

Guidelines on endorsement as a nurse practitioner



Introduction

The National Registration and Accreditation Scheme (the National Scheme) for health professionals in Australia commenced on 1 July 2010 under the *Health Practitioner Regulation National Law Act* (the National Law)¹ as in force in each state and territory.

Under the National Law, the Nursing and Midwifery Board of Australia (the Board) is responsible for the regulation of the nursing and midwifery professions and is supported in this role by the Australian Health Practitioner Regulation Agency (AHPRA). The Board has approved registration standards, codes and guidelines and competency standards which together form a Professional Practice Framework (PPF) that defines the requirements and Board expectations guiding the professional practice of nurses and midwives in Australia.

Nurse practitioners are regulated through the National Scheme under the authority of the Board. Under section 38 of the National Law, the Board has developed the registration standard on endorsement of nurse practitioners. This registration standard describes the requisite qualification and experience required for endorsement as a nurse practitioner.

To support the registration standard, guidelines titled *Endorsement as a nurse practitioner* have been developed under section 39 of the National Law to provide direction and information relevant to:

- registered nurses seeking endorsement as a nurse practitioner
- nurse practitioners who are currently endorsed
- government bodies
- employers of nurse practitioners
- other health practitioners
- education providers and
- the public.

These *Guidelines* describe the framework with which all nurse practitioners must comply, including the:

- application for endorsement as a nurse practitioner

- requirements for ongoing endorsement as a nurse practitioner
- Board-approved Safety and Quality Framework (SQF) and
- current prescribing arrangements for nurse practitioners and collaborative arrangements.

Application for endorsement as a nurse practitioner

A **nurse practitioner** is a registered nurse who is educated and endorsed to function autonomously and collaboratively in an advanced and extended clinical role. The nurse practitioner role includes assessment and management using nursing knowledge and skills. The role may include, but is not limited to, the direct referral of patients to other health care professionals, prescribing medications and ordering diagnostic investigations. The role is grounded in the nursing profession's values, knowledge, theories and practice, and provides innovative and flexible health care delivery that complements other health care providers (Australian Nursing and Midwifery Council (ANMC), 2006).

The registration standard on endorsement as a nurse practitioner states that an applicant seeking endorsement as a nurse practitioner must be able to demonstrate:

- current general registration as a registered nurse with no conditions on the registration relating to unsatisfactory professional performance or unprofessional conduct
- the equivalent of three (3) years' full-time experience in an advanced practice nursing role within the previous six (6) years from date of lodgement of application
- completion of a Board-approved nurse practitioner program of study at Master's level or equivalent as determined by the Board
- compliance with the *National Competency Standards for the Nurse Practitioner* and
- compliance with the Board's registration standard on continuing professional development as a registered nurse.

Table 1 – Model for endorsement as a nurse practitioner

Requirement	Evidence
Current general registration as a registered nurse with no conditions on the registration relating to unsatisfactory professional performance or unprofessional conduct.	<p>An applicant who is currently registered with the Board in the general category of 'registered nurse' and whose registration does not have any conditions imposed on his or her registration in relation to unsatisfactory professional performance or unprofessional conduct has satisfied this requirement.</p> <p>An applicant who is not currently registered with the Board in the general category of 'registered nurse' will first need to apply for registration. The applicant may be one of following:</p> <ol style="list-style-type: none"> 1. an applicant, including an internationally-qualified applicant, who has not previously held general registration as a registered nurse in Australia and is applying for initial registration in the general category of 'registered nurse' or 2. an applicant, including an internationally-qualified applicant, who has previously held general registration as a registered nurse in Australia and is applying to enter the register again. <p>Evidence would be a current registration certificate as a registered nurse with no conditions on the registration relating to unsatisfactory professional performance or unprofessional conduct issued by the Nursing and Midwifery Board of Australia.</p>

¹ The *Health Practitioner Regulation National Law Act* as in force in each state and territory.

