

Health Practitioners Competence Assurance Amendment Bill

Government Bill

As reported from the Health Committee

Commentary

Recommendation

The Health Committee has examined the Health Practitioners Competence Assurance Amendment Bill and recommends that it be passed with the amendments shown.

The bill as introduced

This bill proposes to amend the Health Practitioners Competence Assurance Act 2003. The Act provides mechanisms for ensuring that health practitioners are competent and fit to practise their professions. It provides for appointed authorities to be responsible for the registration and oversight of health practitioners.

Many of the amendments proposed in the bill arise from two reviews of the Act, completed in 2009 and 2012. The amendments include the following:

- Under the Act, health practitioners, employers, and the Health and Disability Commissioner can inform responsible authorities when they are concerned about the competence of a health practitioner. Clause 27(1) would widen this so that any person—including patients and members of the public—could raise issues with an authority if they have concerns about a practitioner’s practice, conduct, or competence.
- Clause 27(2) would insert a provision specifying that one function of authorities is to promote and facilitate inter-disciplinary collaboration and co-operation in the delivery of health services.
- Clause 28 provides for independent performance reviews of authorities, looking at how effectively and efficiently authorities perform their functions. The reviews would be conducted at least every 5 years.

- Clause 29 provides for the collection of workforce data. It would require authorities to provide certain information to the Government about their registered practitioners.
- Clause 30 would require each authority to issue a policy about the naming of health practitioners in notices that they publish under section 157(1) of the Act setting out the effect of orders, directions, and findings they have made.

Our recommendations

This commentary discusses the main issues that we considered and our main recommended amendments. It does not mention minor, consequential, or technical amendments.

Revoking the accreditation of an educational institution

Under section 12 of the Act, responsible authorities must prescribe the qualifications that a health practitioner is required to have in order to provide a health service. This may include designating a degree or diploma from an educational institution accredited by the authority.

We recommend inserting clause 4A to incorporate two new subsections into section 12. New subsection (5) would make it clear that a responsible authority could revoke the accreditation of an educational institution. Authorities could revoke accreditation when concerns about the quality of education are not being addressed. We expect that authorities would consult appropriately before deciding to revoke an accreditation.

Under our new section 12(6), an authority's revocation of an educational institution's accreditation would not affect the status of practitioners already registered with the authority on the basis of having a degree or diploma from that educational institution.

Section 14 of the Act enables an authority to amend, revoke, or replace a notice given under section 12 prescribing qualifications required to provide a health service. Our proposed clause 4B, inserting new section 14(1A), clarifies that the amendment, revocation, or replacement of a notice would not affect the existing registration of a health practitioner whose registration was based on having a qualification prescribed under a notice before the notice was amended, revoked, or replaced.

Electronic communications

We recommend amending the bill to reflect the common use of electronic communications. New clauses 5A and 5B would amend sections 29 and 31, respectively, to provide for practising certificates to be issued electronically.

New clause 5C would replace section 33 to include provision for the surrender of a practising certificate that was issued electronically. Under new section 33, a practising certificate that was issued electronically would be surrendered by the practitioner acknowledging receipt of the notice informing them that their name has been removed from the register, or that their registration or practising certificate is suspen-

ded, or that their practising certificate is required for endorsement. This acknowledgment must be given within 14 days of receiving the notice.

New clause 29A would replace section 140 to require practitioners to give to the responsible authority their electronic address for service in addition to their postal address for service. Reference to an electronic address allows flexibility, as it would not necessarily need to be an email address.

New clause 29C would amend section 156 to provide for the electronic transmission of notices or documents, and sets out when notices and documents transmitted electronically are treated as having been received.

Options for dealing with practitioners who have been found guilty of an offence

We recommend inserting clause 13B, new section 67A, to allow authorities discretion in deciding how to deal with practitioners who have committed a specified offence. Under new section 67A(2), the authority could choose between referring the case to a professional conduct committee or—with the consent of the practitioner under new section 67A(3)—ordering the practitioner to undergo an examination, treatment, counselling, or therapy. Under new section 67A(4)(b), the person who has examined, treated, counselled, or provided therapy would have to report to the authority on the outcome.

Temporary suspension of practising certificate

Clause 15 would amend section 69 to provide for the interim suspension of a practising certificate if a health practitioner has engaged in certain conduct that is being investigated or prosecuted and the responsible authority believes the conduct poses a risk of serious harm to the public.

We propose that this amendment be separated from section 69 and be inserted in a new section 69A, with provision for a practising certificate to be suspended without prior notice to the health practitioner concerned. We consider that this would be justified in cases where it is considered that there is a risk of serious harm to the public. The responsible authority would have to ensure that the health practitioner concerned could make submissions and be heard on the matter within 20 working days of the order being made. The authority could decide to continue the suspension until the completion of the investigation or prosecution, or revoke a suspension order as soon as practicable if it is satisfied that the conduct of the practitioner does not pose a risk of serious harm to the public. When revoking a suspension order, an authority could order that 1 or more conditions be included in the practitioner's scope of practice.

Professional conduct committee placing conditions on a practitioner's scope of practice

Section 80 of the Act sets out the recommendations or determinations that a professional conduct committee must make. We recommend inserting clause 15A, new section 80(3)(ba), to allow committees to place conditions on a practitioner's scope of

practice rather than just recommending (under section 80(2)(c)) that the authority review the scope of practice. Under section 80(4), the practitioner (and any complainant) could make a submission before such a determination was made.

Our recommended new clause 15B would insert new section 81(4). It would require the Registrar of the authority to take all steps necessary to give effect to the conditions that a committee has put on a practitioner's scope of practice.

We also recommend inserting clause 25A to amend section 106. The amendment would allow health practitioners to appeal to the District Court against a committee's determination to place conditions on their scope of practice. Under our recommended new clause 25B, amending section 111, the court could direct the professional conduct committee to reconsider its determination.

Costs of Health Practitioners Disciplinary Tribunal

Clause 22 of the bill would insert new section 103A into the Act, requiring authorities to pay the administration costs of the Health Practitioners Disciplinary Tribunal. Under new section 103A(2), the amount payable by each authority would be determined by reference to the number of health practitioners who are registered with that authority.

We consider that an authority's contribution to the tribunal's costs should be based on the number of practitioners with a current practising certificate rather than the number of practitioners who are registered with the authority. We recommend amending new section 103A(2)(b) to refer to practitioners who are registered with an authority and who hold a current practising certificate.

Wider consultation before recommending that authorities amalgamate

Clause 26 provides for the amalgamation of responsible authorities. Proposed new section 116A(2)(a) would require the Minister to consult with the authorities concerned before recommending an amalgamation. We consider that the Minister should also have to consult with other affected groups, such as professional bodies. We recommend amending new section 116A(2) to require the Minister also to consult with any other organisations that the Minister considers would be affected by the amalgamation.

