping centre, mall, plaza or health centre.

20 **[2.34] Section 129 (3), definition of *community pharmacy***

21 *omit*

22 **[2.35] Dictionary, note 2**

23 *insert*

- 24 • health practitioner
25 • pharmacist

- 1 **[2.36] Dictionary, new definitions of *community pharmacy* and**
2 ***health board***
- 3 *insert*
- 4 *community pharmacy*, for part 9 (Pharmacists and pharmacy
5 premises)—see section 128.
- 6 *health board* means—
- 7 (a) a national board under the *Health Practitioner Regulation*
8 *National Law (ACT)*; or
- 9 (b) a health profession board under the *Health Professionals*
10 *Act 2004*.

- 11 **[2.37] Dictionary, definitions of *health profession board* and**
12 ***health professional***
- 13 *omit*

14 **Part 2.8 Health Professionals Act 2004**

15 **[2.38] Section 14 (1)**

- 16 *before*
- 17 health profession
- 18 *insert*
- 19 regulated

20 **[2.39] Section 14 (2)**

- 21 *omit*

22 **[2.40] Section 17 (2), example and note**

- 23 *omit*

1 **[2.41] Section 18 (1), example**

2 *omit*

3 doctor

4 *substitute*

5 health professional

6 **[2.42] Section 38 (2), examples and note**

7 *omit*

8 **[2.43] Section 72 and example**

9 *omit*

10 **[2.44] Section 81, new note 2**

11 *insert*

12 *Note 2* If a complaint is referred to a health profession board by the Human
13 Rights Commission, the board is not required to send out a notice under
14 this section because report does not include complaint in this division
15 (see dict, def *report*).

16 **[2.45] Dictionary, definition of *report***

17 *substitute*

18 *report* means—

19 (a) a report under division 9.2; and

20 (b) except in division 9.2—includes a complaint made under the
21 *Human Rights Commission Act 2005* that is referred to a health
22 profession board by the commission.

1 **Part 2.9** **Health Professionals Regulation**
2 **2004**

3 **[2.46] Schedule 1**

4 *substitute*

5 **Schedule 1 Regulated professions**

6 (see s 4)

column 1 item	column 2 health profession board	column 3 health profession	column 4 relevant schedule
1	ACT Dental Technicians Board	dental technicians	8
2	ACT Veterinary Surgeons Board	veterinary surgeons	12
3	ACT Medical Radiation Scientists Board	medical radiation scientists	15

7 **[2.47] Schedules 2 to 7**

8 *omit*

9 **[2.48] Schedule 8**

10 *substitute*

11 **Schedule 8 Dental technicians**

12 (see s 4 and sch 1)

13 *Note* The Act and regulation contain other provisions that apply to
14 applications and the regulation of the profession under this schedule, for
15 example:

- 16 • under the Act, s 37 (1) (b), an applicant who is an individual must
17 have a knowledge of written and spoken English that is adequate to
18 allow the person to practise;

- 1 (d) removable implant-retained overdentures;
2 (e) removable treatment dentures over healing caps;
3 (f) restorative or corrective dental appliances.

4 ***dental technical work*** involves making, altering, repairing or
5 maintaining dental prosthetic appliances under a prescription from a
6 dentist or dental prosthetist.

7 **Example—dental technical work**
8 shade-taking for dental prosthetic appliances

9 *Note* An example is part of the regulation, is not exhaustive and may extend,
10 but does not limit, the meaning of the provision in which it appears (see
11 Legislation Act, s 126 and s 132).

12 ***dental technician*** means a person who is registered as a dental
13 technician under this schedule.

14 ***dentist*** means an individual registered under the *Health Practitioner*
15 *Regulation National Law (ACT)* to practise the health profession of
16 dentist (other than as a student).

17 ***regulatory authority*** means an authority established under a
18 corresponding law of a local jurisdiction or a place outside Australia
19 to regulate the dental technician professions in the jurisdiction or
20 place.

21 *Note* A ***local jurisdiction*** is a State or New Zealand (see Act, dict).

22 **8.2 General area of operation of dental technician**
23 **profession—Act, s 22 (1) (a)**

- 24 (1) The practice of a dental technician involves the performance of
25 dental technical work.
- 26 (2) The practice of a dental technician also includes the following:
- 27 (a) giving advice about dental technical issues to other dental
28 professionals;

- 1 (b) conducting dental technical research;
2 (c) educating and training people in the dental technical
3 profession.
4 (3) To remove any doubt, a person also practises as a dental technician
5 if the person does dental technical work as part of a business.

6 **8.3 Qualifications as suitability to practise as individual**
7 **dental technician—Act, s 23 (a)**

- 8 (1) To practise as a dental technician, an individual—
9 (a) must be a graduate of a course of education in dental technical
10 work offered in the ACT or a local jurisdiction that is
11 accredited by CORA or approved by the board or the
12 regulatory authority of a local jurisdiction; or

13 *Note* Under s 4 (3), if a schedule requires or allows something to be
14 approved by a health profession board, the approval must be in
15 writing and is a notifiable instrument, which must be notified
16 under the Legislation Act.