Guidelines on endorsement as a nurse practitioner

Requirement	Evidence
<p>The equivalent of three (3) years' full-time experience in an advanced practice nursing role within the previous six (6) years from date of lodgement of application.</p> <p>The applicant must also meet the Board's registration standard on recency of practice.</p>	<p>Advanced practice defines a level of nursing practice that utilises extended and expanded skills, experience and knowledge in the assessment, planning, implementation, diagnosis and evaluation of [nursing] care required. Nurses practising at this level are educationally prepared at postgraduate level and may work in a specialist or generalist capacity. However, the basis of advanced practice is the high degree of knowledge, skill and experience applied in the nurse-patient/client relationship to achieve optimal outcomes through critical analysis, problem solving and accurate decision-making.²</p>
<p>Completion of a Board-approved nurse practitioner program of study at Master's level or equivalent as determined by the Board.</p>	<p>The Board has two pathways that fulfill the education requirements for endorsement as a nurse practitioner. They are:</p> <p>Pathway 1</p> <p>Evidence of successful completion of an Australian Nursing and Midwifery Accreditation Council (ANMAC)-accredited and Board-approved nurse practitioner program of study at Master's level.</p> <p>Board-approved programs of study are listed on the Board's website at http://www.nursingmidwiferyboard.gov.au/Accreditation.aspx.</p> <p>Pathway 2</p> <p>Evidence of successful completion of:</p> <ol style="list-style-type: none"> 1. a program of study at Master's level that is clinically relevant to the applicant's context of advanced practice nursing for which they are seeking endorsement as a nurse practitioner; and 2. supplementary education that will demonstrate equivalence and meet the <i>National Competency Standards for the Nurse Practitioner</i>. <p>The <i>National Competency Standards for the Nurse Practitioner</i> are listed on the Board's website at: http://www.nursingmidwiferyboard.gov.au/Codes-and-Guidelines.aspx.</p>
<p>Compliance with the <i>National Competency Standards for the Nurse Practitioner</i>.</p>	<p>The <i>National Competency Standards for the Nurse Practitioner</i> is one of a suite of competency standards developed as part of a Professional Practice Framework by ANMAC and subsequently approved by the Board.</p> <p>An applicant who has successfully completed a Board-approved nurse practitioner program of study at Master's level is not required to provide further evidence of compliance with the <i>National Competency Standards for the Nurse Practitioner</i>.</p> <p>An applicant who has not completed a Board-approved nurse practitioner program of study at Master's level will be required to provide evidence of compliance with the <i>National Competency Standards for the Nurse Practitioner</i>.</p> <p>These competency standards are listed on the Board's website at: http://www.nursingmidwiferyboard.gov.au/Codes-and-Guidelines.aspx.</p>
<p>Compliance with the Board's standard for registration standard on continuing professional development.</p>	<p>An applicant will be required to complete a minimum of 20 hours of continuing professional development relevant to their context of practice each year and may be required to provide this evidence on application.</p>

Requirements for ongoing endorsement as a nurse practitioner

Ongoing endorsement as a nurse practitioner is contingent upon the nurse practitioner meeting the Board's

requirements for renewal of registration annually. Nurse practitioners are required to make an annual statutory declaration that they have met requirements under section 109 of the National Law, including completion of the required continuing professional development and meeting the recency of practice requirements.

² ANMC National Competency Standards for the Nurse Practitioner

Continuing professional development

Continuing professional development (CPD) is the means by which members of the nursing profession maintain, improve and broaden their knowledge, expertise and competence, and develop the personal and professional qualities required throughout their professional lives. The CPD cycle involves reviewing practice, identifying learning needs, planning and participating in relevant learning activities and reflecting on the value of those activities (ANMAC, 2009).

The registration standard on continuing professional development was developed in accordance with section 38(1)(c) of the National Law and sets an annual requirement of 20 hours of CPD to be undertaken by all registered and enrolled nurses.

Nurse practitioners are required to undertake an additional 10 hours of specified CPD per year, in addition to the 20 hours of CPD required for general registration. This CPD must be relevant to the nurse practitioner's context of practice and where appropriate, address:

- prescribing and administration of medicines
- diagnostic investigations and
- consultation and referral.

The registration standard on continuing professional development explains how to keep records of CPD activities as well as the type of CPD activities that will be recognised as meeting the additional CPD hours required

Recency of practice

The registration standard on recency of practice, developed in accordance with section 38(1)(e) of the National Law, requires nurse practitioners to have undertaken sufficient practice within the preceding five (5) years to maintain competence.

Professional indemnity insurance

The registration standard on professional indemnity insurance, developed in accordance with section 38(1)(a) of the National Law, requires nurse practitioners to only practise their profession if they are covered in the conduct of their practice by appropriate professional indemnity insurance (PII) arrangements.