Registration to continue when authorities amalgamate

The bill is silent on what would happen to existing registrations when authorities amalgamate. We recommend inserting a transitional provision in new Schedule 1AA to make it clear that a practitioner registered with an amalgamating authority is to be treated, after the amalgamation, as being registered with the new authority.

Cultural competence

Section 118 of the Act sets out the functions of responsible authorities. Under section 118(i), one of their functions is to set standards of cultural competence to be observed by members of the profession.

We recommend inserting subclause (1A) into clause 27 to provide that standards of cultural competence under section 118(i) must include standards that will enable “effective and respectful interaction with Māori”.

We note that performance reviews under clause 28, proposed new section 122A, would provide an opportunity to scrutinise an authority’s standards of cultural competence.

Performance reviews

Consultation on terms of reference

Clause 28 sets out proposed provisions for authorities’ performance reviews. Under proposed new section 122A(4), the Ministry of Health, in consultation with an authority, would set the terms of reference for performance reviews. We agree with submitters that other organisations, such as professional bodies, should be consulted as appropriate about the terms of reference. We recommend inserting new section 122A(4A) to allow the ministry to consult any other person, organisation, or group about the terms of reference.

Annual reports to include information from performance reviews

Performance review reports would contain any recommendations for improvement. However, the bill does not provide a mechanism for addressing such recommendations. We recommend amending clause 28 to insert new section 122B to require authorities to set out in their annual reports to the Minister:

- which recommendations from a performance review they propose to implement, and the time frame for implementing them
- which recommendations they do not propose to implement, and the reasons for not implementing them.

Workforce data should include gender and ethnicity

Clause 29 would insert new section 134A, requiring the provision of workforce data by authorities. Under section 134A(1)(b), data to be provided includes a health practitioner’s name, date of birth, employer, place of work, and average hours worked.

The Government uses such data to help with workforce planning. We note that having a sustainable, appropriately distributed health workforce contributes to public safety.

We consider that the information specified in new section 134A should be wider, to allow better workforce planning. Data about ethnicity and gender should be collected too. We recommend adding ethnicity and gender to new section 134A(1)(b).

Removal or suspension from an overseas register

Section 147 of the Act is about practitioners who are registered by virtue of an overseas qualification. Under subsection (1), authorities may review the registration of a practitioner whose qualification is from overseas if they are satisfied that (a) their overseas qualification has been cancelled or suspended, or (b) as a result of disciplinary action against them, they have been removed or suspended from an overseas authority's register.

We consider that the authority should be able to review a practitioner's registration under paragraph (b) regardless of whether the practitioner attained their qualification overseas or in New Zealand. Subsection (1)(b) should cover any practitioner registered with an overseas authority. To this effect, we recommend inserting new clause 29B to replace section 147(1).

Orders of an authority

We recommend inserting clause 29D, new sections 156A and 156B. New section 156A deals with the content and service of orders made by an authority. It would consolidate certain existing provisions in the Act and ensure these requirements are applied consistently to all orders. Subsection (1) would require an order to be in writing, to be signed by the Registrar of the authority, and to state the reasons why it was made and the right to appeal to the District Court against the order. Subsection (2) would require the Registrar to ensure that a copy of the order is given as soon as practicable to the health practitioner concerned, any employer of the practitioner, and any person who works in partnership or association with the practitioner. The Registrar would also have to take all administrative steps necessary to give effect to the order.

For consistency, we propose also to amend the timeframe for serving an order on other people, as set out in clauses 7, 8, 9, 11, and 12, to "as soon as practicable after the making of the order".

Date when orders take effect

New section 156B would clarify the date on which orders made by an authority or the Health Practitioners Disciplinary Tribunal take effect. It would provide that orders could only take effect on the day the practitioner receives (or is treated as having received) the order, or any later date specified in the order.

Appendix

Committee process

The Health Practitioners Competence Assurance Amendment Bill was referred to the committee on 20 February 2018. The closing date for submissions was 5 April 2018. We received and considered 49 submissions from interested groups and individuals. We heard oral evidence from 23 submitters.

We received advice from the Ministry of Health.

Committee membership

Louisa Wall (Chairperson)

Dr Liz Craig

Matt Doocey

Anahila Kanongata'a-Suisuiki

Dr Shane Reti

Hon Nicky Wagner

Angie Warren-Clark

Hon Michael Woodhouse

**Health Practitioners Competence Assurance
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Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Dr David Clark

Health Practitioners Competence Assurance Amendment Bill

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Schedule 1

New Schedule 1AA inserted

Schedule 2

Consequential amendments

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Health Practitioners Competence Assurance Amendment Act **2018**.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Health Practitioners Competence Assurance Act 2003 (the **principal Act**).

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Part 1 Amendments to principal Act

- 3A Section 5 amended (Interpretation)**
In section 5(1), repeal the definition of **medical practitioner**.
- 4 New section 5A inserted (Transitional, savings, and related provisions)** 5
After section 5, insert:
- 5A Transitional, savings, and related provisions**
The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.
- 4A Section 12 amended (Qualifications must be prescribed)** 10
After section 12(4), insert:
- (5) An authority may, at any time, give notice to an educational institution accredited under subsection (2)(a) that the institution’s accreditation is revoked.
- (6) The revocation of an educational institution’s accreditation does not affect the registration of a health practitioner who qualified to practise within a scope of practice on the basis of having a degree or diploma from that institution. 15
- 4B Section 14 amended (Provisions relating to notices under sections 11 and 12)**
After section 14(1), insert:
- (1A) The amendment, revocation, or replacement of a notice published under section 12 does not affect the registration of a health practitioner who qualified to practise within a scope of practice on the basis of having had a prescribed qualification for that scope of practice under the notice before the notice was amended, revoked, or replaced. 20
- 5 Section 17 amended (Applications for registration of health practitioners and authorisations of scopes of practice)** 25
- (1) After section 17(4), insert:
- (4A) If any fine, costs, or expenses imposed on a former health practitioner by or under a former registration Act remain unpaid, the Registrar may decline to do any act, or to permit any act to be done, in relation to the registration of that health practitioner until the fine, costs, or expenses are paid. 30
- (2) In section 17(5), after “subsection (4)”, insert “or **(4A)**”.
- (3) Replace section 17(6) with:
- (6) Subsections (4) and **(4A)** override subsection (3).
- (7) In **subsection (4A)**,— 35