- 17 (b) must have—
18 (i) completed a course of education or training in dental
19 technical work outside Australia that is accredited by
20 CORA or approved by the board or the regulatory
21 authority of a local jurisdiction; and
22 (ii) passed an examination in dental technical work that is
23 accredited by CORA or approved by the board or the
24 regulatory authority of a local jurisdiction.

- 25 (2) In this section:

26 **CORA** means the Council of Regulating Authorities for Dental
27 Technicians and Dental Prosthetists.

- 1 **8.4 Qualifications as suitability to practise as corporate**
2 **dental technician—Act, s 23 (a)**
- 3 To practise as a dental technician, a corporation must—
- 4 (a) have the board’s written approval to carry on business as a
5 dental technician; and
- 6 (b) have a constitution that provides that—
- 7 (i) the corporation may carry on business as a dental
8 technician; and
- 9 (ii) the chair of the corporation must be a dental technician;
10 and
- 11 (iii) if there are more than 2 directors—a majority of the
12 directors must be dental technicians; and
- 13 (iv) at least 50% of shares in the corporation must be held by
14 1 or more dental technicians; and
- 15 (v) the chair of the corporation has the casting vote in
16 relation to resolutions to be voted on at a general meeting
17 of the corporation.
- 18 **8.5 Maintenance and demonstration of professional**
19 **development, continued competence and recency of**
20 **practice for dental technicians—Act, s 23 (d)**
- 21 (1) To demonstrate adequate professional development at the time of
22 application for registration as an individual dental technician, the
23 applicant must, if required by the board, give the board written
24 evidence that—
- 25 (a) the applicant attended and satisfactorily completed a training
26 program approved by the board; or
- 27 (b) the applicant has undertaken professional development
28 activities; or

- 1 (c) otherwise demonstrates professional development the board
2 considers adequate.
- 3 (2) To demonstrate continuing competence at the time of application for
4 registration as a dental technician, the applicant must, if required by
5 the board, give the board written evidence of the applicant's
6 competence assessed against the board's standards statement.
- 7 (3) To demonstrate recency of practice at the time of application for
8 registration as a dental technician, the applicant must, if required by
9 the board, give the board written evidence—
- 10 (a) that the applicant has practised as a dental technician within the
11 5 years before the day the application is made; or
- 12 (b) that the applicant attended and satisfactorily completed a
13 training course approved by the board; or
- 14 (c) that otherwise demonstrates recency of practice the board
15 considers adequate.
- 16 (4) In this section:
- 17 *professional development activity*—an activity is a *professional*
18 *development activity* if it complies with a standard about
19 professional development for dental technicians developed or
20 endorsed under section 131.
- 21 *Note 1* **Register**, a person, includes renew the person's registration (see Act,
22 dict).
- 23 *Note 2* For application requirements, see s 112.

24 **8.6 Board membership—Act, s 24**

25 The board is made up of—

- 26 (a) the president; and
- 27 (b) 6 appointed members, 1 of whom is a community
28 representative.

- 1 **8.7 Dental technicians—required insurance policy—Act,**
2 **s 37 (1) (d)**
- 3 (1) A dental technician must maintain a policy of product liability
4 insurance at a level approved by the board.
- 5 (2) However, subsection (1) does not apply to a dental technician if the
6 dental technician—
- 7 (a) is covered by product liability insurance (the *other insurance*)
8 other than insurance maintained by the dental technician; and
- 9 (b) only practises as a dental technician while covered by the other
10 insurance.
- 11 **8.8 Conditional registration of dental technicians with**
12 **unapproved qualifications—Act, s 37 (5) (b)**
- 13 (1) The board may register an individual as a dental technician if
14 satisfied that the individual—
- 15 (a) is a graduate of a course of education or training in dental
16 technical work that is not approved under section 8.3 (1)
17 (Qualifications as suitability to practise as individual dental
18 technician—Act, s 23 (a)); and
- 19 (b) needs to be registered to do 1 or both of the following:
- 20 (i) undertake further education or training approved by the
21 board to achieve the standard required of dental
22 technicians in the ACT;
- 23 (ii) undergo a period of practice as a dental technician under
24 the supervision of a dental technician to allow the
25 individual to become registered in the ACT.
- 26 (2) Registration in accordance with this section is subject to the
27 condition that the individual only practises dental technical work—

- 1 (a) under the supervision of a dental technician whose registration
2 entitles the dental technician to practise dental technical work
3 without supervision; and
4 (b) if the individual needs to undertake further education—as part
5 of the education.
6 (3) The board may impose any other condition on the registration of the
7 individual that it considers appropriate.

