

Health Practitioner Registration and Other Legislation Amendment Bill 2012

Explanatory Notes

Short title

The short title of the Bill is the Health Practitioner Registration and Other Legislation Amendment Bill 2012.

Policy objectives and the reasons for them

The primary objective of the Bill is to abolish the State registration scheme for the dental technology and speech pathology professions.

Prior to 1 July 2010, the Queensland health practitioner registration scheme regulated the following professions: chiropractic, dental, dental prosthetics and dental technology, medical, medical radiation practice, nursing and midwifery, occupational therapy, optometry, osteopathy, pharmacy, physiotherapy, podiatry, psychology and speech pathology.

On 26 March 2008, the Council of Australian Governments (COAG) signed the 'Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions', which provides for a single national registration and accreditation scheme for health professions ('the National Scheme') to replace State and Territory based schemes.

COAG agreed to the inclusion of ten of the above professions into the National Scheme from 1 July 2010 (chiropractic, dental (including dental prosthetics), medical, nursing and midwifery, optometry, osteopathy, pharmacy, physiotherapy, podiatry and psychology). On 1 July 2012, the medical radiation practice and occupational therapy professions transitioned to the National Scheme, leaving only dental technicians and speech pathologists registered in Queensland under the original scheme.

Dental technicians and speech pathologists are not registered elsewhere in Australia. Speech pathologists were previously registered for a short period in the Northern Territory, but otherwise Queensland is the only other State to have regulated the profession. Dental technicians have previously been registered in New South Wales, South Australia, the Australian Capital Territory and Western Australia. However, these jurisdictions discontinued registration after the professions were deemed to not meet the criteria for inclusion into the National Scheme. This means that Queensland is the only State or Territory with any State-based registration of health professionals.

Achievement of policy objectives

To achieve its objectives, the Bill will:

- repeal the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*;
- repeal the *Health Practitioner Registration Boards (Administration) Act 1999*;
- amend the *Health Practitioner (Professional Standards) Act 1999* to rescind the provisions that relate to the current State based registration scheme and to leave in place, with necessary amendments, the provisions that will continue to apply to professions regulated under the National Scheme; and
- make the necessary administrative and consequential amendments to Health and other portfolio legislation arising from the repeal or amendment of the above Acts.

Repeal Registration Acts

The *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001* currently address registration and related matters in relation to the registration of dental technicians and speech pathologists in Queensland.

The Bill repeals these two registration Acts, which has the effect of abolishing the boards currently responsible for performing registration and related functions in relation to the affected professions.

Repeal Registration Boards Administration Act

The *Health Practitioner Registration Boards (Administration) Act 1999* establishes the Office of Health Practitioner Registration Boards (OHPRB), provides for the statutory appointment of the Executive Officer for the OHPRB, and provides the powers necessary for the Office to undertake its regulatory functions to support the dental technology and speech pathology registration boards. This includes requiring the dental technology and speech pathology registration boards to source all administrative and operational services from the OHPRB under a service agreement.

The Bill repeals the *Health Practitioner Registration Boards (Administration) Act 1999*, which has the effect of abolishing the OHPRB.

The repeal of this Act will take place approximately one month after the repeal of the two registration Acts, to enable the OHPRB to undertake the necessary action to wind up the administrative and registration activities. For this reason, the Bill provides for any surplus funds from the abolished registration boards to be transferred to the OHPRB in the first instance. The OHPRB will then take the necessary steps to wind up the office.

Amendments to the Professional Standards Act

The *Health Practitioner (Professional Standards) Act 1999* currently prescribes a range of matters regarding the handling of investigations and disciplinary matters in relation to professions not registered under the National Scheme (i.e. dental technicians and speech pathologists). These matters include the powers of State boards and professional conduct

review panels, the review by the Queensland Civil and Administrative Tribunal (QCAT) of decisions of boards and panels and the further review and appeal of QCAT decisions.

With the cessation of registration for speech pathologists and dental technicians, the substantive components of the *Health Practitioner (Professional Standards) Act 1999* can be repealed. However, the Act will need to be renamed and reordered to better reflect its remaining sole function, which is to provide for matters relating to disciplinary proceedings for nationally registered health practitioners.

The Health Practitioner Regulation National Law (the National Law), which applies to the National Scheme, provides for allegations of professional misconduct by a registered health practitioner to be heard by a responsible tribunal. Questions of unsatisfactory professional conduct or impairment may be decided by a national board or a performance and professional standards panel or health panel. These panels may be established by national boards in response to notifications or other concerns about the health, performance or conduct of a nationally registered health practitioner.

Jurisdiction to review certain disciplinary and other decisions of boards and panels is vested in each jurisdiction's responsible tribunal. The *Health Practitioner Regulation National Law Act 2009* declares QCAT to be Queensland's responsible tribunal.

While the National Law prescribes the substantive disciplinary matters that a responsible tribunal may hear, it otherwise leaves each jurisdiction free to prescribe the form, constitution and procedures of the responsible tribunal for that jurisdiction (though not inconsistently with the National Law). These matters are prescribed in the *Health Practitioner (Professional Standards) Act 1999*.

The Bill repeals provisions of the *Health Practitioner (Professional Standards) Act 1999* that apply only to the State-based registration scheme for dental technicians and speech pathologists. Transitional matters relating to the repeal of the *Dental Technicians Registration Act 2001*, the *Speech Pathologists Registration Act 2001* and the *Health Practitioner Registration Boards (Administration) Act 1999* are also contained within the amendments to the *Health Practitioner (Professional Standards) Act 1999*.

Consequential amendments to other legislation

A number of Acts across government refer to Acts, bodies and matters affected by the repeal of the registration Acts for dental technicians and speech pathologists. To this end, they use definitions of 'health practitioner registration Act', 'health practitioner' and other related definitions which will be rendered redundant by the abolition of the registration scheme for these professions.

