

## HEALTH PRACTITIONER REGULATION NATIONAL LAW (VICTORIA) ACT 2009 - SCHEDULE

### s. 5 Definitions

"National Board" means a National Health Practitioner Board established by section 31.

**State or Territory Board** has the meaning given by section 36.

(2) A National Board—

(a) is a body corporate with perpetual succession; and

(b) has a common seal; and

(c) may sue and be sued in its corporate name.

(3) A National Board represents the State.

### 32 Powers of National Board

(1) Subject to subsection (2), a National Board has the powers necessary to enable it to exercise its functions.

(2) A National Board does not have power to—

(a) enter into contracts; or

(b) employ staff; or

(c) acquire, hold, dispose of, and deal with, real property.

### App.

(3) The National Board may exercise any of its functions in co-operation with or with the assistance of a participating jurisdiction or the Commonwealth, including in co-operation with or with the assistance of any of the following—

(a) a government agency of a participating jurisdiction or of the Commonwealth;

(b) a local registration authority;

(c) a co-regulatory authority;

(d) a health complaints entity;

(e) an educational body or other body established by or under a law of a participating jurisdiction or the Commonwealth.

(4) In particular, the National Board may—

(a) ask an entity referred to in subsection (3) for information that the Board requires to exercise its functions under this Law; and

(b) use the information to exercise its functions under this Law.

(5) An entity referred to in subsection (3) that receives a request for information from the National Board is authorised to give the information to the National Board.

### **33 Membership of National Boards**

(1) A National Board is to consist of members appointed in writing by the Ministerial Council.

(2) Members of a National Board are to be appointed as practitioner members or community members.

(3) Subject to this section, the Ministerial Council may decide the size and composition of a National Board.

(4) At least half, but not more than two-thirds, of the members of a National Board must be persons appointed as practitioner members.

(5) The practitioner members of a National Board must consist of—

(a) at least one member from each large participating jurisdiction; and

(b) at least one member from a small participating jurisdiction.

#### **App.**

(6) At least 2 of the members of a National Board must be persons appointed as community members.

(7) At least one of the members of a National Board must live in a regional or rural area.

(8) A person cannot be appointed as a member of a National Board if the person is a member of the Agency Management Committee.

(9) One of the practitioner members of the National Board is to be appointed as Chairperson of the Board by the Ministerial Council.

(10) Schedule 4 sets out provisions relating to a National Board.

(11) In this section—

"large participating jurisdiction" means any of the following States that is a participating jurisdiction—

(a) New South Wales;

(b) Queensland;

(c) South Australia;

(d) Victoria;

(e) Western Australia.

"small participating jurisdiction" means any of the following States or Territories that is a participating jurisdiction—

(a) the Australian Capital Territory;

(b) the Northern Territory;

(c) Tasmania.

### **34 Eligibility for appointment**

(1) In deciding whether to appoint a person as a member of a National Board, the Ministerial Council is to have regard to the skills and experience of the person that are relevant to the Board's functions.

(2) A person is eligible to be appointed as a practitioner member only if the person is a registered health practitioner in the health profession for which the Board is established.

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(3) A person is eligible to be appointed as a community member of a National Board only if the person—

(a) is not a registered health practitioner in the health profession for which the Board is established; and

(b) has not at any time been registered as a health practitioner in the health profession under this Law or a corresponding prior Act.

(4) A person is not eligible to be appointed as a member of a National Board if—

(a) in the case of appointment as a practitioner member, the person has ceased to be registered as a health practitioner in the health profession for which the Board is established, whether before or after the commencement of this Law, as a result of the person's misconduct, impairment or incompetence; or

(b) in any case, the person has, at any time, been found guilty of an offence (whether in a participating jurisdiction or elsewhere) that, in the opinion of the Ministerial Council, renders the person unfit to hold the office of member.