8 **8.9 Conditional registration for dental technicians who want**
9 **to teach etc—Act, s 37 (5) (b)**

- 10 (1) This section applies if—
11 (a) an individual has applied for registration as a dental technician;
12 and
13 (b) the individual needs to be registered to take up a teaching or
14 research position.
15 (2) The board may register the individual if—
16 (a) the board is satisfied that the individual has qualifications the
17 board considers appropriate for the position the individual
18 intends to take up; and
19 (b) the individual provides a letter of offer from the individual's
20 prospective employer stating the conditions of employment
21 and giving the name of the individual's proposed supervisor.
22 (3) The board may impose any condition on the registration of the
23 individual that it considers appropriate.

24 **8.10 Conditional registration for non-practising dental**
25 **technicians—Act, s 37 (5) (b)**

- 26 (1) This section applies if—
27 (a) a person has applied for registration as a dental technician; and

1 (b) the board is satisfied that the person does not intend to practise
2 as a dental technician, whether or not because the person is
3 retired.

4 (2) The board may register the person on condition that the person must
5 not practise as a dental technician.

6 **8.11 Conditional registration not limited**

7 This schedule does not limit when a dental technician may be
8 conditionally registered or the conditions that may be imposed on
9 registration.

10 **8.12 Registration end date—s 120 (b) (i) and s 121 (c)**

11 The registration end date for a certificate of registration is
12 1 September following registration.

13 **[2.49] Schedules 9 to 11**

14 *omit*

15 **[2.50] Schedules 13 and 14**

16 *omit*

17 **[2.51] Dictionary**

18 *omit the definitions of*

19 *Australian Medical Council*

20 *chiropractor*

21 *close relative*

22 *community pharmacy*

23 *competency standards*

24 *dental care provider*

25 *dental hygienist*

1	<i>dental procedure</i>
2	<i>dental therapist</i>
3	<i>dentist</i>
4	<i>dentist procedure</i>
5	<i>enrolled nurse</i>
6	<i>general dental procedure</i>
7	<i>medical board</i>
8	<i>medical practitioner</i>
9	<i>midwife</i>
10	<i>nurse</i>
11	<i>nurse practitioner</i>
12	<i>nursing and midwifery regulatory authority</i>
13	<i>optometrist</i>
14	<i>optometrist restricted medicines authority</i>
15	<i>osteopath</i>
16	<i>pharmacist</i>
17	<i>pharmacy</i>
18	<i>physiotherapist</i>
19	<i>podiatric surgeon</i>
20	<i>podiatrist</i>
21	<i>psychologist</i>
22	<i>re-entry course</i>
23	<i>refresher course</i>

1 *register*
2 *registered nurse*
3 *under the supervision of a dentist*

4 **Part 2.10 Health Professionals (Special**
5 **Events Exemptions) Act 2000**

6 **[2.52] Section 11 (1)**

7 *after*
8 *Health Professionals Act 2004,*
9 *insert*
10 *the Health Practitioner Regulation National Law (ACT),*

11 **[2.53] Section 12 (1) and (2)**

12 *after*
13 *Health Professionals Act 2004*
14 *insert*
15 *, the Health Practitioner Regulation National Law (ACT)*

16 **Part 2.11 Health Records (Privacy and**
17 **Access) Act 1997**

18 **[2.54] Section 16D (4) (b)**

19 *substitute*
20 (b) if the nominated health service provider is registered with the
21 registration board established for the medical profession (other
22 than as a student) and has the ability to understand and
23 interpret the health record; or

1 **[2.55] Schedule 1, principle 4.1, example and note**

2 *omit*

3 **[2.56] Dictionary, definition of *registration board***

4 *substitute*

5 *registration board* means—

6 (a) a national board under the *Health Practitioner Regulation*
7 *National Law (ACT)*; or

8 (b) a health profession board under the *Health Professionals*
9 *Act 2004*.

10 **Part 2.12 Human Rights Commission**
11 **Act 2005**

12 **[2.57] Section 7 (3)**

13 *after*

14 health professional

15 *insert*

16 or health practitioner

17 **[2.58] Section 14 (1), note**

18 *insert*

- 19
 - *Health Practitioner Regulation National Law (ACT)*

20 **[2.59] Section 25 (1) (b), new note**

21 *insert*

22 *Note* See, for example, the *Health Practitioner Regulation National*
23 *Law (ACT)*, s 150 (Relationship with health complaints entity).

1 **[2.60] Section 39 (1) (b) (iv)**

2 *before*

3 *Health Professionals Act 2004*

4 *insert*

5 *Health Practitioner Regulation National Law (ACT) or*

6 **[2.61] Section 39, new note**

7 *substitute*

8 *Note* If the health services commissioner receives a complaint about a health
9 practitioner, the commissioner must tell the national board for the
10 practitioner's health profession about the complaint. The national board
11 and commissioner must try to reach agreement about how the complaint
12 is to be dealt with (see *Health Practitioner Regulation National Law*
13 *(ACT)*, s 150).