The Bill amends these Acts by updating these definitions to reflect the cessation of registration for dental technicians and speech pathologists.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives other than by this Bill.

Estimated cost for government implementation

No significant costs to government arise from the Bill.

Consistency with fundamental legislative principles

The Bill does not infringe upon fundamental legislative principles.

Consultation

A communications plan was implemented to inform relevant stakeholders of the intention to cease registration. The dental technology and speech pathology professions, and key stakeholders representing or employing these professions, were advised of the intention to cease registration.

The OHPRB has published information on its website providing background information and answers to frequently asked questions to assist health practitioners and their employers with understanding the implications.

In addition to relevant government departments, the following stakeholders were consulted during the development of the Bill:

- Australian Health Practitioner Regulation Agency
- Commission for Children and Young People and Child Guardian
- Dental Technicians Board of Queensland
- Health Quality and Complaints Commission
- Office of Health Practitioner Registration Boards
- Queensland Civil and Administrative Tribunal
- Speech Pathologists Board of Queensland
- Victims Assist Queensland.

Consistency with legislation of other jurisdictions

The Bill is consistent with legislation of other jurisdictions.

Those jurisdictions that previously registered dental technicians discontinued their registration schemes after the Australian Health Workforce Ministerial Council declined to include the profession for entry into the National Scheme. Speech pathologists were previously registered for a short period in the Northern Territory, but otherwise Queensland is the only other jurisdiction to have registered this profession.

Notes on provisions

Part 1 Preliminary

Short title

Clause 1 sets out the short title of the Act – the *Health Practitioner Registration and Other Legislation Amendment Act 2012*.

Commencement

Clause 2 provides for the commencement of the Act.

The *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001* each contain a provision that requires the registration board to provide registrants of the imminent expiry of their registration no later than 60 days prior to the end of the registration period (30 June). To assist with the implementation of the Act, these imminent expiry provisions will be repealed upon Assent. The remainder of the Act will commence on a day to be set by proclamation.

Part 2 Amendment of Ambulance Service Act 1991

Act amended

Clause 3 specifies that Part 2 amends the *Ambulance Service Act 1991*.

Amendment of s 36K (Stopping conduct of RCA of reportable event— commissioning authority)

Clause 4 amends the meaning of ‘relevant entity’ in section 36K(6) to omit paragraph (c), which refers to boards under the *Health Practitioners (Professional Standards) Act 1999*. This reference currently picks up only the Dental Technicians Board of Queensland and the Speech Pathologists Board of Queensland. However, as these boards will be abolished once the respective registration Acts are repealed, paragraph (c) becomes redundant. Subclause (2) renumbers the paragraphs.

Amendment of s 36ZB (RCA report not admissible in evidence)

Clause 5 amends section 36ZB(1)(c) to amend the reference to the *Health Practitioners (Professional Standards) Act 1999*, which has been renamed the *Health Practitioners (Disciplinary Proceedings) Act 1999*.

Part 3 Amendment of Child Protection Act 1999

Act amended

Clause 6 specifies that Part 3 amends the *Child Protection Act 1999*.

Amendment of sch 3 (Dictionary)

Clause 7 amends the definition of ‘health practitioner’ in Schedule 3 to omit paragraph (b), which refers to a person registered under the *Speech Pathologists Registration Act 2001*, and replace it with an alternative definition of a speech pathologist as being a person who is eligible for practising membership of Speech Pathology Australia.

Speech Pathology Australia is the peak professional body that represents speech pathologists in Australia and has a role in accrediting university programs that train speech pathologists. Speech Pathology Australia requires members to have the same qualifications as those currently required for registration in Queensland under the *Speech Pathologists Registration Act 2001*.

Defining a speech pathologist in this way also ensures consistency with the approach taken for determining whether speech pathology services are eligible for Medicare rebate under the Commonwealth *Health Insurance Act 1973 – Health Insurance (Allied Health Services) Determination 2011*.

Part 4 Amendment of Commission for Children and Young People and Child Guardian Act 2000

Act amended

Clause 8 specifies that Part 4 amends the *Commission for Children and Young People and Child Guardian Act 2000*.

Insertion of new ch 11, pt 15

Clause 9 inserts a new Part 15 into Chapter 11 of the *Commission for Children and Young People and Child Guardian Act 2000* to provide for transitional matters.

Registered health practitioners are exempt from requiring a ‘blue card’ to the extent that the activities performed or services provided are related to the person’s functions as a registered health practitioner. This means that registered speech pathologists who currently work directly with children are not required to hold a blue card.

However, once registration of speech pathologists in Queensland has ceased, speech pathologists will be required to obtain a blue card to start or continue to provide speech pathology services to children, either as an employee or by carrying on a business. New

section 509 is a transitional provision to help avoid disruption to the employment of, or carrying on of a business by, a speech pathologist.

The transitional provision continues to apply the current exemption for registered health practitioners to speech pathologists for a period of three months after the commencement of the Act. This provision will apply only to those health practitioners who were registered immediately before the repeal of the *Speech Pathologists Registration Act 2001*.

This provision does not apply to dental technicians as they do not ordinarily have direct contact with patients. Furthermore, dental technicians who also hold national registration as a dental prosthetist will continue to be exempt from requiring a blue card while practising their profession.

Amendment of sch 7 (Dictionary)

Clause 10 amends definitions in Schedule 7.

The definition of ‘disciplinary information’ is amended to refer to the repealed section 384A of the *Health Practitioners (Disciplinary Proceedings) Act 1999*. This will enable the Commission to continue to use disciplinary information obtained under repealed section 384A.

The definition of ‘registered health practitioner’ is amended to remove the references to the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*, which are both being repealed.

Part 5 Amendment of Disability Services Act 2006

Act amended

Clause 11 specifies that Part 5 amends the *Disability Services Act 2006*.