Safety and quality framework

To provide a robust regulatory framework, and to ensure that nurse practitioners who have access to the Medicare Benefits Schedule and the Pharmaceutical Benefits Scheme have clarity and support to practise in their roles with safety and quality, the Board has approved a Safety

and Quality Framework (SQF). The primary purpose of the SQF is to ensure the protection of the public. The SQF does this by outlining those standards, codes and legislative requirements within which nurse practitioners must practise, ensuring ongoing competence and safe practice by nurse practitioners.

Nurse practitioners are required to practise in accordance with the SQF. Failure to comply with the SQF will incur disciplinary action by the Board that, if proven, carries considerable disciplinary consequences for nurse practitioners.

Under Part 8 of the National Law, the Board has a range of powers when dealing with such breaches, including the power to take immediate action. Section 157 of the National Law requires the Board to engage in a show cause process with the registrant before taking immediate action. **Immediate action** means suspension or imposition of a condition on the practitioner's registration; or accepting an undertaking from the practitioner; or accepting the surrender of the registration of the practitioner.

The elements of the SQF are:

- scope of practice
- codes of professional conduct and ethics
- national competency standards
- annual declaration
- Board audit process
- mandatory reporting
- notification and management of performance, conduct or health matters
- co-regulatory requirements of Medicare and the Board
- prescribing authority and compliance with state and territory legislation and
- collaborative arrangements.

Scope of practice

All health practitioners, including nurse practitioners, are expected to practise within their scope of practice. The Board has provided specific guidance for nursing and midwifery professionals in the Professional Practice Framework. This includes advice on accepting and making delegations, and recognising their limitations, through the *National Framework for Decision Making by Nurses and Midwives on Scopes of Practice* (ANMAC 2010; approved NMBA 2010). The scope of practice is also determined by the context of practice.

Context of practice

Context of practice refers to the conditions that define an individual's nursing practice. These include the type of practice setting (such as healthcare agency, education organisation, private practice); the location of the practice setting (such as urban, rural, remote); the characteristics of patients or clients (such as health status, age, learning needs); the focus of nursing activities (such as health promotion, research, management); the complexity of practice; the degree to which practice is autonomous; and the resources that are available, including access to other healthcare professionals (ANMC, 2009).

The requirement for nurse practitioners to practise within their scope of practice is particularly important because they will, in all probability, have the authority to administer, supply and/or prescribe scheduled medications. This authority is conferred under the relevant drugs and poisons legislation for the state or territory in which nurse practitioners practise. The conditions of each authority will depend on the requirements of the specific legislation.

Codes of professional conduct and ethics and a nurse's guide to professional boundaries

The Board has approved the *Code of Professional Conduct for Nurses in Australia*, the *Code of Ethics for Nurses in Australia* (ANMC 2008; NMBA 2010) and *A nurse's guide to professional boundaries* (ANMC 2010, NMBA 2010) as a component of the Professional Practice Framework with which nurse practitioners must comply.

These codes and guide can be accessed from the NMBA website: <http://www.nursingmidwiferyboard.gov.au/Codes-and-Guidelines.aspx>

National competency standards

Nurse practitioners must meet the *National Competency Standards for the Nurse Practitioner* developed by the ANMC and subsequently adopted and approved by the Board. These *Standards*, in relation to the SQF, make particular reference to pharmacological treatment options and collaborative care (ANMC 2005; adopted NMBA 2010).

Annual declaration

The annual declaration is a written statement made by a registrant and declared to be true. Under the National Law, a person who wilfully makes a false statement in a declaration is guilty of an offence. To maintain registration and endorsement as a nurse practitioner, an annual declaration must be made that the nurse practitioner has complied with all the standards, codes, guidelines and legislation governing their nursing practice. The National Board may require the information or document to be verified by a statutory declaration.

Nursing and Midwifery Board of Australia audit process

This annual statutory declaration is supported by a random audit of documentary evidence at the discretion of the Board, according to policy. There are times when the practice of nurse practitioners may come under the direct scrutiny of the Board. These include:

- on initial application for endorsement as a nurse practitioner
- at renewal of registration, in relation to the annual declaration
- during the Board's audit of registrants' continuing professional development and/or
- on application for the register from an applicant who was previously registered as a nurse and endorsed as a nurse practitioner by the Board.

Other government agencies also conduct audits in relation to prescribing, supplying and administering medicines.

Mandatory reporting

Division 2 of the National Law requires practitioners, employers and education providers to report **notifiable conduct** to AHPRA to prevent the public being placed at risk of harm.