14 **[2.62] Section 45 (3) (a) (iii)**

15 *substitute*

16 (iii) is to be referred to another statutory officer-holder or
17 dealt with by a national board under the *Health*
18 *Practitioner Regulation National Law (ACT)*; or

19 **[2.63] Section 47, new note**

20 *insert*

21 *Note* If the health services commissioner receives a complaint about a health
22 practitioner, the commissioner must tell the national board for the
23 practitioner's health profession about the complaint. The national board
24 and commissioner must try to reach agreement about how the complaint
25 is to be dealt with (see *Health Practitioner Regulation National Law*
26 *(ACT)*, s 150).

1 **[2.64] Section 78 (1) (e)**

2 *substitute*

3 (e) the complaint has been referred to a national board under the
4 *Health Practitioner Regulation National Law (ACT)* or to a
5 health profession board; or

6 **[2.65] New section 80 (1) (c)**

7 *before the notes, insert*

8 (c) if the complaint was referred to the commission by a national
9 board under the *Health Practitioner Regulation National*
10 *Law (ACT)*—to the national board.

11 **[2.66] Section 92 (1)**

12 *substitute*

13 (1) This section applies if—

14 (a) the commission receives a complaint about a registered health
15 professional; or

16 (b) as part of a complaint about a health service, the commission
17 considers a registered health professional's behaviour.

18 **[2.67] Section 95 (2)**

19 *after*

20 this Act

21 *insert*

22 and the *Health Practitioner Regulation National Law (ACT)*

23 **[2.68] Dictionary, note 2**

24 *insert*

- 25
 - health practitioner

1 **Part 2.13** **Legislation Act 2001**

2 **[2.69] Dictionary, part 1, definition of *dental prosthetist***

3 *substitute*

4 *dental prosthetist*—

- 5 (a) means a person registered under the *Health Practitioner*
6 *Regulation National Law (ACT)* to practise the health
7 profession of dental prosthetist (other than as a student); and
- 8 (b) for an activity, includes a person mentioned in paragraph (a)
9 holding limited or provisional registration, to the extent that the
10 person is allowed to do the activity under the person's
11 registration.

12 **[2.70] Dictionary, part 1, definition of *dentist***

13 *substitute*

14 *dentist*—

- 15 (a) means a person registered under the *Health Practitioner*
16 *Regulation National Law (ACT)* to practise the health
17 profession of dentist (other than as a student); and
- 18 (b) for an activity, includes a person mentioned in paragraph (a)
19 holding limited or provisional registration, to the extent that the
20 person is allowed to do the activity under the person's
21 registration.

22 **[2.71] Dictionary, part 1, definition of *doctor***

23 *substitute*

24 *doctor*—

- 25 (a) means a person registered under the *Health Practitioner*
26 *Regulation National Law (ACT)* to practise in the medical
27 profession (other than as a student); and

- 1 (b) for an activity, includes a person mentioned in paragraph (a)
2 holding limited or provisional registration, to the extent that the
3 person is allowed to do the activity under the person's
4 registration.

5 **[2.72] Dictionary, definition of *enrolled nurse***

6 *substitute*

7 *enrolled nurse*—

- 8 (a) means a person registered under the *Health Practitioner*
9 *Regulation National Law (ACT)*—
10 (i) to practise in the nursing and midwifery profession (other
11 than as a student); and
12 (ii) in the enrolled nurses (division 2) division;
13 (b) for an activity, includes a person mentioned in paragraph (a)
14 holding limited or provisional registration, to the extent that the
15 person is allowed to do the activity under the person's
16 registration.

17 **[2.73] Dictionary, part 1, new definitions**

18 *insert*

19 *health practitioner* means a person registered under the *Health*
20 *Practitioner Regulation National Law (ACT)* to practise a health
21 profession (other than as a student).

22 *Health Practitioner Regulation National Law (ACT)* means the
23 provisions applying because of the *Health Practitioner Regulation*
24 *National Law (ACT) Act 2009*, section 6 (Application of Health
25 Practitioner Regulation National Law).

- 1 **[2.74] Dictionary, part 1, definition of *midwife***
- 2 *substitute*
- 3 *midwife*—
- 4 (a) means a person registered under the *Health Practitioner*
- 5 *Regulation National Law (ACT)* to practise in the nursing and
- 6 midwifery profession as a midwife (other than as a student);
- 7 and
- 8 (b) for an activity, includes a person mentioned in paragraph (a)
- 9 holding limited or provisional registration, to the extent that the
- 10 person is allowed to do the activity under the person's
- 11 registration.
- 12 **[2.75] Dictionary, part 1, definition of *nurse* and note**
- 13 *substitute*
- 14 *nurse*—
- 15 (a) means a person registered under the *Health Practitioner*
- 16 *Regulation National Law (ACT)* to practise in the nursing and
- 17 midwifery profession as a nurse (other than as a student); and
- 18 (b) for an activity, includes a person mentioned in paragraph (a)
- 19 holding limited or provisional registration, to the extent that the
- 20 person is allowed to do the activity under the person's
- 21 registration; and
- 22 (c) does not include an enrolled nurse.