## **Division 2 Functions of National Boards**

### **35 Functions of National Boards**

(1) The functions of a National Board established for a health profession are as follows—

(a) to register suitably qualified and competent persons in the health profession and, if necessary, to impose conditions on the registration of persons in the profession;

(b) to decide the requirements for registration or endorsement of registration in the health profession, including the arrangements for supervised practice in the profession;

(c) to develop or approve standards, codes and guidelines for the health profession, including—

(i) the approval of accreditation standards developed and submitted to it by an accreditation authority; and

(ii) the development of registration standards for approval by the Ministerial Council; and

#### **App.**

- (iii) the development and approval of codes and guidelines that provide guidance to health practitioners registered in the profession;
- (d) to approve accredited programs of study as providing qualifications for registration or endorsement in the health profession;
- (e) to oversee the assessment of the knowledge and clinical skills of overseas trained applicants for registration in the health profession whose qualifications are not approved qualifications for the profession, and to determine the suitability of the applicants for registration in Australia;
- (f) to negotiate in good faith with, and attempt to come to an agreement with, the National Agency on the terms of a health profession agreement;
- (g) to oversee the receipt, assessment and investigation of notifications about persons who—
  - (i) are or were registered as health practitioners in the health profession under this Law or a corresponding prior Act; or
  - (ii) are students in the health profession;
- (h) to establish panels to conduct hearings about—
  - (i) health and performance and professional standards matters in relation to persons who are or were registered in the health profession under this Law or a corresponding prior Act; and
  - (ii) health matters in relation to students registered by the Board;
- (i) to refer matters about health practitioners who are or were registered under this Law or a corresponding prior Act to responsible tribunals for participating jurisdictions;
- (j) to oversee the management of health practitioners and students registered in the health profession, including monitoring conditions, undertaking and suspensions imposed on the registration of the practitioners or students;
- (k) to make recommendations to the Ministerial Council about the operation of specialist recognition in the health profession and the approval of specialties for the profession;

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- (l) in conjunction with the National Agency, to keep up-to-date and publicly accessible national registers of registered health practitioners for the health profession;
- (m) in conjunction with the National Agency, to keep an up-to-date national register of students for the health profession;
- (n) at the Board's discretion, to provide financial or other support for health programs for registered health practitioners and students;
- (o) to give advice to the Ministerial Council on issues relating to the national registration and accreditation scheme for the health profession;
- (p) if asked by the Ministerial Council, to give to the Ministerial Council the assistance or information reasonably required by the Ministerial Council in connection with the national registration and accreditation scheme;

(q) to do anything else necessary or convenient for the effective and efficient operation of the national registration and accreditation scheme;

(r) any other function given to the Board by or under this Law.

(2) For the purposes of subsection (1)(g)-(j), the Board's functions do not include receiving notifications and taking action referred to in those paragraphs in relation to behaviour by a registered health practitioner or student that occurred, or is reasonably believed to have occurred, in a co-regulatory jurisdiction.

### **36 State and Territory Boards**

(1) A National Board may establish a committee (a State or Territory Board) for a participating jurisdiction to enable the Board to exercise its functions in the jurisdiction in a way that provides an effective and timely local response to health practitioners and other persons in the jurisdiction.

(2) A State or Territory Board is to be known as the “[Name of participating jurisdiction for which it is established] Board” of the National Board.

(3) The members of a State or Territory Board are to be appointed by the responsible Minister for the participating jurisdiction.

#### **Example.**

(a) The Pharmacy Board of Australia decides to establish a State or Territory Board for New South Wales. The State or Territory Board will be known as the New South Wales Board of the Pharmacy Board of Australia. The members of the State or Territory Board will be appointed by the responsible Minister for New South Wales.

(b) The Podiatry Board of Australia decides to establish a State or Territory Board for Queensland and the Northern Territory. The State or Territory Board will be known as the Queensland and Northern Territory Board of the Podiatry Board of Australia. The members of the State or Territory Board will be appointed jointly by the responsible Ministers for Queensland and the Northern Territory.

(4) In deciding whether to appoint a person as a member of a State or Territory Board, the responsible Minister is to have regard to the skills and experience of the person that are relevant to the Board's functions.

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(5) At least half, but not more than two-thirds, of the members of a State or Territory Board must be persons appointed as practitioner members.

(6) At least 2 of the members of a State or Territory Board must be persons appointed as community members.

#### **Note.**

See section 299 which provides that subsections (5) and (6) do not apply to a State or Territory Board for a jurisdiction for the first 12 months after the jurisdiction becomes a participating jurisdiction.

(7) Before a responsible Minister appoints a member of a State or Territory Board the vacancy to be filled is to be publicly advertised.

(8) The National Agency may assist a responsible Minister in the process of appointing members of a State or Territory Board, including in the advertising of vacancies.

(9) It is not necessary to advertise a vacancy in the membership of a State or Territory Board before appointing a person to act in the office of a member.

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**Note.**

The general interpretation provisions applicable to this Law under [section 6](#) confer power to appoint acting members of a State or Territory Board.

(10) This section does not limit clause 11 of Schedule 4.