Guidelines for all health practitioners regarding mandatory reporting have been developed jointly by the National Boards under section 39 of the National Law. The Board's guidelines on mandatory reporting are available on the Board's website at www.nursingmidwiferyboard.gov.au under *Codes and guidelines*.

Notification and management of performance, conduct or health matters

Nurse practitioners may come under direct scrutiny when a notification is received relating to their practice. It is the Board's responsibility to oversee all notifications related to performance, conduct and impairment.

Sections 156(1) and 157 of the National Law outline the Board's responsibilities with regard to conduct, performance and health matters related to nurse practitioners. The Board has a range of powers, including the power to take immediate action to protect the public.

Co-regulatory requirements of Medicare and NMBA

Endorsement as a nurse practitioner with the Board confers eligibility to apply for approval by the Health Minister as a 'participating nurse practitioner' under section 7(3)(1) of the *Health Legislation Amendment (Midwives and Nurse Practitioners) 2010* (Cth).

A nurse practitioner has access to the Australian Government Medicare Benefits Schedule (MBS) and, where the nurse practitioner has an authority to prescribe, the Pharmaceutical Benefits Scheme (PBS). These arrangements will enable patients of nurse practitioners who are approved MBS and/or PBS participants, to access certain MBS rebates and PBS prescriptions.

Access to the MBS and PBS.

The nurse practitioner must apply to Medicare Australia for a provider and/or prescriber number. The discretion to authorise access to the MBS and PBS remains with Medicare Australia and the process of authorisation through Medicare is a process additional to the Board's endorsement process. As part of the co-regulatory requirements of the Board and Medicare Australia, any issues related to conduct, performance or health that may impact on the performance of an individual nurse practitioner, as a prescriber or provider of Medicare services or medicines, is notified by either co-regulatory body to the other. For example, if Medicare Australia has cause to investigate a particular provider, the Board will be notified of that investigation and the other way around.

From a co-regulatory perspective, Medicare Australia continues its important monitoring and review role. This is designed to ensure services and medicines provided by any health professional with access to the MBS and PBS are effective, efficient, appropriate and within benchmarking limits. However, should there be an issue related to performance, health or conduct of a nurse practitioner, the Board is the professional regulatory authority to which a notification will be referred. The Board will oversee the assessment of the notification and any subsequent investigation or disciplinary action.

Prescribing authority and compliance with state or territory legislation

Prescribing authority is conferred under the relevant drugs and poisons legislation of the Australian state or territory in which the nurse practitioner practises. The conditions under which each authority is granted and the scope of that authority will depend on the requirements of the specific legislation in each state or territory. These may range from a blanket authority limited by the practitioner's scope of practice to a prescribing authority based on a formulary or protocol, or related to a specific context of practice (such as only applicable in a certain practice setting).

To specify a distinct formulary of medicines for each area of specialty of nurse practitioners is outside the provisions of the National Law. The prescribing requirements are related to a nurse practitioner's employment conditions and the drugs and poisons legislation within each state

or territory. Failure of a nurse practitioner to practise and prescribe within this scope of practice will result in the Board taking disciplinary action.

Collaborative arrangements

All nurse practitioners are required to engage in clinical collaboration in compliance with the *National Competency Standards for the Nurse Practitioner* (ANMC 2005; adopted NMBA 2010). However, in addition to this pre-existing requirement, nurse practitioners who are authorised under the *Health Legislation Amendment (Midwives and Nurse Practitioners) Act 2010* (Cth), and who are assigned a Medicare provider number or PBS prescriber number have further requirements for collaboration as described in sections 5–7 of the *National Health (Collaborative Arrangements for Nurse Practitioners) Determination, 2010* (Cth).

These specific collaborative arrangements are available online from the Commonwealth of Australia Law website www.comlaw.gov.au.

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Date of review: This guideline will be reviewed in 12 months.

Last reviewed: 11 February 2011

Glossary and abbreviations

All standards, codes and guidelines are available on the NMBA website at www.nursingmidwiferyboard.gov.au.