Amendment of s 123ZZG (Definitions for sdiv 3)

Clause 12 amends the definition of health professional to include a specific reference to speech pathologist in the examples in paragraph (b). This amendment clarifies that the confidentiality provisions for health professionals engaged in delivering a private sector health service continue to apply to speech pathologists after the repeal of the *Speech Pathologists Registration Act 2001*.

Insertion of new pt 16, div 7

Clause 13 inserts new Division 7 into Part 16 of the *Disability Services Act 2006* to provide for transitional matters.

Registered health practitioners are exempt from requiring a positive notice (or ‘yellow card’) to the extent that the activities performed or services provided at a non-government disability

service provider relate to the person's functions as a registered health practitioner. This means that registered speech pathologists who currently work directly with people with a disability are not required to hold a yellow card.

A person who holds a blue card under the *Commission for Children and Young People and Child Guardian Act 2000* is exempt from having to obtain a yellow card, unless the person works with both children and adults in a disability service outlet. In these cases, the person must obtain a blue card and a yellow card exemption notice.

Once registration in Queensland has ceased, speech pathologists who work with children or adults with a disability will be required to obtain a yellow card or a yellow card exemption notice (if the person holds a blue card). New section 294 is a transitional provision to help avoid disruption to the employment of, or providing of services by, a speech pathologist.

The transitional provision continues to apply the current exemption for registered health practitioners to speech pathologists for a period of three months after commencement of the Act. This provision will apply only to those health practitioners who were registered immediately before the repeal of the *Speech Pathologists Registration Act 2001*.

This provision does not apply to dental technicians as they do not ordinarily have direct contact with patients. Furthermore, dental technicians who also hold national registration as a dental prosthetist will continue to be exempt from requiring a yellow card while practising their profession.

Amendment of sch 7 (Dictionary)

Clause 14 amends the definition of 'registered health practitioner' to remove the references to the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*, which are both being repealed.

Part 6 Amendment of Forensic Disability Act 2011

Act amended

Clause 15 specifies that Part 6 amends the *Forensic Disability Act 2011*.

Amendment of s 32 (Visiting and assessing client and consulting about client's care and support)

Clause 16 amends section 32 to insert a reference to speech pathologists in subsections (1) and (3) to clarify that the visitation, assessment and consultation arrangements under the *Forensic Disability Act 2011* continue to apply to speech pathologists after the repeal of the *Speech Pathologists Registration Act 2001*. This amendment is consequential to an amendment to the definition of 'registered health practitioner' in Schedule 2 (Dictionary).

Amendment of s 106 (Appointment of authorised officers)

Clause 17 amends section 106 to insert a reference to speech pathologists in subsection (1) to clarify that a speech pathologist may continue to be appointed as an ‘authorised person’ under the *Forensic Disability Act 2011* after the repeal of the *Speech Pathologists Registration Act 2001*. This amendment is consequential to an amendment to the definition of ‘registered health practitioner’ in Schedule 2 (Dictionary).

Amendment of sch 2 (Dictionary)

Clause 18 amends the definition of ‘registered health practitioner’ in Schedule 2 to omit the reference to a person registered under the *Speech Pathologists Registration Act 2001*. A definition of ‘speech pathologist’ is inserted into the Schedule to mean a person who is eligible for practising membership of Speech Pathology Australia.

Part 7 Amendment of Health Act 1937

Act amended

Clause 19 specifies that Part 7 amends the *Health Act 1937*.

Amendment of s 5 (Interpretation)

Clause 20 amends definitions in section 5.

The definition of ‘health practitioner registration Act’ is omitted, as it is redundant as a result of an amendment to the definition of ‘registrant’ in subclause (2).

The definition of ‘registrant’ is amended to omit the reference to a health practitioner registration Act and insert a reference to the Health Practitioner Regulation National Law.

The effect of these amendments is to remove the references to the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*, which are both being repealed.

The definition of ‘registrant’s board’ is amended to omit paragraph (b), which refers only to the registration boards for dental technicians and speech pathologists, as this is redundant upon the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Part 8 Amendment of Health Practitioners (Professional Standards) Act 1999

Act amended

Clause 21 specifies that Part 8 amends the *Health Practitioners (Professional Standards) Act 1999*.

Amendment of long title

Clause 22 amends the long title of the *Health Practitioners (Professional Standards) Act 1999* to reflect the omission of a substantial part of the Act that dealt with various matters for dental technicians and speech pathologists.

Amendment of s 1 (Short title)

Clause 23 amends the short title of the *Health Practitioners (Professional Standards) Act 1999* to rename it as the *Health Practitioners (Disciplinary Proceedings) Act 1999*. This reflects the omission of a substantial part of the Act that dealt with various matters for dental technicians and speech pathologists, leaving in place only the matters that relate to proceedings for national registrants.

Omission of ss 4 and 5

Clause 24 omits sections 4 and 5 as these provisions will no longer be relevant to the ongoing operation of the Act.

Amendment of s 6 (Main objects of Act)

Clause 25 amends section 6 to omit the objects of the Act that will no longer be relevant to the ongoing operation of the Act and to re-establish the remaining objects of the Act.

Omission of s 7 (how main objects of this Act are to be primarily achieved)

Clause 26 omits section 7 as this provision will no longer be relevant to the ongoing operation of the Act.

Omission of pt 1, div 4 (Application of Act to former registrants)

Clause 27 omits section 9, which provides for the application of the Act to persons who are no longer registered. As this provision currently relates only to dental technicians and speech pathologists, it will no longer be relevant to the ongoing operation of the Act.

Amendment of pt 2 hdg (Administration)

Clause 28 amends the heading for Part 2 from “Administration” to “Panels of assessors”, to more accurately reflect the provisions contained in Part 2 following the amendments to the Act.