	former health practitioner means an applicant who, at any time, has been— (a) registered under a former registration Act; or (b) deemed to be registered under a former registration Act former registration Act has the meaning given to it by section 178(1).	
5A	<u>Section 29 amended (Decisions of authority as to practising certificate and scope of practice)</u> Replace section 29(4)(a) with: (a) <u>issue the certificate to the applicant electronically or in hard copy form; and</u>	5
5B	<u>Section 31 amended (Interim practising certificate)</u> In section 31(1), replace “issue the interim practising certificate” with “<u>issue the interim practising certificate (electronically or in hard copy form)</u>”.	10
5C	<u>Section 33 replaced (Surrender of practising certificate)</u> Replace section 33 with:	
33	<u>Surrender of practising certificate</u> (1) <u>This section applies to a health practitioner who receives notice that his or her—</u> (a) <u>name is removed from the register; or</u> (b) <u>registration or practising certificate is suspended; or</u> (c) <u>practising certificate is required to be endorsed by the Registrar under section 32.</u> (2) <u>If the practitioner’s practising certificate was issued electronically, the practitioner must, within 14 days after receiving the notice, send to the Registrar an acknowledgement of receipt of the notice.</u> (3) <u>If the practitioner’s practising certificate was issued in hard copy form, the practitioner must, within 14 days after receiving the notice, send to the Registrar his or her practising certificate.</u> (4) <u>Every person commits an offence and is liable on conviction to a fine not exceeding \$2,000 who, being required to comply with subsection (2) or (3), fails to comply with that subsection.</u>	15 20 25 30
6	<u>Section 36 amended (When authority may review health practitioner’s competence)</u> After section 36(3), insert: (3A) An authority that receives a notice under section 34(1) or (2) must inform the person from whom the notice was received as to whether it has decided to con-	35

duct a review of the competence of the health practitioner who is the subject of the notice.

7 Section 38 amended (Orders concerning competence)

After Replace section 38(3) and (4) with, ~~insert~~:

- (3A) If an order is made under ~~subsection (1)~~ this section following receipt of a notice given under section 34(1) or (2), the Registrar of the authority must, ~~within 5 working days~~ as soon as practicable after the making of the order, inform the person from whom the notice was received that an order under subsection (1)(a), (b), (c), or (d), as the case may be, has been made. 5

8 Section 39 amended (Interim suspension of practising certificate or inclusion of conditions in scope of practice pending review or assessment) 10

After Replace section 39(3), ~~insert~~(4) with:

- (3A4) If ~~the authority makes an order under subsection (2)~~ is made under this section following a review conducted on receipt of a notice given under section 34(1) or (2), the Registrar of the responsible authority must ensure that —, as soon as practicable after the making of the order, inform the person from whom the notice was received that an order under subsection (2)(a), (b)(i), or (b)(ii), as the case may be, has been made. 15
- (a) ~~a copy of the order is given, within 5 working days after the making of the order, to—~~ 20
- (i) ~~the health practitioner concerned; and~~
 - (ii) ~~any employer of the practitioner; and~~
 - (iii) ~~any person who works in partnership or association with the practitioner; and~~
 - (iv) ~~if the review was or is to be conducted after receipt of a notice given under section 34(1) or (2), the person from whom that notice was received; and~~ 25
- (b) ~~all administrative steps are taken to give effect to the order.~~

9 Section 48 amended (Interim suspension of practising certificate or inclusion of conditions in scope of practice in cases of suspected inability to perform required functions due to mental or physical condition) 30

- (1) In section 48(1), after “considers”, insert “(whether or not as a result of a notice given under section 45 or of a recommendation made under section 79)”.
- (2) In section 48(3), replace “subsection (1)” with “subsection (2)”.
- (3) Replace section 48(5) and (6) with: 35
- (5) If an order is made under this section following receipt of a notice given under section 45, the Registrar of the authority must, as soon as practicable after the making of the order, inform the person from whom the notice was received that

	an order under subsection (2)(a), (b)(i), or (b)(ii), as the case may be, has been made.	
(3)	Replace section 48(6) with:	
(6)	If the authority makes an order under this section, the Registrar of the authority must ensure that—	5
(a)	a copy of the order is given, within 5 working days after the making of the order, to—	
(i)	the health practitioner concerned; and	
(ii)	any employer of the practitioner; and	
(iii)	any person who works in partnership or association with the practitioner; and	10
(b)	all administrative steps are taken to give effect to the order.	
(7)	If an order is made under this section following receipt of a notice given under section 45, the authority must, within 5 working days after the making of the order, inform the person from whom the notice was received that an order under subsection (2)(a) or (b), as the case may be, has been made.	15
10	Section 49 amended (Power to order medical examination)	
(1)	Replace the heading to section 49 with “ Power to order examination or testing ”.	
(2)	In section 49, replace “a medical practitioner” with “an assessor” in each place.	20
(3)	In section 49, replace “the medical practitioner” with “the assessor” in each place.	
(4)	Replace section 49(5) with:	
(5)	An assessor who conducts an examination or a test under this section may consult any other practitioner who the assessor considers is able to assist in the completion of the examination or test.	25
(5)	After section 49(7), insert:	
(8)	In this section and section 50, assessor means a medical practitioner or any other health practitioner.	
11	Section 50 amended (Restrictions may be imposed in case of inability to perform required functions)	30
(1)	In section 50(1)(a), replace “medical practitioner” with “assessor” in each place.	
(2)	<u>Replace section 50(5), (6), and (7) with:</u>	
(2)	<u>Replace section 50(6)(a) with:</u>	35
(a)	a copy of the order is given, within 5 working days after the making of the order, to—	

(i) the health practitioner concerned; and (ii) any employer of the practitioner; and (iii) any person who works in partnership or association with the practitioner; and	
(b) take all administrative steps necessary to give effect to the order.	5
(3) After section 50(6), insert:	
(6A5) If an order is made under subsection (3) or (4) following receipt of a notice given under section 45, the <u>Registrar of the</u> authority must, within 5 working days as soon as practicable after the making of the order, inform the person from whom the notice was received that an order under subsection (3) or (4), as the case may be, has been made.	10
12 Section 51 amended (Revocation of suspension or conditions)	
(1) In section 51(1), replace “section 39 or section 50” with “section 39, 48, <u>50</u>, or 50 67A”.	
(2) In section 51(2), replace “section 39 or section 50” with “section 39, 48, <u>50</u>, 67A, or 50 69A”.	15
(3) In section 51(3), replace “section 39 or section 50” with “section 39, 48, <u>50</u>, 67A, or 50 69A”.	
(4) Replace section 51(6)(a) with:	
(a) a copy of the order is given, within 5 working days after the making of the order, to— (i) the health practitioner concerned; and (ii) any employer of the practitioner; and (iii) any person who works in partnership or association with the practitioner; and (iv) any person who,— (A) under section 39(3A)(a)(iv), has received a copy of an order made under section 39 to which the revocation relates; or (B) under section 48(7) or, 50(6A), or 67A(8), has received a copy of an order made under section 48 or, 50, or 67A to which the revocation relates; and	20
(6) <u>If an order is made under this section, the Registrar of the responsible authority must, as soon as practicable after the making of the order,—</u>	
(a) <u>ensure that a copy of the order is given to any person who,—</u> (i) <u>under section 39(4), has received a copy of an order made under section 39 to which the revocation relates; or</u>	35

- (ii) under **section 48(5) or 50(5)**, has received a copy of an order made under section 48 or 50 to which the revocation relates; and
- (b) take all administrative steps necessary to give effect to the order.