ANMAC	Australian Nursing and Midwifery Accreditation Council
Competency standards	Competency standards are those outlined in the <i>National Competency Standards for the Nurse Practitioner</i>
MBS	Medicare Benefits Schedule
National Law	The National Law refers to the <i>Health Practitioner Regulation National Law Act</i> as in force in each state and territory.
NMBA	Nursing and Midwifery Board of Australia
Nurse practitioner	A registered nurse whose registration has been endorsed by the Nursing and Midwifery Board of Australia as a nurse practitioner under section 95 of the National Law
Participating nurse practitioner	A nurse practitioner who has been granted access to the Medicare Benefits Schedule and the Pharmaceutical Benefits Scheme by the Commonwealth Health Minister under section 22(a) of the <i>Health Legislation Amendment (Midwives and Nurse Practitioners) Act 2010</i> (Cth)
PBS	Pharmaceutical Benefits Scheme
PPF	Professional Practice Framework
Qualification	A Master's degree approved by the Nursing and Midwifery Board of Australia under section 49 of the National Law and included in the approved list of programs for endorsement as nurse practitioners; OR a program of study at Master's level that is clinically relevant to the applicant's context of advanced practice nursing for which they are seeking endorsement as a nurse practitioner and supplementary education that will demonstrate equivalence and meet the <i>National Competency Standards for the Nurse Practitioner</i>
Recency of practice	Recency of practice means that a practitioner has maintained an adequate connection with, and recent practice in, the profession since qualifying or obtaining registration
Registered nurse	A person whose name is entered on the Register of Nurses in the 'Division of registered nurses in the general category'
Supplementary education	Includes additional postgraduate education such as prescribing medicines and diagnostic investigations that the applicant may use as evidence to meet the <i>National Competency Standards for the Nurse Practitioner</i>

SQF	Safety and Quality Framework approved by the Board
The Board	Nursing and Midwifery Board of Australia

References

All Australian Nursing and Midwifery Council (ANMC) (since December 2010, the Australian Nursing and Midwifery Accreditation Council (ANMAC)) references adopted and approved by the Board are available on the NMBA website at www.nursingmidwiferyboard.gov.au.

Australian Government Department of Health and Ageing (2010). *Health Legislation Amendment (Midwives and Nurse Practitioners) 2010*, DoHA, Canberra.

Australian Government Department of Health and Ageing (2010) *Health Insurance Act 1973*, DoHA, Canberra.

Australian Government Department of Health and Ageing (2010). *National Health (Collaborative Arrangements for Nurse Practitioners) Determination*. DoHA, Canberra.

Australian Nursing and Midwifery Council (2008). *Code of Professional Conduct for Nurses in Australia*. ANMC, Canberra.

Australian Nursing and Midwifery Council, RCNA (Royal College of Nursing, Australia) and ANF (Australian Nursing Federation) (2008). *Code of Ethics for Nurses in Australia*, ANMC, RCNA and ANF, Canberra.

Australian Nursing and Midwifery Council (2009) *Continuing Competence Framework for Nurses and Midwives*, (adapted from Nursing Council of New Zealand, 2004), ANMC, Canberra.

Australian Nursing and Midwifery Council (2010). *National Framework for Decision Making by Nurses and Midwives on Scopes of Practice*, ANMC, Canberra.

Australian Nursing and Midwifery Council (2006). *National Competency Standards for the Nursing Practitioner*, ANMC, Canberra.

Medicare Australia (2010). *Application for Medicare Provider Number and/or PBS Prescriber Number for a Midwife or Nurse Practitioner*. Medicare Australia, Canberra.

Nursing and Midwifery Board of Australia (2010). *Guidelines for Continuing Professional Development*, NMBA, Melbourne.

Nursing and Midwifery Board of Australia (2010). *Registration standard for endorsement of as a nurse practitioner* NMBA, Melbourne.

Attachment A

Extract of relevant provisions from the *Health Practitioner Regulation National Law Act* as in force in each state and territory

Part 5 National Boards, Division 3 Registration standards and codes and guidelines

38 National board must develop registration standards

1. A National Board must develop and recommend to the Ministerial Council one or more registration standards about the following matters for the health profession for which the Board is established—
 - a). requirements for professional indemnity insurance arrangements for registered health practitioners registered in the profession;
 - b). matters about the criminal history of applicants for registration in the profession, and registered health practitioners and students registered by the Board, including, the matters to be considered in deciding whether an individual's criminal history is relevant to the practice of the profession;
 - c). requirements for continuing professional development for registered health practitioners registered in the profession;
 - d). requirements about the English language skills necessary for an applicant for registration in the profession to be suitable for registration in the profession;
 - e). requirements in relation to the nature, extent, period and recency of any previous practice of the profession by applicants for registration in the profession.
2. Subject to subsection (3), a National Board may also develop, and recommend to the Ministerial Council, one or more registration standards about the following—
 - a). the physical and mental health of—
 - i). applicants for registration in the profession; and
 - ii). registered health practitioners and students;
 - b). the scope of practice of health practitioners registered in the profession;
 - c). any other issue relevant to the eligibility of individuals for registration in the profession or the

suitability of individuals to competently and safely practise the profession.