1 **[2.76] Dictionary, part 1, definition of *nurse practitioner* and**
2 **note**

3 *substitute*

4 ***nurse practitioner*—**

5 (a) means a person whose registration as a registered health
6 practitioner under the *Health Practitioner Regulation National*
7 *Law (ACT)* is endorsed as being qualified to practise as a nurse
8 practitioner; and

9 (b) for an activity, includes a person mentioned in paragraph (a)
10 holding limited or provisional registration, to the extent that the
11 person is allowed to do the activity under the person's
12 registration.

13 **[2.77] Dictionary, part 1, definition of *optometrist***

14 *substitute*

15 ***optometrist*—**

16 (a) means a person registered under the *Health Practitioner*
17 *Regulation National Law (ACT)* to practise in the optometry
18 profession (other than as a student); and

19 (b) for an activity, includes a person mentioned in paragraph (a)
20 holding limited or provisional registration, to the extent that the
21 person is allowed to do the activity under the person's
22 registration.

23 **[2.78] Dictionary, part 1, definition of *pharmacist***

24 *substitute*

25 ***pharmacist*—**

26 (a) means a person registered under the *Health Practitioner*
27 *Regulation National Law (ACT)* to practise in the pharmacy
28 profession (other than as a student); and

- 1 (b) for an activity, includes a person mentioned in paragraph (a)
2 holding limited or provisional registration, to the extent that the
3 person is allowed to do the activity under the person's
4 registration.

5 **Part 2.14 Medicines, Poisons and**
6 **Therapeutic Goods Act 2008**

7 **[2.79] Section 6 (3)**

- 8 *after*
9 health professionals
10 *insert*
11 or health practitioners

12 **[2.80] Section 7 (1)**

- 13 *after*
14 health professional
15 *insert*
16 or a health practitioner

17 **[2.81] Section 138 (2), except note**

- 18 *substitute*
19 (2) To remove any doubt, this part does not limit the power of anyone
20 exercising a function under this Act to—
21 (a) make a notification under the *Health Practitioner Regulation*
22 *National Law (ACT)* about a health practitioner; or
23 (b) make a report under the *Health Professionals Act 2004*,
24 part 9.2 about a health professional.

1 **[2.82] New sections 149 (2) (c) and 152 (3) (c)**

2 *insert*

3 (c) if the relevant person is a health practitioner—the relevant
4 national board for the person under the *Health Practitioner*
5 *Regulation National Law (ACT)*.

6 **[2.83] Section 195 (4) (f)**

7 *substitute*

8 (f) to a national board under the *Health Practitioner Regulation*
9 *National Law (ACT)* or a health profession board under the
10 *Health Professionals Act 2004*; or

11 **[2.84] Dictionary, note 2**

12 *insert*

- 13 • health practitioner

14 **Part 2.15 Medicines, Poisons and**
15 **Therapeutic Goods Regulation**
16 **2008**

17 **[2.85] Section 10 (4), example 1**

18 *substitute*

19 1 a health practitioner's authorisation is subject to any condition or restriction
20 to which the health practitioner is subject to under the *Health Practitioner*
21 *Regulation National Law (ACT)* (see s 20)

1 **[2.86] Part 2.2**
2 *substitute*

3 **Part 2.2 Relationship with registration**
4 **laws**

5 **20 Medicines authorisations subject to Health Practitioner**
6 **Regulation National Law (ACT) restrictions**

- 7 (1) A health practitioner's authorisation under the Act to deal with a
8 medicine is subject to any condition or other restriction to which the
9 health practitioner is subject under the *Health Practitioner*
10 *Regulation National Law (ACT)*.

11 **Example**

12 Section 31 places conditions on the prescribing of medicines by a health
13 practitioner authorised to prescribe the medicines. If a particular health
14 practitioner's registration under the *Health Practitioner Regulation National Law*
15 *(ACT)* is subject to the condition or restriction that the person may not prescribe
16 certain medicines, the health practitioner's authorisation under the *Medicines,*
17 *Poisons and Therapeutic Goods Act 2008* to prescribe medicines is also subject to
18 that condition or restriction.

19 *Note 1* A reference to an Act includes a reference to the statutory instruments
20 made or in force under the Act, including any regulation (see
21 Legislation Act, s 104).

22 *Note 2* An example is part of the regulation, is not exhaustive and may extend,
23 but does not limit, the meaning of the provision in which it appears (see
24 Legislation Act, s 126 and s 132).

- 25 (2) A health professional's authorisation under the Act to deal with a
26 medicine is subject to any condition or other restriction to which the
27 health professional is subject under the *Health Professionals*
28 *Act 2004*.

