

Australian Capital Territory

# **HEALTH PROFESSIONALS AMENDMENT REGULATION 2005 (No 1)**

## **Explanatory Statement**

**SL2005-14**

Circulated with the authority of  
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Minister for Health

## EXPLANATORY STATEMENT

### Authority

This Regulation is authorised by section 134 of the *Health Professionals Act 2004*.

### Outline

The amendments proposed in this Regulation are primarily to provide for the transfer of the medical profession to the *Health Professionals Act 2004*. The Regulation contains the Medical Schedule that provides the profession specific registration requirements for the medical profession in the ACT. The schedule is the result of extensive consultation with members of the medical profession and key stakeholders. The Regulation will apply the provisions of the *Health Professional Act 2004* to the medical profession in the ACT. In addition to the Medical Schedule the Regulation includes provisions specifying the membership of the Dental Board, the Pharmacy Board, the Psychologists Board, the Dental Technicians and Dental Prosthetists Board, the Optometrists Board, the Physiotherapists Board, the Veterinary Surgeons Board, the Podiatrists Board and the Nursing and Midwifery Board. There are also other provisions regarding some minor changes to the election provisions in the existing *Health Professions Regulation 2004*, which are necessary to enable the election of the new health professional boards.

### Revenue/Cost Implications

There is no additional cost involved in this Regulation.

### Formal Clauses

**Clause 1 – Name of Regulation** – states the title of the Regulation, which is the *Health Professionals Amendment Regulation 2005 (No 1)*.

**Clause 2 – Commencement** – states when the Regulation commences. The Regulation commences on 7 July 2005 other than section 24, schedule 1 items 2 to 7 and schedules 3 to 8.

**Clause 3 – Legislation amended** – provides that this Regulation amends the *Health Professionals Regulation 2004*.

**Clause 4 – Section 6(1), note** – substitutes the reference to s.9 in the drafters note to s.10 a consequential amendment to accommodate the appointment of Deputy Presidents to the Health Professions Tribunal.

**Clause 5 – Section 9(3)** – substitutes a new subsection to allow for the minister to appoint a member who would otherwise be elected in accordance with section 35(2).

**Clause 6 – New section 10(2)** – inserts a new subsection to provide that an appointed member of a health professional board has to be registered in the health profession for a continuous period of at least three years before the day of appointment.

**Clause 7 – Section 10 (2) to (4)** – renumbers the section to accommodate the new subsection (2).

**Clause 8 – Section 23, definition of election** – substitutes a new definition of election to include the election of a prescribed member of a health professional board which is necessary to accommodate the type of election contemplated for the Nursing and Midwifery Board.

**Clause 9 – Section 23, new definitions** – inserts new definitions for prescribed election voter and prescribed member to accommodate the type of election contemplated for the Nursing and Midwifery Board.

**Clause 10 – Section 26** – substitutes a new section 26 to accommodate the type of election contemplated for the Nursing and Midwifery Board.

**Clause 11 – Section 28 (1) (a)** – substitutes a new subparagraph to accommodate the type of election contemplated for the Nursing and Midwifery Board.

**Clause 12 – Section 29 (3)** – substitutes a new subsection to accommodate the type of election contemplated for the Nursing and Midwifery Board.

**Clause 13 – Section 35 (2)** – omits the reference to section 9 in this subsection and substitutes section 10 to correct a drafting error.

**Clause 14 – Section 37** – substitutes a new section 37 to accommodate the type of election contemplated for the Nursing and Midwifery Board.

**Clause 15 – Sections 52A (4) (b) and 52B (4) (b)** – this amendment omits the reference to subsection 10 (3) and substitutes the reference 10(4) and is consequential on the amendment made in Clause 7.

**Clause 16 – Section 59 (3)** – substitutes a new subsection (3) to improve the wording of the previous subsection.

**Clause 17 – Section 115 (1) (b)** – substitutes a new subparagraph in order to cover addictions to alcohol and drugs but also other substances that affect a persons ability to practice in a particular health profession.

**Clause 18 – Section 120** – substitutes a new section 120 to make it clear that registration ends on the day fixed in the schedule for the health profession or if no day is fixed after one year.

**Clause 19 – Section 134 (5), new notes** – inserts new drafters notes to refer readers to the Legislation Act 2001 in respect of incorporated documents notified under section 134.

**Clause 20 – Section 142** – substitutes a new section 142 to extend the requirement that a registered health professional must not practise while under the influence of or being dependent on a drug whether a prescription drug or illegal drug to now include other substances that may adversely affect the health professionals ability to practise.

**Clause 21 – New section 149A** – inserts a new section to provide that in accordance with section 121(a) a registered health professional must not practise under a name other than the name specified in the practicing certificate.

**Clause 22 – Section 152 (3) (b)** – substitutes the word provision for the word section to improve the language.

**Clause 23 – New chapter 6 heading etc** – inserts a new chapter 6 that contains three sections, 157A, 157B and 157C. Section 157A covers the requirement that health professional boards must make available to the public free of charge any incorporated document or amendment of an incorporated document. Section 157B covers the requirement to provide a written notice that includes details regarding the title, author, date of effect, date of publication and a short summary of the incorporated document or amendment. Section 157C covers the requirements in respect of approved form made by the health professional boards.

**Clause 24 – Schedules 1 and 2** – substitutes new Schedules 1 and 2 and inserts new schedules 3,4,5,6,7 and 8. Schedule 1 which covers the list of regulated professions has been supplemented to

include the new schedules inserted by this amendment. Schedule 2 covers the medical profession and has been developed following extensive consultation with members of the profession key stakeholders and organisations that represent the interests of the medical practitioners. The schedule is comprehensive and covers the general area of practice of the medical profession (item 2.1), qualifications for registration (item 2.2), suitability to practice requirements including mental and physical health (item 2.3), communication skills (item 2.3), specialist area requirements (item 2.4), maintenance of continued competence (item 2.5), recency of practice (item 2.5) and professional development (item 2.5). In addition, Schedule 2 includes details regarding the membership of the medical board, insurance requirements, application for registration requirements, conditional registration of students, interim conditional registration, registration for non practicing medical practitioners and conditional registration for partially non practising practitioners. The registration renewal date for medical practitioners is set at 30 September of each year. Schedules 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 relate respectively to the health professional board membership requirements for nurses; midwives; pharmacists; dentists, dental hygienists and dental therapists; psychologists; dental technicians and dental prosthetists; podiatrists; physiotherapists, optometrists and veterinary surgeons.

**Clause 25 – Dictionary, new definitions** – inserts definitions for the Australian Medical Council, board, enrolled nurse, incorporated document, register, registered nurse, relevant health profession and relevant health profession schedule.