13 Section 58 amended (Reporting requirements)

In section 58(1), replace “6 months” with “1 year”.

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13A Section 65 amended (Response to complaints referred by Health and Disability Commissioner)

After section 65(2), insert:

- (3) If the authority decides to refer a complaint to a professional conduct committee, it must do so as soon as is reasonably practicable after it makes that decision.

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13B New section 67A inserted (Action to be taken by authority on receipt of notice of conviction)

After section 67, insert:

67A Action to be taken by authority on receipt of notice of conviction

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- (1) This section applies if a responsible authority receives a notice of conviction—
 - (a) given under section 67(a); or
 - (b) given under section 67(b) and the conviction to which the notice relates—
 - (i) is for an offence punishable by imprisonment or a fine of or exceeding \$1,000; or
 - (ii) is otherwise an offence that the authority considers raises concerns about the appropriateness of the conduct or about the safety of the practice of the health practitioner.
- (2) If this section applies, the responsible authority must, as soon as is reasonably practicable,—
 - (a) refer the notice of conviction to a professional conduct committee; or
 - (b) order the health practitioner to—
 - (i) undergo any specified medical examination and treatment; or
 - (ii) undergo any specified psychological or psychiatric examination, counselling, or therapy; or
 - (iii) attend any specified course of treatment or therapy for alcohol or drug abuse.
- (3) The responsible authority may not make an order under **subsection (2)(b)** unless the health practitioner consents—
 - (a) to the examination, treatment, counselling, or therapy concerned; and

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	(b)	<u>to the provision to the responsible authority of a report on the outcome of the examination, treatment, counselling, or therapy.</u>	
(4)		<u>An order made under subsection (2)(b) must specify—</u>	
	(a)	<u>the date by which the examination, treatment, counselling, or therapy is to be conducted, being a date that is not earlier than the date on which the order is, under section 156, to be treated as having been received by the health practitioner concerned; and</u>	5
	(b)	<u>the date by which the person who has examined, treated, counselled, or provided therapy to the health practitioner must report to the responsible authority the outcome of that examination, treatment, counselling, or therapy.</u>	10
(5)		<u>After receiving a report referred to in subsection (4)(b), the responsible authority must promptly—</u>	
	(a)	<u>arrange for a copy of the report to be sent to the health practitioner to whom the report relates; and</u>	15
	(b)	<u>consider the report.</u>	
(6)		<u>After considering a report, the responsible authority may—</u>	
	(a)	<u>take no further action in respect of the notice of conviction; or</u>	
	(b)	<u>order that conditions be included in the health practitioner's scope of practice if the authority is satisfied that the practitioner is able to perform the functions required for the practice of his or her profession, but only if those conditions are observed; or</u>	20
	(c)	<u>refer the notice of conviction to a professional conduct committee.</u>	
14		Section 68 amended (Referral of complaints and notices of conviction to professional conduct committee)	25
(1)		Replace the heading to section 68 with “Referral of complaints, notices of conviction, and information to professional conduct committee”.	
(2)		Replace section 68(2) with:	
(2)		If a responsible authority receives a notice of conviction given under section 67(a), the authority must, as soon as is reasonably practicable, refer the notice to a professional conduct committee.	30
(2A)		If a responsible authority receives a notice of conviction given under section 67(b), the authority must, as soon as is reasonably practicable, refer the notice to a professional conduct committee if—	
	(a)	the conviction is for an offence punishable by imprisonment or a fine of or exceeding \$1,000; or	35
	(b)	the authority otherwise considers that the conviction raises concerns about the appropriateness of the conduct or about the safety of the practice of the health practitioner.	

(3) In section 68(3), after “refer”, insert “the information and”.

14 Section 68 replaced (Referral of complaints and notices of conviction to professional conduct committee)

Replace section 68 with:

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|-----------|--|----|
| 68 | <u>Referral of information to professional conduct committee</u> | 5 |
| (1) | <u>If the responsible authority considers that information in its possession raises 1 or more questions about the appropriateness of the conduct or the safety of the practice of a health practitioner, it may refer the information and any or all of those questions to a professional conduct committee.</u> | |
| (2) | <u>If at any time while a matter concerning a health practitioner is under consideration by a professional conduct committee the responsible authority thinks that a further matter concerning that practitioner should form part of the committee’s consideration, the authority may refer the further matter to the committee.</u> | 10 |

15 Section 69 amended (Interim suspension of practising certificate pending prosecution or investigation) 15

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|-----|--|----|
| (1) | <u>Replace the heading to section 69 with “Inclusion of conditions in health practitioner’s scope of practice or interim suspension of practising certificate pending prosecution or investigation if appropriateness of practitioner’s conduct in doubt”.</u> | |
| (2) | <u>In section 69(4), replace “revoke” with “order the revocation of”.</u> | 20 |
| (3) | <u>Replace section 69(5) with:</u> | |
| (5) | <u>An order made under subsection (4) takes effect immediately.</u> | |

15AA New section 69A inserted (Interim suspension of practising certificate pending prosecution or investigation if risk of harm to public) 25

After section 69, insert:

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|------------|--|----|
| 69A | <u>Interim suspension of practising certificate pending prosecution or investigation if risk of harm to public</u> | |
| (1) | <u>This section applies if a practitioner is alleged to have engaged in conduct that—</u> | |
| (a) | <u>is relevant to—</u> | 30 |
| | (i) <u>a criminal proceeding that is pending against the practitioner; or</u> | |
| | (ii) <u>an investigation about the practitioner that is pending under this Act or the Health and Disability Commissioner Act 1994; and</u> | |
| (b) | <u>in the opinion of the responsible authority held on reasonable grounds, poses a risk of serious harm to the public.</u> | 35 |
| (2) | <u>If this section applies, the responsible authority may order that the health practitioner’s practising certificate be suspended.</u> | |