1 **21 Medicines authorisations subject to Health Professionals**
2 **Act restrictions**

3 A health professional's authorisation under the Act to deal with a
4 medicine is subject to any condition or other restriction to which the
5 health professional is subject under the *Health Professionals*
6 *Act 2004*.

7 **[2.87] New section 110 (2)**

8 *before the note, insert*

9 (2) However, a pharmacist is not authorised under schedule 1 to supply
10 a medicine if—

11 (a) the pharmacist is working for, or providing services to, a
12 corporation when supplying the medicine; and

13 (b) the corporation is not—

14 (i) a pharmacist; or

15 (ii) a complying pharmacy corporation under the *Health*
16 *Act 1993*, part 9 (Pharmacists and pharmacy premises).

17 **[2.88] Section 121 (3), definition of *authorised prescriber***

18 *substitute*

19 *authorised prescriber*, in relation to a prescription, means—

20 (a) for a medicine other than a controlled medicine—a person who
21 is authorised to issue the prescription under the Act or another
22 territory law; and

23 (b) for a controlled medicine—a person who is authorised to issue
24 the prescription under part 13.1 (Controlled medicines
25 approvals).

26 **[2.89] Section 121, note 1**

27 *omit*

- 1 **[2.90] Section 400 (1)**
- 2 *omit everything before paragraph (a), substitute*
- 3 (1) This section applies to an adult (the ***delivery person***), other than a
- 4 health practitioner, or health professional, at an institution, who is—
- 5 **[2.91] Section 400 (1), note**
- 6 *substitute*
- 7 *Note* For health practitioners and health professionals at institutions, see
- 8 sch 1, pt 1.4.
- 9 **[2.92] Section 400, example 1**
- 10 *substitute*
- 11 1 a hospital employee who is not a health practitioner or health professional
- 12 **[2.93] Section 500 (1) and (2)**
- 13 *substitute*
- 14 (1) In this section:
- 15 ***health practitioner*** does not include—
- 16 (a) a pharmacist, or intern pharmacist, at a hospital; or
- 17 (b) a prescriber who supplies a medicine during a consultation.
- 18 ***health professional*** does not include a prescriber who supplies a
- 19 medicine during a consultation.
- 20 ***supply*** does not include dispense.
- 21 (2) A health practitioner, health professional or employee acting under
- 22 the direction of a health practitioner or professional, must supply a
- 23 pharmacy medicine or pharmacist only medicine in a whole
- 24 manufacturer's pack of the medicine.

1 **[2.94] Schedule 1, part 1.4**

2 *substitute*

3 **Part 1.4 Health practitioners and health**
4 **professionals at institutions**

column 1 item	column 2 person authorised	column 3 authorisation
1	health practitioner or health professional employed at institution	within the scope of employment, do any of the following for the delivery of medicines within the institution to a health practitioner or health professional authorised to obtain the medicines: (a)obtain the medicines; (b)possess the medicines; (c)supply the medicines.

5 **[2.95] Schedule 1, part 1.8, item 1, column 3, paragraph (b)**

6 *omit*

7 under *Health Professionals Regulation 2004*, sch 11

8 *substitute*

9 issued by Optometry Board of Australia

10 **[2.96] Schedule 2, part 2.2, item 5, column 3**

11 *omit everything after*

12 shared care model

13 *substitute*

14 endorsed by the Optometry Board of Australia

1 **[2.97] Dictionary, note 2**

2 *insert*

- 3 • enrolled nurse

4 **[2.98] Dictionary, note 3**

5 *insert*

- 6 • health practitioner

7 **[2.99] Dictionary, definition of *enrolled nurse (medications)***

8 *substitute*

9 *enrolled nurse (medications)* means an enrolled nurse whose
10 registration is endorsed under the *Health Practitioner Regulation*
11 *National Law (ACT)*, section 94 (Endorsement for scheduled
12 medicines).

13 **[2.100] Dictionary, definition of *health profession***

14 *substitute*

15 *health profession* means—

- 16 (a) a health profession under the *Health Practitioner Regulation*
17 *National Law (ACT)*, section 5 (Definitions); and
18 (b) includes a health profession under the *Health Professionals*
19 *Act 2004*, dictionary.

20 **[2.101] Dictionary, definition of *intern***

21 *substitute*

22 *intern*, in relation to a doctor or pharmacist, means—

- 23 (a) for a doctor—a person holding limited or provisional
24 registration to practise in the medical profession under the
25 *Health Practitioner Regulation National Law (ACT)*, for the
26 purpose of undertaking a period of supervised practice that the
27 person has started; and

- 1 (b) for a pharmacist—a person holding limited or provisional
2 registration to practise in the pharmacy profession under the
3 *Health Practitioner Regulation National Law (ACT)*, for the
4 purpose of undertaking a period of supervised practice or
5 course of training, or both, to allow the person to be registered
6 to practice without supervision.