Omission of pt 2, divs 1–4

Clause 29 omits Part 2, Divisions 1 to 4 as they relate to the functions of State registration boards, the delegation of powers by those boards, the establishment of professional conduct review panels, the functions of the Queensland Civil and Administrative Tribunal (QCAT) and provisions relating to assessors assisting QCAT.

These provisions currently apply to dental technicians and speech pathologists, so become obsolete upon the repeal of the *Dental Technicians Registration Act 2001* and *Speech Pathologists Registration Act 2001*. Similar provisions (particularly in relation to assessors) are already replicated in Part 12A of the Act, to apply to national registrants.

Omission of pt 2, div 5 hdg (Panels of assessors)

Clause 30 omits the heading for Part 2, Division 5. The provisions relating to panels of assessors are the only remaining provisions in Part, so a division and division heading are no longer required.

Amendment of s 39 (Panels of assessors)

Clause 31 omits sections 39(b)(i) and (ii) to remove the references to the dental technicians panel of assessors and speech pathologists panel of assessors.

The panels of assessors for the nationally registered professions are moved from section 398ZL of the Act to section 39(b), to bring together in one place, all of the provisions relating to panels of assessors. A further amendment to the list of panels is made to:

- separate the dentists panel of assessors and the dental auxiliaries panel of assessors (as there are actually two separate panels established);
- establish a panel of assessors for Aboriginal and Torres Strait Islander health practitioners; and
- establish a panel of assessors for Chinese medicine practitioners.

National registration of Aboriginal and Torres Strait Islander health practitioners and Chinese medicine practitioners commenced from 1 July 2012. As these professions were not registered previously in Queensland, no provision was made under the *Health Legislation (Health Practitioner Regulation National Law) Amendment Act 2012* – which transitioned medical radiation practitioners and occupational therapists to national registration on 1 June 2012 – to accommodate these professions, where necessary, under the Act. As such, amendments have been identified and made under this amending Act.

Amendment of s 40 (Appointment of individuals to panels of assessors)

Clause 32 amends sections 40(2), (3) and (4) to remove references to professional conduct review panels, as these panels apply only to the State-based registration scheme for dental technicians and speech pathologists. An amendment to section 40(4)(a) updates a reference to ‘board’ to mean a national board.

Amendment of s 40A (Temporary appointment of panel of assessors)

Clause 33 amends section 40A to remove references to the secretary of the professional conduct review panels, as these panels apply only to the State-based registration scheme for dental technicians and speech pathologists. A further amendment to section 40A(1)(a) redrafts the provision to update a section reference.

Amendment of s 41 (Disqualification from membership of panel of assessors)

Clause 34 amends section 41 to remove the application of this provision to State-based registrants and apply it only to national registrants. As a result, subclauses (6) and (8) omit obsolete definitions and subclause (7) inserts a definition of 'health service provider'. This term is currently included in the Schedule (Dictionary), but as it relates only to this provision, it is moved to section 41. An amendment is made to the definition to capture speech pathologists and dental technicians, as a result of their status moving from a registered profession to an unregistered profession.

Amendment of s 42 (Procedure for recommending members of panels of assessors)

Clause 35 amends section 42 to remove references to the secretary of the professional conduct review panels, as these panels apply only to the State-based registration scheme for dental technicians and speech pathologists. A further amendment to section 42(4)(a) redrafts the provision to update a section reference.

Amendment of s 43 (Duration of appointment)

Clause 36 amends section 43 by inserting a note to refer to the temporary appointment of a member of a panel, as provided for under amended section 40A.

Amendment of s 45 (Vacation of office)

Clause 37 amends the example in section 45(2)(b) to remove the reference to disciplinary action taken against the member under the Act.

Insertion of new s 45A

Clause 38 inserts new section 45A to provide for the payment of assessors. This amendment moves the current section 398ZM to bring together in one place, all of the provisions relating to panels of assessors.

Omission of pts 3 to 11

Clause 39 omits Parts 3 to 11 of the Act, as these provisions apply only to the State-based registration scheme and become obsolete upon the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Omission of pt 12, divs 1-5

Clause 40 omits Divisions 1 to 5 of Part 12 of the Act, as these provisions apply only to the State-based registration scheme and become obsolete upon the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Omission of pt 12, div 6 hdg (Miscellaneous)

Clause 41 omits the heading for Part 12, Division 6.

Amendment of s 394 (Board etc. may give combined notice)

Clause 42 amends section 394 to omit the references to the State-based registration boards and the secretary of the professional conduct review panels and leave in place the ability for the principal registrar to give combined notice under the Act.

Omission of ss 395 and 397

Clause 43 omits sections 395 and 397, as these provisions are no longer relevant to the Act.

Amendment of s 398 (Regulation-making power)

Clause 44 amends section 398 to retain a regulation-making power, but remove subsection (2) which refers to a regulation being made about the practice and procedures of a panel, as this is no longer relevant to the Act.

Amendment of s 398B (Definitions for pt 12A)

Clause 45 amends definitions in section 398B.

Subclause (1) inserts a definition of ‘appealable decision’ to apply to Part 12A. This definition is currently in section 398ZI, but as it applies to the entire part, it should be located at the start of Part 12A.

Subclause (2) amends the definition of ‘panel of assessors’ to update a section reference (following the move of the panel of assessors provision from section 398ZL to section 39 of the Act).

Subclause (3) amends the definition of ‘professional panel of assessors’ to update a section reference (following the move of the panel of assessors provision from section 398ZL to section 39 of the Act).

Amendment of s 398K (Constitution of the tribunal)

Clause 46 amends section 398K to insert a definition of ‘judicial member’.

Amendment of s 398M (Choosing assessors generally)

Clause 47 amends section 398M to insert a definition of ‘QCAT registry’. This term is currently defined in the Schedule (Dictionary), but is moved to the only provision of the Act to which it now relates.