- (3) The responsible authority is not obliged to give the health practitioner notice that the authority intends to make an order under this section.
- (4) The responsible authority must ensure that the health practitioner concerned is given the opportunity to—
- (a) make written submissions on the matter; and 5
 - (b) be heard on the matter, either personally or by his or her representative, within 20 working days of the making of the order.
- (5) The responsible authority must revoke an order made under **subsection (2)** as soon as practicable after—
- (a) the authority is satisfied that the conduct of the health practitioner does not pose a risk of serious harm to the public; or 10
 - (b) the criminal proceeding on which the practitioner's suspension is based is disposed of otherwise than by his or her conviction; or
 - (c) if the criminal proceeding on which the practitioner's suspension is based results in the health practitioner being convicted, the authority is satisfied that no disciplinary action in respect of that conviction is to be taken or continued under this Act or the Health and Disability Commissioner Act 1994; or 15
 - (d) if the investigation on which the practitioner's suspension is based has been completed, the authority is satisfied that the practitioner will not be charged as a result of the investigation. 20
- (6) When revoking an order under **subsection (5)**, the responsible authority may order that 1 or more conditions be included in the health practitioner's scope of practice.
- 15 Section 69 amended (Interim suspension of practising certificate pending prosecution or investigation)** 25
- (1) ~~Replace section 69(1) and (2) with:~~
- (1) ~~This section applies if a health practitioner is alleged to have engaged in conduct that is relevant to—~~
- (a) ~~a criminal proceeding that is pending against the practitioner; or~~ 30
 - (b) ~~an investigation about the practitioner that is pending under the Health and Disability Commissioner Act 1994 or under this Act.~~
- (2) ~~The responsible authority may order that—~~
- (a) ~~the practising certificate of the health practitioner be suspended if, in the opinion of the authority held on reasonable grounds, the conduct in which the practitioner is alleged to have engaged poses a risk of serious harm to the public; or~~ 35
 - (b) ~~1 or more conditions be included in the health practitioner's scope of practice if, in the opinion of the authority held on reasonable grounds,~~

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	the conduct in which the practitioner is alleged to have engaged casts doubt on the appropriateness of the practitioner's conduct in his or her professional capacity.	
(2)	Replace section 69(4)(a) with:	
	(a) the authority is satisfied that—	5
	(i) the practitioner's conduct does not pose a risk of serious harm to the public, in the case of an order made under subsection (2)(a) ;	
	or	
	(ii) the appropriateness of the practitioner's conduct in his or her professional capacity is no longer in doubt, in the case of an order	10
	made under subsection (2)(b) ; or	
(3)	Replace section 69(5) with:	
(5)	An order made under subsection (2) or a revocation of an order under sub-	
	section (4) takes effect immediately and the Registrar of the authority must	
	ensure that—	15
	(a) the following persons are notified as soon as practicable that the order or	
	revocation has been made:	
	(i) the health practitioner concerned; and	
	(ii) any employer of the practitioner; and	
	(iii) any person who works in partnership or association with the prac-	20
	titioner; and	
	(b) all administrative steps are taken to give effect to the order or revocation.	
15A	<u>Section 80 amended (Recommendations and determinations of</u>	
	<u>professional conduct committee)</u>	
	After section 80(3)(b), insert:	25
	(ba) that, from a specified date, 1 or more conditions be included in the	
	health practitioner's scope of practice:	
15B	<u>Section 81 amended (Procedure after committee makes recommendation</u>	
	<u>or determination)</u>	
	After section 81(3), insert:	30
(4)	The Registrar of an authority that receives notice of a determination made	
	under section 80(3)(ba) must take all administrative steps necessary to give	
	effect to the determination.	
16	<u>New section 92A inserted (Chairperson may prohibit publication of names</u>	
	<u>pending hearing of charge)</u>	35
	After section 92, insert:	

92A Chairperson may prohibit publication of names pending hearing of charge

- (1) At any time after a notice has been given to a health practitioner under section 92(1), the parties to the proceedings may jointly apply to the chairperson of the Tribunal for an order prohibiting the publication of the name, or any particulars of the affairs, of—
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 - (a) the health practitioner; or
 - (b) any other person; or
 - (c) the health practitioner and any other person.
- (2) If, after having regard to the interests of any person (including, without limitation, the privacy of any complainant) and to the public interest, the chairperson of the Tribunal is satisfied that it is desirable to do so, the chairperson may make the order sought.
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- (3) An order continues in force until whichever of the following occurs first:
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 - (a) the expiry of any period specified in the order:
 - (b) the order is revoked by the chairperson of the Tribunal:
 - (c) the charge against the health practitioner is heard by the Tribunal.
- (4) A person who contravenes an order without reasonable excuse commits an offence and is liable on conviction to a fine not exceeding \$10,000.

17 Section 93 amended (Interim suspension of registration or imposition of restrictions on practice)
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- (1) Replace section 93(1) with:
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 - (1) **Subsections (1A) and (1B)** apply at any time after a notice has been given to a health practitioner under section 92(1).
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 - (1A) If, in the opinion of the Tribunal held on reasonable grounds, the conduct in which the health practitioner is alleged to have engaged poses a risk of serious harm to the public, the Tribunal may order that, until the charge to which the notice relates has been disposed of, the registration of the practitioner be suspended.
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 - (1B) If the Tribunal is satisfied that it is necessary or desirable to do so, having regard to the need to protect the health or safety of members of the public, the Tribunal may order that, until the charge to which the notice relates has been disposed of, the health practitioner may practise as a health practitioner only in accordance with conditions stated in the order.
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 - (2) Replace section 93(5) and (6) with:
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 - (5) The appropriate executive officer of the Tribunal must ensure that a copy of the order is promptly given to—
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 - (a) the health practitioner concerned; and
 - (b) the responsible authority; and

(c)	any employer of the practitioner.	
(5A6)	If so directed, the responsible authority must ensure that a copy of the order is promptly given to any other persons specified by the Tribunal.	
(7)	<u>On receiving a copy of an order under subsection (5)(b), the Registrar of the responsible authority must take all administrative steps necessary to give effect to the order.</u>	5
18	Section 94 amended (Health practitioner may apply for revocation of order)	
(1)	In section 94(1), replace “section 93(1)” with “ section 93(1A) or (1B) ”.	
(2)	In section 94(3)(b)(ii), replace “section 93(1)(b)” with “ section 93(1B) ”.	10
(3)	In section 94(4), replace “section 93(1)” with “ section 93(1A) or (1B) ”.	
19	Section 95 amended (Hearings to be public unless Tribunal orders otherwise)	
	In section 95(7), after “who”, insert “, without reasonable excuse,”.	
20	Section 102 amended (Orders limiting restoration of registration)	15
(1)	Replace section 102(1) with:	
(1)	When making an order that the registration of a health practitioner be cancelled, the Tribunal may do either or both of the following:	
(a)	fix a date before which the person may not apply for registration again:	
(b)	impose 1 or more conditions that the person must satisfy before the person may apply for registration again.	20
(2)	In section 102(2), after “conditions”, insert “imposed under subsection (1)(b) ”.	
(3)	In section 102(3), replace “under” with “of the kind specified in”.	
(4)	After section 102(3), insert:	25
(3A)	If the Tribunal fixes a date before which the person may not apply for registration again, no application for registration may be made by the person before that date.	
21	Section 103 amended (Orders of Tribunal)	
(1)	After section 103(1), insert:	30
(1A)	<u>The appropriate executive officer of the Tribunal must ensure that a copy of an order made under section 92(4) is given to the health practitioner concerned.</u>	
(2)	After section 103(2), insert:	
(2A)	If the Tribunal makes any 1 or more of the orders authorised by section 101(1)(a) to (d) against a health practitioner who is an employee, the appropri-	35

ate executive officer must, if so directed by the Tribunal, ensure that a copy of each order is given to the health practitioner's employer.