3. A registration standard may not be about a matter for which an accreditation standard may provide.

Note. An accreditation standard for a health profession is used to assess whether a program of study, and the education provider that provides the program of study, provide persons who complete the program with the knowledge, skills and professional attributes to practise the profession. Accreditation standards are developed and approved under Division 3 of Part 6.

39 Codes and guidelines

A National Board may develop and approve codes and guidelines—

- a). to provide guidance to the health practitioners it registers; and
- b). about other matters relevant to the exercise of its functions.

Example. A National Board may develop guidelines about the advertising of regulated health services by health practitioners registered by the Board or other persons for the purposes of section 133.

Part 6 Accreditation, Division 3 Accreditation functions

49 Approval of accredited programs of study

1. If a National Board is given a report by an accreditation authority about the authority's accreditation of a program of study, the Board may approve, or refuse to approve, the accredited program of study as providing a qualification for the purposes of registration in the health profession for which the Board is established.
2. An approval under subsection (1) may be granted subject to the conditions the National Board considers necessary or desirable in the circumstances.
3. If the National Board decides to approve the accredited program of study it must give written notice of the approval to—
 - a). the National Agency for inclusion of the program of study in the list under subsection (5); and
 - b). the accreditation authority that submitted the program to the Board.
4. If the National Board decides to refuse to approve the accredited program of study—

- a). it must give written notice of the refusal, including the reasons for the refusal, to the accreditation authority that submitted the program; and
 - b). the accreditation authority is entitled to publish any information or advice it gave the Board about the program.
5. A list of the programs of study approved by a National Board as providing a qualification for registration in the health profession for which the Board is established must be published on the National Agency's website.
 6. The list of approved programs of study published under subsection (5) must include, for each program of study, the name of the university, specialist medical or other college or other education provider that provides the approved program of study.
 7. An approval under subsection (1) does not take effect until the program of study is included in the list published under subsection (5).

Part 7 Registration of health practitioners, Division 8 Endorsement of registration, Subdivision 2 Endorsement in relation to nurse practitioners

95 Endorsement as nurse practitioner

1. The Nursing and Midwifery Board of Australia may endorse the registration of a registered health practitioner whose name is included in the Register of Nurses as being qualified to practise as a nurse practitioner if the practitioner—
 - a). holds either of the following qualifications relevant to the endorsement—
 - i). an approved qualification;
 - ii). another qualification that, in the Board's opinion, is substantially equivalent to, or based on similar competencies to, an approved qualification; and
 - b). complies with any approved registration standard relevant to the endorsement.
2. An endorsement under subsection (1) must state—
 - a). that the registered health practitioner is entitled to use the title “nurse practitioner”; and
 - b). any conditions applicable to the practice by the registered health practitioner as a nurse practitioner.

Part 7 Registration of health practitioners, Division 9 Renewal of registration

109 Annual statement

1. An application for renewal of registration must include or be accompanied by a statement that includes the following—
 - a). a declaration by the applicant that—
 - i). the applicant does not have an impairment; and
 - ii). the applicant has met any recency of practice requirements stated in an approved registration standard for the health profession; and
 - iii). the applicant has completed the continuing professional development the applicant was required by an approved registration standard to undertake during the applicant's preceding period of registration; and
 - iv). the applicant has not practised the health profession during the preceding period of registration without appropriate professional indemnity insurance arrangements being in place in relation to the applicant; and
 - v). if the applicant's registration is renewed the applicant will not practise the health profession unless appropriate professional indemnity insurance arrangements are in place in relation to the applicant;
 - b). details of any change in the applicant's criminal history that occurred during the applicant's preceding period of registration;

Note. See the definition of **criminal history** which applies to offences in participating jurisdictions and elsewhere, including outside Australia.