Amendment of s 398O (Requirement about gender balance)

Clause 48 amends section 398O to insert a definition of ‘entity acting on behalf of a user’. This term is currently defined in the Schedule (Dictionary), but is moved to the only provision of the Act to which it now relates.

Amendment of s 398V (Particular hearings to be held in private)

Clause 49 amends section 398V to correct a grammatical error.

Amendment of s 398Z (Evidence and findings etc. in other proceedings may be received or adopted)

Clause 50 amends section 398Z to insert a definition of ‘disciplinary body’ that captures disciplinary bodies defined under the Act, as in force from time to time prior to the commencement of this amendment.

Amendment of s398ZI (NRAS registrant or national board may appeal to Court of Appeal)

Clause 51 omits section 398ZI(4), which is a definition of ‘appealable decision’, as this definition has been moved to section 398B.

Omission of pt 12A, div 8 (General matters)

Clause 52 omits Division 8 of Part 12A. These provisions relate to panels of assessors, which have now been moved to an earlier part of the Act.

Insertion of new pt 13, div 7

Clause 53 inserts new Division 7 into Part 13 to provide for transitional matters.

Subdivision 1 provides transitional provisions to address matters arising from the repeal of provisions of the Act.

New section 406 provides definitions for the subdivision. Definitions of ‘commencement’ and ‘pre-amended Act’ are inserted.

New section 407 provides a transitional provision for disciplinary proceedings not finally dealt with at the time of the repeal of the *Dental Technicians Registration Act 2001* and *Speech Pathologists Registration Act 2001*. A disciplinary proceeding against a person that is not finally dealt with is able to continue, but only upon the election of the person. The Chief Executive of Queensland Health must first give the person written notice stating that the person may elect to continue the disciplinary proceedings by giving the Chief Executive written notice of the election within 28 days after receiving the Chief Executive’s notice. If

the Chief Executive does not receive the person's notice within the 28 days, the disciplinary proceedings will lapse.

If the Chief Executive receives notice within the 28 days that the person elects to continue their disciplinary proceedings, the proceedings continue under the pre-amended Act with any changes necessary to ensure the proceedings can continue (for example, a reference to an abolished board is taken to be a reference to the chief executive).

This provision affords individuals natural justice by allowing a person, upon their election, to respond to a disciplinary matter that has not been finalised before abolition of the registration scheme. An order would be made as if the registration scheme had continued to operate. The provision avoids an infringement on individual rights by providing the person with an opportunity to clear their name.

The types of decisions that may be made by disciplinary bodies include such things as suspending or cancelling registration, placing conditions on registration, and entering into an undertaking with a registrant. These decisions are irrelevant outside of regulatory environment and there is little benefit to be gained by allowing the Chief Executive to continue disciplinary action against a person.

New section 408 provides a transitional provision for notifications that were made to the Commission for Children and Young People and Child Guardian under section 384A(3) of the Act (prior to the omission of that section), in relation to disciplinary action (including suspension) taken against a person. The provision continues the current power for the Commission to request further information about the disciplinary action from the Chief Executive of Queensland Health, rather than the abolished registration board, and the requirement for the Chief Executive to provide this information if requested.

The requirement for the Chief Executive to give notice to the Commission if the disciplinary action is set aside on review or appeal links in with the ability for a person to continue disciplinary action, upon their election, under new section 407. This maintains the rights of persons who have had disciplinary action set aside upon review or appeal in relation to any current or future application for a 'blue card' under the *Commission for Children and Young People and Child Guardian Act 2000*.

Subdivision 2 provides transitional provisions to address matters arising from the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*, and the subsequent abolition of the Dental Technicians Board of Queensland and the Speech Pathologists Board of Queensland.

New section 409 provides definitions for the subdivision. Definitions for 'commencement', 'former board' and 'repealed Act' are inserted.

New section 410 provides for the assets and liabilities of the Dental Technicians Board of Queensland and the Speech Pathologists Board of Queensland to be transferred to the Office of Health Practitioner Registration Boards (OHPRB) in the first instance.

New section 411 provides for all records of the Dental Technicians Board of Queensland and the Speech Pathologists Board of Queensland to be transferred to the OHPRB in the first instance. In addition, the Executive Officer of the OHPRB is required to give to the Health

Quality and Complaints Commission any information it holds relating to an outstanding health complaint within the meaning of the *Health Quality and Complaints Commission Act 2006*. This provision links in with a transitional provision in the *Health Quality and Complaints Commission Act 2006* to ensure that complaints that are not finally dealt with at the time the registration scheme is abolished, can be dealt with by the Commission.

Subdivision 3 provides transitional provisions to address matters arising from the repeal of the *Health Practitioner Registration (Administration) Act 1999* and the subsequent abolition of the OHPRB.

New section 412 provides definitions for the subdivision. Definitions for ‘commencement’ and ‘repealed Act’ are inserted.

New section 413 provides that the assets and liabilities of the OHPRB become the assets and liabilities of the State.

New section 414 provides that records of the OHPRB are transferred to Queensland Health.

New section 415 provides for the pro-rata refund of registration fees. The purpose of this section is to ensure that registrants are not financially disadvantaged if the timing for the abolition of the scheme is prior to the ordinary end of their registration period. The ‘unused’ proportion of the registration fee may be refunded to the registrant by the Chief Executive of Queensland Health.

Omission of Part 14 (Validation provision)

Clause 54 omits existing Part 14 of the *Health Practitioners (Professional Standards) Act 1999* as this Part is no longer relevant to the operation of the Act. A new Part 14 is inserted to repeal the legislation related to the registration of dental technicians and speech pathologists.

New section 418 provides for the repeal of the *Dental Technicians Registration Act 2001*, the *Speech Pathologists Registration Act 2001* and the *Health Practitioner Registration Boards (Administration) Act 1999*.