- (3) Repeal section 103(3) and (4).

22 New section 103A inserted (Resourcing Tribunal's administration costs)

Before section 104, insert:

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103A Resourcing Tribunal's administration costs

- (1) The responsible authorities must pay the Tribunal's general administration costs.
- (2) Each responsible authority must pay to the Tribunal at the beginning of each financial year a proportion of the Tribunal's estimated general administration costs for that financial year, with the proportion being determined—
 - (a) by the Tribunal; and
 - (b) by reference to the number of health practitioners registered with the authority who at the beginning of the financial year hold a current practising certificate.
- (3) If the Tribunal's estimated general administration costs for any financial year exceed the Tribunal's actual general administration costs for that year, the Tribunal must—
 - (a) refund to the authorities, on a proportional basis, the amount of the excess; and
 - (b) determine the proportion payable to each authority by reference to the amount paid by the authority toward the estimated costs.
- (4) If the Tribunal's estimated general administration costs for any financial year are less than the Tribunal's actual general administration costs for that year, the Tribunal may at any time (whether or not the year has ended)—
 - (a) require the authorities to pay, on a proportional basis, the shortfall in costs; and
 - (b) determine the proportion payable by each authority by reference to the amount paid by the authority toward the estimated costs.
- (5) The Tribunal must provide to each responsible authority at the end of each financial year a statement showing a full breakdown of its general administration costs for that financial year.
- (6) In this section, **general administration costs** means all expenses payable by or on behalf of the Tribunal in connection with the administration of the Tribunal that are not payable in respect of any proceeding under section 104(1)(a) or (b) (including, without limitation, insurance costs and member training costs).

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23 Section 104 amended (Resourcing of Tribunal and nomination of executive officers)

- (1) Replace the heading to section 104 with “**Resourcing costs of proceedings and nomination of executive officers**”.
- (2) In section 104(1)(c), after “Tribunal”, insert “for the purpose of the proceeding”.

24 New section 104A inserted (Recovery of costs, fees, and expenses)

After section 104, insert:

104A Recovery of costs, fees, and expenses

The following are recoverable in any court of competent jurisdiction by the Tribunal from an authority as a debt due to the Tribunal:

- (a) all costs payable by an authority under **section 103A**; and
- (b) all fees and expenses payable by an authority under section 104(1)(a) and (b).

25 Section 105 amended (Recovery of fines and costs)

Replace the heading to section 105 with “**Recovery of costs and expenses of Health and Disability Commissioner or Director of Proceedings**”.

25A Section 106 amended (Rights of appeal)

- (1) After section 106(1), insert:
- (1A) A person may appeal to the District Court against any determination made by a professional conduct committee under **section 80(3)(ba)** that 1 or more conditions be included in the person’s scope of practice.
- (2) After section 106(4), insert:
- (5) In subsection (4) and in sections 107 to 109 and 111, **order** includes a determination made by a professional conduct committee under **section 80(3)(ba)**.

25B Section 111 amended (Court may refer matter back for reconsideration)

In section 111(1), after “authority”, insert “, professional conduct committee.”.

26 New sections 116A to 116D and cross-heading inserted

After section 116, insert:

Amalgamation of authorities

116A Authorities may be amalgamated

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

- (a) amalgamate an existing authority with 1 or more other existing authorities; and
 - (b) either—
 - (i) continue the existing authorities as one of the existing authorities; or
 - (ii) continue the existing authorities as a new authority; and
 - (c) provide for any arrangement to complete the amalgamation and provide for the subsequent management and operation of the amalgamated authority; and
 - (d) amend any enactment (for example, this Act) to reflect and give effect to the amalgamation effected by the order.
 - (2) The Minister may recommend that an Order in Council be made only if—
 - ~~(a) the Minister has consulted the authorities concerned; and~~
 - (a) the Minister has consulted—
 - (i) the authorities concerned; and
 - (ii) any other organisations that the Minister considers will be affected by the amalgamation; and
 - (b) the Minister is satisfied that it is in the public interest that the order be made.
 - (3) An Order in Council is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- 116B Effect of amalgamation**
- On the date on which existing authorities amalgamate,—
- (a) the amalgamated authority succeeds to all the property, rights, powers, and privileges of each of the amalgamating authorities; and
 - (b) the amalgamated authority succeeds to all the liabilities and obligations of each of the amalgamating authorities; and
 - (c) proceedings pending by, or against, an amalgamating authority may be continued by, or against, the amalgamated authority; and
 - (d) a conviction, ruling, order, or judgment in favour of, or against, an amalgamating authority may be enforced by, or against, the amalgamated authority.
- 116C Final report of authority**
- (1) As soon as practicable after an authority (A) has been amalgamated under **section 116A**, the amalgamated authority must prepare and forward to the Minister a final report on A's operations.
 - (2) The final report must be for the period (the **report period**)—

(a) commencing at the start of the financial year in which A was amalgamated; and (b) ending with the close of the day immediately preceding the date on which A was amalgamated. (3) The final report must include audited financial statements for the report period. (4) The Minister must present a copy of the final report to the House of Representatives within 16 sitting days after receiving it. (5) In this section, financial year has the same meaning as in section 134.	5
116D Members not entitled to compensation for loss of office No member of an authority is entitled to any compensation for loss of office resulting from an Order in Council made under section 116A.	10
27 Section 118 amended (Functions of authorities) (1) Replace section 118(f) with: (f) to receive information from any person about the practice, conduct, or competence of health practitioners and, if it is appropriate to do so, act on that information: (1A) <u>In section 118(i), replace “cultural competence” with “cultural competence (including competencies that will enable effective and respectful interaction with Māori)”.</u> (2) After section 118(j), insert: (ja) to promote and facilitate inter-disciplinary collaboration and co-operation in the delivery of health services:	15 20
27A Section 120 amended (Membership of authorities) After section 120(5), insert: (6) <u>If an authority is established by Order in Council under section 115(1)(b)(i), then, for a period not exceeding 3 months commencing on the day the order is made, subsection (2)(a) must be read as if the reference in that subsection to health practitioners were a reference to persons who are proposing to apply for registration as health practitioners with that authority.</u>	25
28 New sections 122A and 122B and cross-heading inserted After section 122, insert: <i>Performance reviews of authorities</i> 122A Performance reviews (1) From time to time, there must be conducted in respect of each authority a review of how effectively and efficiently the authority is performing its functions (a performance review).	30 35