7 **[2.102] Dictionary, definitions of *specialist* and *specialist area***

8 *substitute*

9 *specialist* means—

- 10 (a) a person holding specialist registration to practise in the
11 medical profession under the *Health Practitioner Regulation*
12 *National Law (ACT)*; or
13 (b) a person holding limited or provisional registration to practise
14 in the medical profession under the *Health Practitioner*
15 *Regulation National Law (ACT)*, for the purpose of
16 undertaking a period of supervised practice under the
17 supervision of a person mentioned in paragraph (a), the
18 successful completion of which means that the person is
19 eligible for specialist registration under that Law.

20 *specialist area*, for a health profession, means—

- 21 (a) a recognised speciality under the *Health Practitioner*
22 *Regulation National Law (ACT)*; or
23 (b) a specialist area under the *Health Professionals*
24 *Regulation 2004*.

- 1 **[2.103] Dictionary, definition of *trainee*, except examples and**
2 **notes**
- 3 *substitute*
- 4 *trainee*, in relation to a health practitioner (other than a doctor or
5 pharmacist) means a person holding limited or provisional
6 registration to practise in a health profession under the *Health*
7 *Practitioner Regulation National Law (ACT)*, for the purpose of
8 undertaking a period of supervised practice or course of training, or
9 both, to allow the person to be registered to practice without
10 supervision.
- 11 **[2.104] Further amendments, mentions of *health professional* etc**

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
1	part 14.3, note	health professional	health practitioner or health professional
2	schedule 1, parts 1.2 and 1.3	health professional	health practitioner
3	schedule 1, part 1.5 and 1.6	health professional	health practitioner
4	schedule 1, part 1.7, item 1, column 3	health professionals	health practitioners
5	schedule 1, part 1.7, item 2, column 3	health professional	health practitioner
6	schedule 1, part 1.11	health professional	health practitioner

1 **Part 2.16** **Mental Health (Treatment and**
2 **Care) Act 1994**

3 **[2.105] Section 119 (2)**

4 *omit*

5 mental health nurse

6 *substitute*

7 nurse

8 **[2.106] Section 119 (3), new definition of *occupational therapist***

9 *insert*

10 *occupational therapist* means a person registered under the *Health*
11 *Practitioner Regulation National Law (ACT)* to practise in the
12 occupational therapy profession (other than as a student).

13 (commencement: 1 July 2012)

14 **[2.107] Dictionary, note 2**

15 *insert*

- 16 • nurse

17 **[2.108] Dictionary, definition of *mental health nurse* and note**

18 *omit*

19 **[2.109] Dictionary, definition of *psychiatrist***

20 *substitute*

21 *psychiatrist* means a doctor who is registered under the *Health*
22 *Practitioner Regulation National Law (ACT)* in the specialist area of
23 psychiatry.

1 **Part 2.17 Public Health Act 1997**

2 **[2.110] Section 102 (4) and (5)**

3 *substitute*

4 (4) If a doctor or authorised nurse practitioner fails to comply with
5 subsection (1) in relation to a patient—

6 (a) the failure is taken to be unprofessional conduct for the *Health*
7 *Practitioner Regulation National Law (ACT)*; and

8 (b) the patient may make a voluntary notification about the failure
9 to the national agency under the *Health Practitioner*
10 *Regulation National Law (ACT)*.

11 **[2.111] Dictionary, definition of *counsellor*, paragraph (a)**

12 *substitute*

13 (a) a person registered under the *Health Practitioner Regulation*
14 *National Law (ACT)* to practise in the psychology profession
15 (other than as a student); or

16 **Part 2.18 Radiation Protection Act 2006**

17 **[2.112] Section 68 (2) (b)**

18 *substitute*

19 (b) 1 member who is a doctor registered under the *Health*
20 *Practitioner Regulation National Law (ACT)* in the specialist
21 area of radiology; and

1 **[2.113] Section 115 (4) (c)**

2 *substitute*

3 (c) to—

4 (i) a national board under the *Health Practitioner Regulation*
5 *National Law (ACT)*; or

6 (ii) a health profession board under the *Health Professionals*
7 *Act 2004*; or

8 **Part 2.19 Transplantation and Anatomy**
9 **Act 1978**

10 **[2.114] Section 24 (2) (a) (iii)**

11 *substitute*

12 (iii) to a nurse or enrolled nurse employed at that hospital; and

13 **[2.115] Section 25 (1) (a) (iii)**

14 *substitute*

15 (iii) a nurse or enrolled nurse employed at that hospital; and

16 **[2.116] Dictionary, note 2**

17 *insert*

- 18 • doctor
19 • enrolled nurse

20 **[2.117] Dictionary, definitions of *enrolled nurse, medical***
21 ***practitioner and registered nurse***