Amendment of schedule (Dictionary)

Clause 55 amends the Schedule to the Act to remove obsolete definitions and insert new or revised definitions.

Part 9 Amendment of Health Practitioners (Special Events Exemption) Act 1998

Act amended

Clause 56 specifies that Part 9 amends the *Health Practitioners (Special Events Exemption) Act 1998*.

Amendment of s 12 (Exemptions relating to offences)

Clause 57 amends section 12 (including the editor's note) as a result of the omission of the definition of 'health registration Act' in the Schedule. The amendment omits the reference to 'a health registration Act' and inserts a reference to the Health Practitioner Regulation National Law (Queensland). This amendment ensures that the current exemptions relating to offences under the Health Practitioner Regulation National Law, as it is applied in Queensland, continue to apply to visiting health practitioners.

Amendment of s 15 (Complaints about visiting health practitioners)

Clause 58 amends section 15 by omitting the reference to 'a health registration Act' and inserting a reference to the Health Practitioner Regulation National Law. This amendment is also consequential to the omission of the definition of 'health registration Act' in the Schedule, and continues to enable complaints about a visiting health practitioner to be made if the practitioner is registered under the Health Practitioner Regulation National Law.

Amendment of schedule (Dictionary)

Clause 59 amends definitions in the Schedule.

The definition of 'health care services' is amended to remove dental technicians and speech pathologists from the list of professions.

The definition of 'health registration Act' is omitted, as it is redundant after the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

The definition of 'local health practitioner' is amended to omit the reference to 'a health registration Act' (this term is omitted, above) and insert a reference to 'the Health Practitioner Regulation National Law'.

Part 10 Amendment of Health Quality and Complaints Commission Act 2006

Act amended

Clause 60 specifies that Part 10 amends the *Health Quality and Complaints Commission Act 2006*.

Amendment of s 15 (Commission's functions-information)

Clause 61 amends section 15(b) by omitting the reference to 'registration boards' and inserting a reference to 'national boards'.

After the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*, the only boards to which the *Health Quality and Complaints Commission Act 2006* will apply are the National Boards established under the Health

Practitioner Regulation National Law. Therefore, the need for the term ‘registration board’ (and a definition of this term) becomes redundant. This amendment is repeated throughout the *Health Quality and Complaints Commission Act 2006*.

Amendment of s 17 (Cooperation with other entities)

Clause 62 amends section 17(b)(viii) by omitting the reference to ‘registration board’ and inserting a reference to ‘national board’.

Amendment of s 24 (Action by commission for contravention of s 20(1))

Clause 63 amends section 24(2)(d) by omitting the reference to ‘registration board’ and inserting a reference to ‘national board’.

Amendment of s 37 (Meaning of *health service complaint*)

Clause 64 amends section 37(1)(f) to omit the reference to the *Health Practitioners (Professional Standards) Act 1999*. Grounds for disciplinary action under the *Health Practitioners (Professional Standards) Act 1999* relate only to State registrants, so the reference to this Act is obsolete after the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*. Section 37 need only continue to refer to grounds for disciplinary action under the Health Practitioner Regulation National Law.

Amendment of s 49B (Preliminary assessment)

Clause 65 amends s 49B(3)(d) by omitting the reference to ‘registration board’ and inserting a reference to ‘national board’.

Amendment of s 50 (How commission must deal with a health quality complaint)

Clause 66 amends section 50(2)(b) to omit the references to the *Health Practitioners (Professional Standards) Act 1999* and ‘registration board’ and refer only to the ‘national board’ under the Health Practitioner Regulation National Law.

Grounds for disciplinary action under the *Health Practitioners (Professional Standards) Act 1999* relate only to State registrants, so the reference to this Act is obsolete after the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*. Section 50 need only continue to refer to grounds for disciplinary action under the Health Practitioner Regulation National Law.

Amendment of s 54 (Notice of decision to assess health service complaint)

Clause 67 amends section 54 to omit subsections (1)(c), (3) and (5), as these provisions apply only to the registration of dental technicians and speech pathologists, which is being abolished.

Omission of s 57 (Consultation with registration board)

Clause 68 omits section 57, as this section applies only to the State registration boards for dental technicians and speech pathologists, which are being abolished upon the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Amendment of s 58 (Time limit on assessment)

Clause 69 amends section 58 to omit subsection (2) which relates to consultation with a State registration board only, as this requirement is obsolete after the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Amendment of s 61 (Action on acceptance of complaint about provider)

Clause 70 amends section 61(2)(c) by omitting the reference to ‘registration board’ and inserting a reference to ‘national board’.

Amendment of s 62 (Matters about conciliation)

Clause 71 amends section 62(1) by omitting references to ‘registration board’ and inserting references to ‘national board’.

Amendment of ch 5, pt 4, div 5 hdg (When commission must refer health service complaints to registration boards)

Clause 72 amends the heading for Chapter 56, Part 4, Division 5 by omitting the reference to ‘registration board’ and inserting a reference to ‘national board’.

Amendment of s 66 (Referral to registration board in public interest)

Clause 73 amends section 66 by omitting references to ‘registration board’ and inserting references to ‘national board’.

Omission of s 68 (Registration board may delegate function under s 57)

Clause 74 omits section 68, as this section applies only to the delegation of a function by a State registration board. As such, this delegation power is obsolete after the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Amendment of s 76 (Action by commission on becoming aware of public interest issue)

Clause 75 amends section 76 by omitting references to ‘registration board’ and inserting references to ‘national board’.

Amendment of s 80 (Action on report of unsuccessful conciliation)

Clause 76 amends section 80 by omitting references to ‘registration board’ and inserting references to ‘national board’.

Amendment of s 81 (Ending conciliation by commission)

Clause 77 amends section 81 by omitting references to ‘registration board’ and inserting references to ‘national board’.