- c). if the applicant's right to practise at a hospital or another facility at which health services are provided was withdrawn or restricted during the applicant's preceding period of registration because of the applicant's conduct, professional performance or health, details of the withdrawal or restriction of the right to practise;
- d). if the applicant's billing privileges were withdrawn or restricted under the *Medicare Australia Act 1973* of the Commonwealth during the applicant's preceding period of registration because of the applicant's conduct, professional performance or

- health, details of the withdrawal or restriction of the privileges;
 - e). details of any complaint made about the applicant to a registration authority or another entity having functions relating to professional services provided by health practitioners or the regulation of health practitioners;
 - f). any other information required by an approved registration standard.
2. Subsection (1)(a)(ii), (iii) and (iv), (c) and (d) does not apply to an applicant who is applying for the renewal of non-practising registration.

Part 8, Health performance and conduct, Division 2 Mandatory notifications

140 Definition of notifiable conduct

In this Division—

notifiable conduct, in relation to a registered health practitioner, means the practitioner has—

- a). practised the practitioner's profession while intoxicated by alcohol or drugs; or
- b). engaged in sexual misconduct in connection with the practice of the practitioner's profession; or
- c). placed the public at risk of substantial harm in the practitioner's practice of the profession because the practitioner has an impairment; or
- d). placed the public at risk of harm because the practitioner has practised the profession in a way that constitutes a significant departure from accepted professional standards.

141 Mandatory notifications by health practitioners

1. This section applies to a registered health practitioner (the first health practitioner) who, in the course of practising the first health practitioner's profession, forms a reasonable belief that—
 - a). another registered health practitioner (the **second health practitioner**) has behaved in a way that constitutes notifiable conduct; or
 - b). a student has an impairment that, in the course of the student undertaking clinical training, may place the public at substantial risk of harm.
2. The first health practitioner must, as soon as practicable after forming the reasonable belief, notify the National Agency of the second health practitioner's notifiable conduct or the student's impairment.

Note. See section 237 which provides protection from civil, criminal and administrative liability for persons who, in good faith, make a notification under this Law. Section 237(3) provides that the making of a notification does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct and nor is any liability for defamation incurred.

3. A contravention of subsection (2) by a registered health practitioner does not constitute an offence but may constitute behaviour for which action may be taken under this Part.
4. For the purposes of subsection (1), the first health practitioner does not form the reasonable belief in the course of practising the profession if—
 - a). the first health practitioner—
 - i). is employed or otherwise engaged by an insurer that provides professional indemnity insurance that relates to the second health practitioner or student; and
 - ii). forms the reasonable belief the second health practitioner has behaved in a way that constitutes notifiable conduct, or the student has an impairment, as a result of a disclosure made by a person to the first health practitioner in the course of a legal proceeding or the provision of legal advice arising from the insurance policy; or
 - b). the first health practitioner forms the reasonable belief in the course of providing advice in relation to the notifiable conduct or impairment for the purposes of a legal proceeding or the preparation of legal advice; or
 - c). the first health practitioner is a legal practitioner and forms the reasonable belief in the course of providing legal services to the second health practitioner or student in relation to a legal proceeding or the preparation of legal advice in which the notifiable conduct or impairment is an issue; or

Application of National Law in Western Australia

Part 2, Section 4(7) Health Practitioner Regulation National Law (WA) Act 2010

In the Schedule after section 141(4)(c) insert:

141(4) (da) the first health practitioner forms the reasonable belief in the course of providing health services to the second health practitioner or student; or

- d). the first health practitioner—
 - i). forms the reasonable belief in the course of exercising functions as a member of a quality assurance committee, council or other body approved or authorised under an Act of a participating jurisdiction; and
 - ii). is unable to disclose the information that forms the basis of the reasonable belief because a provision of that Act prohibits the disclosure of the information; or
- e). the first health practitioner knows, or reasonably believes, the National Agency has been notified of the notifiable conduct or impairment that forms the basis of the reasonable belief.

142 Mandatory notifications by employers

1. If an employer of a registered health practitioner reasonably believes the health practitioner has behaved in a way that constitutes notifiable conduct, the employer must notify the National Agency of the notifiable conduct.

Note. See section 237 which provides protection from civil, criminal and administrative liability for persons who, in good faith, make a notification under this Law. Section 237(3) provides that the making of a notification does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct and nor is any liability for defamation incurred.

2. If the National Agency becomes aware that an employer of a registered health practitioner has failed to notify the Agency of notifiable conduct as required by subsection (1), the Agency must give a written report about the failure to the responsible Minister for the participating jurisdiction in which the notifiable conduct occurred.
3. As soon as practicable after receiving a report under subsection (2), the responsible Minister must report the employer's failure to notify the Agency of the notifiable conduct to a health complaints entity, the employer's licensing authority or another appropriate entity in that participating jurisdiction.
4. In this section—

employer, of a registered health practitioner, means an entity that employs the health practitioner under a contract of employment or a contract for services.

licensing authority, of an employer, means an entity that under a law of a participating jurisdiction is responsible for licensing, registering or authorising the employer to conduct the employer's business.