22 *omit*

1 **[2.118] Further amendments, mentions of *medical practitioner***
2 **etc**

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
1	section 5 (1)	medical practitioner	doctor
2	section 5 (2)	medical practitioners	doctors
3	section 10	medical practitioner	doctor
4	section 13 (2)	medical practitioner	doctor
5	sections 14 to 19	medical practitioner	doctor
6	section 21	medical practitioner	doctor
7	sections 23 to 25	medical practitioner	doctor
8	section 29 (1) (b)	medical practitioner	doctor
9	section 30 (1)	medical practitioners	doctors
10	sections 30 and 31	medical practitioner	doctor
11	sections 34 and 35	medical practitioner	doctor
12	section 40 (1) (b)	medical practitioner	doctor
13	section 44 (2)	medical practitioner	doctor
14	section 46	medical practitioner	doctor
15	section 49	medical practitioner	doctor

1 **Part 2.20** **Victims of Crime (Financial**
2 **Assistance) Act 1983**

3 **[2.119] Section 30 (1)**

4 *substitute*

- 5 (1) If the Territory is a party to an application by a primary victim or a
6 person responsible for the maintenance of a primary victim, it may
7 require the primary victim to undergo examination by a health
8 practitioner chosen by the victim from a list of health practitioners
9 approved by the Minister as having suitable expertise for examining
10 and treating injuries of the type allegedly suffered by the victim.

11 **[2.120] Dictionary, note 2**

12 *insert*

- 13 • health practitioner

14 **[2.121] Dictionary, definition of *health professional***

15 *omit*

16 **Part 2.21** **Victims of Crime Regulation 2000**

17 **[2.122] Sections 8 (1) (e) and 11 (2) (b)**

18 *omit*

19 *health professions member*

20 *substitute*

21 *health practitioner member*

1 **[2.123] Section 41 (b)**

2 *substitute*

3 (b) if the service to be provided is a health practitioners service—
4 the person is an appropriately qualified health practitioner; and

5 **[2.124] Section 43 (d)**

6 *substitute*

7 (d) for an approved service provider who provides a health
8 practitioners service—the provider has ceased to be registered
9 as a health practitioner.

10 **[2.125] Dictionary, note 2**

11 *insert*

- 12 • health practitioner

13 **[2.126] Dictionary, definitions of *health professional*, *health*
14 *professions member* and *health professions service***

15 *substitute*

16 *health practitioner member*—see section 8 (1) (e) (Appointed
17 members of board).

18 *health practitioners service*—

19 (a) means a health service ordinarily provided by a health
20 practitioner; but

21 (b) does not include a health service ordinarily provided in the
22 ordinary course of business by people other than health
23 practitioners.

1 **[2.127] Dictionary, definition of *psychologist***

2 *substitute*

3 *psychologist* means a person registered under the *Health*
4 *Practitioner Regulation National Law (ACT)* to practise in the
5 psychology profession (other than as a student).

6 **Part 2.22 Workers Compensation Act 1951**

7 **[2.128] Dictionary, definition of *chiropractor***

8 *substitute*

9 *chiropractor* means a person registered under the *Health*
10 *Practitioner Regulation National Law (ACT)* to practise in the
11 chiropractic profession (other than as a student).

12 **[2.129] Dictionary, definition of *osteopath***

13 *substitute*

14 *osteopath* means a person registered under the *Health Practitioner*
15 *Regulation National Law (ACT)* to practise in the osteopathy
16 profession (other than as a student).

17 **[2.130] Dictionary, definition of *physiotherapist***

18 *substitute*

19 *physiotherapist* means a person registered under the *Health*
20 *Practitioner Regulation National Law (ACT)* to practise in the
21 physiotherapy profession (other than as a student).

1 **Part 2.23** **Workers Compensation**
2 **Regulation 2002**

3 **[2.131] New section 22 (2A) and (2B)**

4 *before the table , insert*

5 (2A) However, before 1 July 2012, a person is qualified to provide
6 occupational therapy only if the person is eligible for membership of
7 the Australian Association of Occupational Therapists.

8 (2B) Subsection (2A) and this subsection expire on 1 July 2010.

9 **[2.132] Table 22, item 1, column 3**

10 *substitute*

11 registration in the health profession of occupational therapy under
12 the *Health Practitioner Regulation National Law (ACT)*

13 **[2.133] Table 22, item 2, column 3**

14 *substitute*

15 registration in the health profession of physiotherapy under the
16 *Health Practitioner Regulation National Law (ACT)*

17 **[2.134] Table 22, item 4, column 3**

18 *substitute*

19 registration in the health profession of psychology under the *Health*
20 *Practitioner Regulation National Law (ACT)*

1 **Dictionary**

2 (see s 3)

3 *Note 1* The Legislation Act contains definitions and other provisions relevant to
4 this Act.

5 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 6 • ACAT
- 7 • Magistrates Court
- 8 • Minister
- 9 • pharmacist
- 10 • territory law.

11 ***Health Practitioner Regulation National Law (ACT)*** means the
12 provisions applying in this jurisdiction because of section 6.

13 ***Qld Act*** means the *Health Practitioner Regulation National Law*
14 *Act 2009* (Qld).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2009.

2 Notification

Notified under the Legislation Act on 2009.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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