- (2) The first performance review must be conducted within 3 years after the commencement of this section.
- (3) Subsequent performance reviews must be conducted at intervals that are no more than 5 years apart.
- (4) For each performance review to be conducted in respect of an authority, the Ministry of Health must, in consultation with the authority,—
 - (a) appoint an independent person to conduct the review (a **reviewer**); and
 - (b) set the terms of reference for the review.
- (4A) Before setting the terms of reference for a review, the Ministry of Health may, but is not obliged to, consult any other person, organisation, or group about the terms of reference.
- (5) A reviewer must, as soon as practicable after conducting a review,—
 - (a) prepare a written report on the conclusions reached and of any recommendations; and
 - (b) give a copy of the report to—
 - (i) the Minister; and
 - (ii) the authority.
- (6) On receipt of a report under **subsection (5)(b)(ii)**, an authority must, as soon as practicable, publish the report on its Internet site.
- (7) The costs of conducting a performance review in respect of an authority must be met by the authority.

122B Information about implementation of recommendations to be included in annual report

- (1) If a performance review has been completed in respect of any authority during the first 6 months of the authority's financial year and the report prepared under **section 122A(5)(a)** in respect of that review contains recommendations, the authority must include in its annual report for that financial year delivered to the Minister under section 134 the information specified in **subsection (3)**.
- (2) If a performance review has been completed in respect of any authority during the last 6 months of the authority's financial year and the report prepared under **section 122A(5)(a)** in respect of that review contains recommendations, the authority must include in its annual report for the following financial year delivered to the Minister under section 134 the information specified in **subsection (3)**.
- (3) The information referred to in **subsections (1) and (2)** is—
 - (a) which of the recommendations the authority—
 - (i) proposes to implement; and
 - (ii) does not propose to implement; and

- (b) the time frame for implementing the recommendations identified under **paragraph (a)(i)**; and
- (c) the reason for not implementing the recommendations identified under **paragraph (a)(ii)**.

28A Section 134 amended (Annual report)

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Replace section 134(1) with:

- (1) As soon as is reasonably practicable after the end of each financial year, each authority must deliver to the Minister a report on the operation of the authority during that financial year, and every report to the Minister must include—
 - (a) the audited financial statements of the authority for that financial year; and
 - (b) any information that **section 122B** may require to be included in the report.

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29 New section 134A and cross-heading inserted

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After section 134, insert:

Information about health practitioners

134A Authority to provide to Director-General of Health information about health practitioners

- (1) Each authority must provide to the Director-General of Health (the **Director-General**) information held by the authority that—
 - (a) relates to health practitioners who are registered with the authority and who hold current practising certificates; and
 - (b) is of a kind specified for the purpose of this section by the Director-General after consultation with the authority (including, without limitation, a health practitioner's name, date of birth, ethnicity, gender, employer, place or places of work, and the average weekly number of hours worked by the health practitioner at each place of work).
- (2) The Director-General may use the information only for the purpose of supporting the Ministry of Health's responsibilities for workplace planning and development.
- (3) The information must be provided—
 - (a) annually, on a date set by the Director-General after consultation with the authority; and
 - (b) in a form or manner set by the Director-General.
- (4) Information that is provided to the Director-General under this section and that is not publicly available must not be published or disclosed by the Director-General in a manner that—

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- (a) identifies any health practitioner to whom the information relates; or
- (b) could reasonably be expected to identify any health practitioner to whom the information relates.
- (5) This section overrides provisions in contracts, deeds, documents, and other enactments that are inconsistent with this section.

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29A Section 140 replaced (Health practitioners must notify Registrar of address)

Replace section 140 with:

140 Health practitioners must notify Registrar of addresses for service

- (1) A health practitioner must provide to the Registrar of the authority the health practitioner is registered with—
 - (a) a postal address for service; and
 - (b) an electronic address for service.
- (2) A health practitioner may change any address for service by notifying the Registrar of the change.

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29B Section 147 amended (Removal of qualifications, or cancellation of registration, overseas)

Replace section 147(1) with:

- (1) The responsible authority may review the registration of a health practitioner if the authority is satisfied that—
 - (a) the health practitioner is registered by virtue of an overseas qualification and the educational establishment that gave the practitioner the qualification has cancelled or suspended it (or taken action equivalent to cancelling or suspending it); or
 - (b) an overseas authority that maintains a register of people registered or licensed as health professionals has, as a result of disciplinary action taken against the health practitioner,—
 - (i) removed the practitioner’s name from the register; or
 - (ii) suspended the practitioner’s registration; or
 - (iii) taken action equivalent to removing the practitioner’s name from the register or suspending the practitioner’s registration.

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29C Section 156 amended (Notice and service of documents)

- (1) Replace section 156(1)(c) with:
 - (c) by sending it to the electronic address provided by the person as an address for service.
- (2) In section 156(2), replace “given to” with “received by”.

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(3) After section 156(2), insert:

(2A) A notice, document, or notification sent to a person's electronic address must be treated as having been received by the person on the working day after the date on which it was sent, and in proving service it is sufficient to prove that the notice, document, or notification was properly sent.

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29D New sections 156A and 156B inserted

After section 156, insert:

156A Orders of authority

(1) An order made by a responsible authority must—

- (a) be in writing; and
- (b) state the reasons why it was made; and
- (c) state clearly the health practitioner's right to appeal to the District Court against the order; and
- (d) be signed by the Registrar of the authority.

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(2) The Registrar of a responsible authority must, as soon as practicable after an order is made by the authority,—

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- (a) ensure that a copy of the order is given to—
 - (i) the health practitioner concerned; and
 - (ii) any employer of the health practitioner; and
 - (iii) any person who works in partnership or association with the practitioner; and
- (b) take all administrative steps necessary to give effect to the order.

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156B When orders of authority or Tribunal take effect

Unless otherwise provided in this Act, an order made by an authority or the Tribunal takes effect on the day on which, under section 156, the order is to be treated as having been received by the health practitioner concerned, or any later date specified in the order.