143 Mandatory notifications by education providers

1. An education provider must notify the National Agency if the provider reasonably believes—
 - a). a student enrolled in a program of study provided by the provider has an impairment that, in the course of the student undertaking clinical training as part of the program of study, may place the public at substantial risk of harm; or
 - b). a student for whom the education provider has arranged clinical training has an impairment that, in the course of the student undertaking the clinical training, may place the public at substantial risk of harm;

Note. See section 237 which provides protection from civil, criminal and administrative liability for persons who make a notification under this Law. Section 237(3) provides that the making of a notification does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct and nor is any liability for defamation incurred.

2. A contravention of subsection (1) does not constitute an offence.

144 Grounds for voluntary notification

1. A voluntary notification about a registered health practitioner may be made to the National Agency on any of the following grounds—
 - a). that the practitioner's professional conduct is, or may be, of a lesser standard than that which might reasonably be expected of the practitioner by the public or the practitioner's professional peers;
 - b). that the knowledge, skill or judgment possessed, or care exercised by, the practitioner in the practice of the practitioner's health profession is, or may be, below the standard reasonably expected;
 - c). that the practitioner is not, or may not be, a suitable person to hold registration in the health profession, including, for example, that the practitioner is not a fit and proper person to be registered in the profession;
 - d). that the practitioner has, or may have, an impairment;
 - e). that the practitioner has, or may have, contravened this Law;
 - f). that the practitioner has, or may have, contravened a condition of the practitioner's registration or an undertaking given by the practitioner to a National Board;

- g). that the practitioner's registration was, or may have been, improperly obtained because the practitioner or someone else gave the National Board information or a document that was false or misleading in a material particular.
2. A voluntary notification about a student may be made to the National Agency on the grounds that—
- a). the student has been charged with an offence, or has been convicted or found guilty of an offence, that is punishable by 12 months imprisonment or more; or
 - b). the student has, or may have, an impairment; or
 - c). that the student has, or may have, contravened a condition of the student's registration or an undertaking given by the student to a National Board.
- B. has, or may have, an impairment; or
 - C. has, or may have, contravened a condition of the student's registration or an undertaking given by the student to a National Board; and
- ii). it is necessary to take immediate action to protect public health or safety; or
- c). the registered health practitioner's registration was improperly obtained because the practitioner or someone else gave the National Board information or a document that was false or misleading in a material particular; or
 - d). the registered health practitioner's or student's registration has been cancelled or suspended under the law of a jurisdiction, whether in Australia or elsewhere, that is not a participating jurisdiction.

145 Who may make voluntary notification

Any entity that believes that a ground on which a voluntary notification may be made exists in relation to a registered health practitioner or a student may notify the National Agency.

Note. See section 237 which provides protection from civil, criminal and administrative liability for persons who, in good faith, make a notification under this Law.

Part 8 Health, performance and conduct, Division 7 Immediate action

156 Power to take immediate action

1. A National Board may take immediate action in relation to a registered health practitioner or student registered by the Board if—
- a). the National Board reasonably believes that—
 - i). because of the registered health practitioner's conduct, performance or health, the practitioner poses a serious risk to persons; and
 - ii). it is necessary to take immediate action to protect public health or safety; or
 - b). the National Board reasonably believes that—
 - i). the student poses a serious risk to persons because the student—
 - A. has been charged with an offence, or has been convicted or found guilty of an offence, that is punishable by 12 months imprisonment or more; or

157 Show cause process

1. If a National Board is proposing to take immediate action that consists of suspending, or imposing a condition on, a registered health practitioner's or student's registration under section 156, the Board must—
- a). give the practitioner or student notice of the proposed immediate action; and
 - b). invite the practitioner or student to make a submission to the Board, within the time stated in the notice about the proposed immediate action.
2. A notice given to a registered health practitioner or student under subsection (1), and any submissions made by the practitioner or student in accordance with the notice, may be written or verbal.
3. The National Board must have regard to any submissions made by the registered health practitioner or student in accordance with this section in deciding whether to take immediate action in relation to the practitioner or student.