

Departmental Disclosure Statement

Health Practitioners Competence Assurance Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Health.

The Ministry of Health certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

18 March

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Part One: General Policy Statement

The Health Practitioners Competence Assurance Amendment Bill (the Bill) amends the Health Practitioners Competence Assurance Act 2003 (the Act).

The key objectives of the Bill are to:

- better align health workforce regulation with patient needs, health system policy, and Government priorities:
- ensure that regulation is responsive to support innovative health services:
- ensure efficient recognition and registration of health practitioners.

The Bill seeks to achieve those objectives by:

- providing that responsible authorities (regulators) under the HPCA Act will be subject to accountability and directive requirements, similar to Crown agents:
- establishing a ministerial committee that can an authority's decision to refuse a practitioner's registration and matters related to scopes of practice:
- making minor and technical amendments that will support the operation of responsible authorities.

Responsible authorities to be accountable to Minister of Health

Occupational regulation is necessary when people cannot assess the quality and safety of services for themselves. It is particularly important in health care, where there is a high level of risk associated with the services provided by health practitioners (and the costs of adverse events are met by the public system or through ACC), and the services are essential for the public's well-being.

Although current regulation has been effective in ensuring high standards for practitioners, the independent and siloed nature of the regulators has been highlighted as an issue that inhibits the health system's ability to meet future needs.

The Bill will enable the Minister of Health to direct authorities to give effect to a Government policy that relates to their functions. As an example, directions could relate to relevant policies, administrative processes or procedures of a responsible authority. Reasonable limitations are imposed on the directive power, as follows:

- the Minister must have considered the potential impact on the quality and safety of health care before making a direction:
- a direction cannot be about a particular person or a particular qualification. This prevents a direction being given about a responsible authority's decision to register an individual or to recognise a particular qualification.

The power of direction is similar to a power that allows Health Ministers in Australia to direct health workforce regulators.

The Bill will also apply certain provisions of the Crown Entities Act 2004 to responsible authorities. Those provisions will support ongoing accountability and transparency of regulators' activities. Responsible authorities will be required to prepare, in consultation with the Minister of Health, statements of intent and statements of performance expectations in the manner outlined in the Crown Entities Act 2004.

Greater oversight and scrutiny of registration decisions through independent ministerial committee

The Bill provides for the establishment of a ministerial committee that will be empowered to review and overturn regulators' decisions when those decisions refuse or limit a practitioner's registration or ability to practise.

It is proposed that the committee will have a permanent chairperson and 1 or more deputy chairpersons, who must be a barrister or solicitor of the High Court of not less than 7 years' practice. The remainder of the committee will be drawn from a panel of qualified experts and lay people to review particular cases. The Minister of Health will be able to appoint to the panel any person who has the necessary skills and experience to consider the matters that are likely to come before the committee.

The committee would be funded by the regulatory authorities, with a proportion of costs assigned to each regulatory authority based on the number of complaints expected to be heard.

Operational and technical improvements to the regulatory framework

The Bill includes a package of amendments to improve the functioning of the Act. In relation to the key changes, the Bill:

- clarifies and strengthens offences relating to unqualified persons claiming to be health practitioners, and introduces court orders that prohibit a person from engaging or continuing to engage in conduct that would breach certain provisions:
- explicitly incorporates professional conduct (alongside competence) into decisions about registration and practising certificates:
- enables interim suspension of a practising certificate or conditions on practice to be imposed without prior notice if there is a serious risk of harm, with safeguards requiring practitioners affected to be heard as soon as practicable:
- requires responsible authorities to consult and consider the views of the public before issuing a notice that relates to a scope of practice, or a qualification required for a scope of practice:
- enables responsible authorities and professional conduct committees to refer complaints to restorative justice or conciliation processes if all parties agree.
- allows the Health Practitioners Disciplinary Tribunal to determine some matters “on the papers” if appropriate, rather than always holding full hearings.