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30 New sections 157A to 157I inserted

After section 157, insert:

157A Meaning of naming policy

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In **sections 157B to 157I**, **naming policy** means a policy issued by an authority relating to the naming of a health practitioner in a notice published by the authority under section 157(1).

157B Authorities to issue naming policies

- (1) Each authority must issue a naming policy not later than 12 months after this section comes into force.
- (2) The purpose of the naming policy is to—
 - (a) enhance public confidence in the health professions for which the authority is responsible and their disciplinary procedures by providing transparency about their decision-making processes; and 5
 - (b) ensure that health practitioners whose conduct has not met expected standards may be named where it is in the public interest to do so; and
 - (c) improve the safety and quality of health care. 10
- (3) A naming policy must set out—
 - (a) the class or classes of health practitioners in respect of whom the naming policy applies; and
 - (b) the circumstances in which a health practitioner may be named; and
 - (c) the general principles that will guide the authority's naming decisions; and 15
 - (d) the criteria that the authority must apply when making a naming decision; and
 - (e) the requirement to have regard to the consequences for the health practitioner of being named, including the likely harm to the health practitioner's reputation; and 20
 - (f) the procedures that the authority must follow when making a naming decision; and
 - (g) the information the authority may disclose when naming a health practitioner; and 25
 - (h) the means by which a health practitioner may be named.

157C Consultation on naming policies

Before issuing its naming policy, an authority must consult, and take into account any comments received from, the following persons:

- (a) the health practitioners registered with the authority; and 30
- (b) the Privacy Commissioner; and
- (c) the Director-General of Health; and
- (d) the Health and Disability Commissioner.

157D Naming policies to be available on Internet

Immediately after issuing a naming policy, an authority must make its naming policy available on an Internet site maintained by or on behalf of the authority. 35

157E When naming policies come into force

A naming policy comes into force on the day after the date on which it is issued.

157F Review of naming policies

- (1) An authority must review its naming policy within 3 years after the policy comes into force, and then at intervals of not more than 3 years. 5
- (2) **Sections 157B to 157E** apply with all necessary modifications to the review of a naming policy.

157G Naming policies to be consistent with law

A naming policy must be consistent with— 10

- (a) this Act; and
- (b) the information privacy principles in section 6 of the Privacy Act 1993; and
- (c) the general law (including natural justice rights).

157H Status of naming policies

A naming policy is— 15

- (a) not—
 - (i) a legislative instrument for the purposes of the Legislation Act 2012; or
 - (ii) a disallowable instrument for the purposes of the Legislation Act 2012; and 20
- (b) not required to be presented to the House of Representatives under section 41 of the Legislation Act 2012.

157I Authority naming health practitioner in accordance with naming policy protected by qualified privilege

For the purposes of clause 3 of Part 2 of Schedule 1 of the Defamation Act 1992, any notice published by an authority under section 157(1) that names a health practitioner in accordance with a naming policy issued by the authority must be treated as an official report made by a person holding an inquiry under the authority of the Parliament of New Zealand. 25 30

31 Section 170 amended (Regulations)

After section 170(c), insert:

- (ca) declaring the responsible authorities appointed by or under this Act and specifying the health professions in respect of which each of those authorities is appointed: 35

Part 2

Further amendments to principal Act

32 New Schedule 1AA inserted

Insert the **Schedule 1AA** set out in the **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act.

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33 Schedule 1 amended

In Schedule 1, clause 6(5), replace “Evidence Act 1908” with “Evidence Act 2006”.

34 Schedule 3 amended

In Schedule 3, replace clause 17(1) with:

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(1) An authority may from time to time, by written notice, delegate any of its functions, duties, or powers to a committee appointed under clause 16 or to its Registrar.

(1A) However, an authority may not delegate—

(a) any power under section 69 to a committee appointed under clause 16:

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(b) any power under section 69 or 71 to its Registrar.

35 Consequential amendments to other enactments

Amend the enactments specified in **Schedule 2** as set out in that schedule.

Schedule 1
New Schedule 1AA inserted

s 32

Schedule 1AA
Transitional, savings, and related provisions

5

s 5A

Part 1
Provisions relating to Health Practitioners Competence Assurance
Amendment Act ~~2017~~ 2018

- 1 Interpretation** 10
- In this Part,—
- ~~amendment Act~~** means the Health Practitioners Competence Assurance Amendment Act **2017-2018**
- ~~commencement date~~** means the date on which the amendment Act comes into force. 15
- 2 ~~Interim suspension of practising certificate or imposition of conditions on practice pending prosecution or investigation~~**
- Section ~~69(1), (2), and (4)(a)~~, as in force immediately before the commencement date, continues to apply as if the amendment Act had not been enacted in any case where an allegation referred to in that section relates to conduct engaged in by a health practitioner— 20
- (a) before the commencement date; or
- (b) before the commencement date and continued after the commencement date.
- 3 Interim suspension of registration or imposition of restrictions on practice** 25
- (1) Section 93(1), as in force immediately before the commencement date, continues to apply as if the amendment Act had not been enacted in any case where the alleged conduct that is the subject of the charge against a health practitioner occurred—
- (a) before the commencement date; or 30
- (b) before the commencement date and continued after the commencement date.
- (2) In this clause,—
- ~~amendment Act~~** means the Health Practitioners Competence Assurance Amendment Act **2018** 35

commencement date means the date on which the amendment Act comes into force.

4 Effect of amalgamation on registration and practice

(1) A health practitioner who is, or is deemed to be, registered with an amalgamating authority is to be treated, from the date of the amalgamation, as being registered with the amalgamated authority.

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(2) An annual practising certificate issued by the Registrar of an amalgamating authority must be treated, from the date of the amalgamation, as being issued by the Registrar of the amalgamated authority.

(3) In this clause,—

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amalgamating authority means an authority that, under **section 116A**, is amalgamating with 1 or more other authorities

amalgamated authority means the authority under which the amalgamating authorities are continued from the date of the amalgamation.

Schedule 2 Consequential amendments

s 35

Part 1 Amendments to other Acts

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Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (2017 No 4)

In section 4, replace the definition of **medical practitioner** with:

medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

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Veterans' Support Act 2014 (2014 No 56)

In section 7, replace the definition of **medical practitioner** with:

medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

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Veterinarians Act 2005 (2005 No 126)

In section 4, replace the definition of **medical practitioner** with:

medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

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Part 2 Amendment to legislative instrument

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Health and Safety at Work (Asbestos) Regulations 2016 (LI 2016/15)

Replace regulation 16(2) with:

(2) In subclause (1), **medical practitioner** means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine.

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**Health Practitioners Competence Assurance
Amendment Bill**

Legislative history

15 February 2018
20 February 2018

Introduction (Bill 25–1)
First reading and referral to Health Committee