Amendment of s 91 (Commission’s report about investigation)

Clause 78 amends section 91(2) by omitting the reference to ‘registration board’ and inserting a reference to ‘national board’.

Amendment of s 92 (To whom report may be given)

Clause 79 amends section 92(e) by omitting the reference to ‘registration board’ and inserting a reference to ‘national board’.

Amendment of s 149 (Assistant commissioners)

Clause 80 amends definitions in section 149(4). Subclause (1) omits the definition of ‘health practitioner registration Act’, as this is obsolete after the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*. Subclause (2) amends the definition of ‘registered provider’ to remove any reference to a law of another State, as health practitioners in other States are all registered under the Health Practitioner Regulation National Law.

Amendment of s 164 (Other directions by Minister)

Clause 81 amends section 164(1)(d) by omitting the reference to section 190, which is being omitted under the Act.

Amendment of ch 12 hdg (Registration boards)

Clause 82 amends the heading for Chapter 12 by omitting the reference to ‘registration boards’ and inserting a reference to ‘national boards’.

Amendment of s 188 (Information from registration board)

Clause 83 amends section 188 by omitting the reference to ‘registration board’ and inserting a reference to ‘national board’.

Amendment of s 189 (Registration board may ask commission for information)

Clause 84 amends section 189 by omitting references to ‘registration board’ and inserting references to ‘national board’. In addition, subclause (2) corrects a grammatical error.

Omission of s 190 (Commission may intervene in disciplinary proceeding under Health Practitioners (Professional Standards) Act 1999)

Clause 85 omits section 190, as this section applies only to the registration of dental technicians and speech pathologists, which is being abolished.

Amendment of s 209 (Form of consultation between commission and registration board)

Clause 86 amends section 209(1) by omitting the reference to ‘registration board’ and inserting a reference to ‘national board’. Subclause (2) omits the reference to ‘registration board’ and inserts a reference to ‘national board’ and also removes the reference to section 57(1), which has been omitted under the Act.

Amendment of s 210 (Commission may provide information)

Clause 87 amends the heading for section 210(1) by omitting the reference to ‘registration board’ and inserting a reference to ‘national board’.

Amendment of s 214 (Preservation of confidentiality)

Clause 88 amends section 214(1)(c) to update the reference to the *Health Practitioners (Professional Standards) Act 1999*, which has been renamed the *Health Practitioners (Disciplinary Proceedings) Act 1999*.

Insertion of new ch 15, pt 4

Clause 89 inserts a new Part 4 into Chapter 15 of the *Health Quality and Complaints Commission Act 2006* to provide for transitional matters.

Currently, some provisions of the *Health Quality and Complaints Commission Act 2006* require a State registration board to finish dealing with a complaint before the Commission can take further action. New section 234 is a transitional provision that ensures the Commission can continue dealing with any complaints that were referred to a State registration board following the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

The transitional provision links in with a new transitional provision (section 411) under the *Health Practitioners (Disciplinary Proceedings) Act 1999*, which requires any information relating to a complaint that has not been finalised to be transferred to the Commission after the repeal of the *Dental Technicians Registration Act 2001* and *Speech Pathologists Registration Act 2001*.

Amendment of sch 5 (Dictionary)

Clause 90 amends definitions in Schedule 5.

Subclause (1) omits the definitions for ‘disciplinary committee’, ‘professional conduct review panel’, ‘registration board’, ‘State board’ and ‘State health law’. These terms become obsolete upon the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Subclause (2) amends the definition of ‘completion notice’ to omit references to the State registration boards, which are being abolished upon the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Subclause (3) amends the definition of ‘disciplinary body’ to omit the references to a disciplinary committee, professional conduct review panel and a performance and professional standards panel. These bodies will no longer exist upon the repeal of the *Dental Technicians Registration Act 2001*, the *Speech Pathologists Registration Act 2001* and relevant provisions of the *Health Practitioners (Professional Standards) Act 1999*. Also, the reference to a registration board acting under the *Health Practitioners (Professional Standards) Act 1999* is amended to refer to a national board under the *Health Practitioner’s (Disciplinary Proceedings Act) 1999* and reflects the renaming of that Act.

Subclause (4) amends the definition of ‘registered provider’ by omitting the reference to ‘registration board’ and inserting a reference to ‘national board’.

Part 11 Amendment of Hospital and Health Boards Act 2011

Act amended

Clause 91 specifies that Part 11 amends the *Hospital and Health Boards Act 2011*.

Amendment of s 87 (Protection for documents and information)

Clause 92 amends section 87(4) to omit the reference to a disciplinary proceeding under the *Health Practitioners (Professional Standards) Act 1999*. Section 87(4)(c) currently captures disciplinary proceedings relating only to dental technicians and speech pathologists, so it becomes obsolete after the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Amendment of s 103 (Stopping conduct of RCA of reportable event-commissioning authority)

Clause 93 amends section 103(6) to omit the reference to ‘health registration Act’ and insert a reference to the Health Practitioner Regulation National Law. This continues the application of this section to the National Boards, but removes application to the State boards which are being abolished upon the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Amendment of s 119 (Protection for documents and information)

Clause 94 amends the definition of ‘proceeding’ in section 119(5) to remove the reference to a disciplinary proceeding under the *Health Practitioners (Professional Standards) Act 1999*. Section 119(5)(c) currently captures disciplinary proceedings relating only to dental technicians and speech pathologists, so it becomes obsolete after the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Amendment of s 138 (Protection for reports)

Clause 95 amends the definition of ‘proceeding’ in section 138 to remove the reference to a disciplinary proceeding under the *Health Practitioners (Professional Standards) Act 1999*. Section 138(4)(c) currently captures disciplinary proceedings relating only to dental technicians and speech pathologists, so it becomes obsolete after the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Amendment of s 155 (Disclosure to health practitioner registration board)

Clause 96 amends section 155 to omit references to ‘a health practitioner registration Act’ and insert references to ‘the Health Practitioner Regulation National Law’, to reflect the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Amendment of sch 2 (Dictionary)

Clause 97 amends definitions in Schedule 2.