Commencement

The Bill when enacted will commence on the day after Royal assent.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<p>Over 2023 and 2024, the Ministry reviewed health workforce regulation, in engagement with key health workforce stakeholders. These stakeholders included the 18 responsible authorities under the HPCA Act, professional associations, Māori professional associations, self-regulating professional bodies, various medical colleges, unions and professional organisations. The key themes we heard from this engagement included:</p> <ul style="list-style-type: none">• Any changes to the regulatory system must not compromise patient safety.• There are opportunities for greater collaboration across professional regulators.• Professional identity and profession-specific expertise must be retained in the regulatory system.• Regulatory decisions should align with health system priorities and direction. <p>On 28 March 2025, as part of a wider review of the HPCA Act, submissions opened for a one-month public consultation on how to make health regulation more efficient. Over 3000 submissions were received from patients, health practitioners, professional organisations, unions, and regulators.</p> <p>A summary submission document can be found at: Putting Patients First: Modernising health workforce regulation: Summary of submissions</p>	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p><i>Regulatory Impact Statement: Improving health workforce regulation</i>, Ministry of Health, 13 August 2025.</p> <p>The RIS is accessible at: https://www.health.govt.nz/information-releases/cabinet-material-health-practitioners-competence-assurance-act-2003-policy-approval-for-amendments</p>	

2.3.1. If so, did the Ministry for Regulation provide an independent opinion on the quality of any of these regulatory impact statements?	YES
<p>A Quality Assurance Panel reviewed the RIS and provided the following opinion:</p> <ul style="list-style-type: none">- The panel considers that the RIS 'Meets' the quality assurance criteria and noted that the RIS is clear, concise, consulted, complete and convincing. The analysis is balanced in its presentation of the information. Impacts are identified and appropriately assessed.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p>The Regulatory Impact Statement sets out the potential qualitative costs and benefits of the preferred options but was unable to quantify them.</p> <p>It is expected that there will be only minor costs associated with the implementation of the Bill.</p>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p>The effectiveness of the policy is likely to be influenced by the extent to which responsible authorities comply with, and give effect to, the new accountability, planning, and reporting requirements, as well as how the Ministry of Health exercises its stewardship role.</p> <p>Successful implementation will depend on clear expectations being set through ministerial direction, transparency of regulatory authorities' plans and performance, and constructive engagement between the Ministry, regulators, and health system agencies. The Regulatory Impact Statement notes that improved monitoring, information-sharing, and alignment of regulatory effort with health system priorities are key enablers of compliance, and that these changes are expected to be managed largely within existing baselines. The nature and consistency of regulator effort in embedding new ways of working, including collaboration and responsiveness to system needs, will therefore have a material influence on the realisation of the anticipated benefits.</p>	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

The proposals in the Bill do not interact with any of New Zealand's international obligations.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

During the policy development, we considered whether the Bill was likely to raise any issues and concluded that it was unlikely to raise Treaty of Waitangi interests.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

NO

The Bill of Rights Act vetting process is in progress with the Ministry of Justice.

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

YES

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

YES

The Bill amends the Health Practitioners Competence Assurance Act 2003 to strengthen existing enforcement and review settings.

The Bill provides the ability for the District Court, on an application by the Director-General of Health, to make a banning order, or an interim banning order that prohibits a person from engaging in or continuing to engage in conduct that would breach section 7, 8, or 9 of the HPCA Act, which creates a high risk to public health or safety. The ability to issue a banning order, or interim banning order, will enable timely intervention to prevent unsafe practices.

The Bill creates one new offence. New section 10C would make it an offence to contravene a banning order, or an interim banning order. A person convicted of this offence would be liable to a fine not exceeding \$200,000, imprisonment for a term not exceeding 3 years, or both.

The Bill also establishes an independent ministerial review committee with jurisdiction to review certain registration and practising decisions of responsible authorities, including refusals of registration or the imposition of conditions. These changes are intended to improve public protection while providing a more accessible and proportionate review mechanism.

3.4.1. Was the Ministry of Justice consulted about these provisions?

YES

Proposals were discussed with the Ministry of Justice during development of the policy.

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO
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External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>On 28 March 2025, as part of a wider review of the HPCA Act, submissions opened for a one-month public consultation on how to make health regulation more efficient. Over 3000 submissions were received from patients, health practitioners, professional organisations, unions, and regulators.</p> <p>A summary submission document can be found at: Putting Patients First: Modernising health workforce regulation: Summary of submissions</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p>The policy proposals reflected in this Bill have been tested through targeted consultation with relevant government agencies on the main substantive changes, including the new accountability and review mechanisms.</p> <p>In addition, the Ministry of Health has undertaken detailed work with responsible authorities and the Health and Disability Commissioner on the package of minor and technical amendments to ensure these changes are workable, clear, and consistent with existing operational practice. This engagement informed the final design of the provisions and helped identify and address potential implementation issues.</p>	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	YES
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO
The new section 10C would make it an offence to contravene a banning order, or an interim banning order (that is made by the District Court under the new Section 10A). This offence provision does not explicitly provide for a <i>mens rea</i> element. However, breaches of the new section 10A would almost certainly involve an intentional element of ignoring a court order.	

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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