Subclause (1) omits the definition of ‘health practitioner registration Act’, which becomes obsolete after the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Subclause (2) amends the definition of ‘health professional’ to replace the reference to the ‘health practitioner registration Act’ (which is omitted) with a reference to the Health Practitioner Regulation National Law.

Part 12 Amendment of Integrity Act 2009

Act amended

Clause 98 specifies that Part 12 amends the *Integrity Act 2009*.

Amendment of sch 1 (Statutory office holders for section 72C)

Clause 99 amends Schedule 1 to omit the entry for the *Health Practitioner Registration Boards (Administration) Act 1999*, as this Act is being repealed.

Part 13 Amendment of Public Health Act 2005

Act amended

Clause 100 specifies that Part 13 amends the *Public Health Act 2005*.

Amendment of sch 1 (Public service offices and their heads)

Clause 101 amends section 213D(2) to remove paragraph (b) which captures only the registration boards for dental technicians and speech pathologists.

Part 14 Amendment of Public Service Act 2008

Act amended

Clause 102 specifies that Part 14 amends the *Public Service Act 2008*.

Amendment of s 231D (Chief executive may report contravention)

Clause 103 amends Schedule 1 to omit the entry for the Office of Health Practitioner Registration Boards established under the *Health Practitioner Registration Boards (Administration) Act 1999*, as this Act is being repealed.

Part 15 Amendment of Queensland Civil and Administrative Tribunal Act 2009

Act amended

Clause 104 specifies that Part 15 amends the *Queensland Civil and Administrative Tribunal Act 2009*.

Amendment of s 10 (Generally)

Clause 105 amends the note in section 10 to update the reference to the *Health Practitioners (Professional Standards) Act 1999*, which has been renamed the *Health Practitioners (Disciplinary Proceedings) Act 1999*.

Part 16 Amendment of Queensland Civil and Administrative Tribunal Regulation 2009

Act amended

Clause 106 specifies that Part 16 amends the *Queensland Civil and Administrative Tribunal Regulation 2009*.

Amendment of sch 1 (Enabling Acts and provisions)

Clause 107 amends Schedule 1, Part 1 to update the list of enabling Acts for the purposes of section 6(1)(a) of the Regulation.

Subclause (1) omits the entries for the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*, which are both being repealed.

Subclause (2) amends the entry for the *Health Practitioners (Professional Standards) Act 1999* to reflect the renaming of the Act as the *Health Practitioners (Disciplinary Proceedings) Act 1999*.

Part 17 Amendment of Radiation Safety Act 1999

Act amended

Clause 108 specifies that Part 17 amends the *Radiation Safety Act 1999*.

Amendment of s 209 (Confidentiality of information)

Clause 109 amends section 209(3)(a)(iv) to omit the reference to a board established under a health practitioner registration Act to perform its functions under the *Health Practitioners (Professional Standards) Act 1999*. This subsection captures only the State registration boards for dental technicians and speech pathologists, which are being abolished upon the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Amendment of sch 2 (Dictionary)

Clause 110 amends definitions in Schedule 2.

Subclause (1) amends the definition of ‘health practitioner’ to remove paragraph (b) which currently captures only dental technicians and speech pathologists and which is redundant following the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*. Subclause (2) renumbers the paragraphs.

Subclause (3) omits the definition of ‘health practitioner registration Act’, which is redundant following the repeal of the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*.

Part 18 Amendment of Victims of Crime Assistance Act 2009

Act amended

Clause 111 specifies that Part 18 amends the *Victims of Crime Assistance Act 2009*.

Insertion of new ch 7

Clause 112 inserts a new Chapter 7 into the *Victims of Crime Assistance Act 2009* to provide for a validation provision arising from the Act.

New section 196 applies retrospective operation and validation for an amendment to the definition of ‘health practitioner’, which is updated under the Act to capture dentists.

The amendment to the definition of ‘health practitioner’ in clause 113 rectifies the unintended omission of dentists from the list of professions able to perform functions under the *Victims of Crime Assistance Act 2009*, as amended by the *Health Legislation (Health Practitioner Regulation National Law) Amendment Act 2010*.

As this omission was not identified until recently, Victims Assist Queensland has continued to enable dentists to perform functions under the Act, as required for an application from a victim of crime for financial assistance. The absence of a validation provision and retrospective application would adversely impact the rights and liberties of individuals. As such, the provision is required to preserve the interests of those who have, in good faith, submitted a medical certificate or a report from a dentist as part of their application for financial assistance.

Amendment of sch 3 (Dictionary)

Clause 113 amends the definition of ‘health practitioner’ in Schedule 3.

Subclause (1) amends paragraph (a)(ii) to include ‘dentist’ in the list of dental professions. This amendment corrects an inadvertent omission of dentists from the definition of ‘health practitioner’ when it was replaced under the legislation that transitioned professions, including dentists, to the National Registration and Accreditation Scheme in 2010 (the *Health Legislation (Health Practitioner Regulation National Law) Amendment Act 2010*).

It was always intended that dentists would be included in the list of professions able to perform functions under the *Victims of Crime Assistance Act 2009*. This is particularly for cases where a victim has suffered injuries to the face or mouth; dentists may examine or treat a victim for these injuries, and provide a medical certificate or report as part of a victim’s application for financial assistance.

Subclause (2) omits paragraph (b) which refers to a person registered under the *Speech Pathologists Registration Act 2001* and replaces it with an alternative definition of a speech pathologist as being a person who is eligible for practising membership of Speech Pathology Australia.