

Inquiry - Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2024

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Australian College of Nursing

Parliamentary Inquiry

Inquiry into the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2024

An Australian College of Nursing Submission



Health, Environment, and Innovation Committee
Queensland Parliamentary Service
Parliament House
Cnr George and Alice Streets Brisbane QLD 4000

Email: HEIC@parliament.qld.gov.au

To whom it may concern,

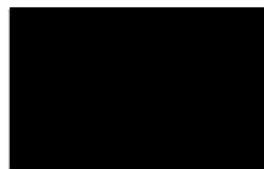
Re: Inquiry into the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2024

The Australian College of Nursing (ACN) would like to thank the Health, Environment and Innovation Committee for the opportunity to comment on the Inquiry into the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2024 (the Bill).

ACN is a peak nursing body that supports equity for all. Representing the nursing profession, we advocate for social models of healthcare that address the needs of individuals and communities, considering social, economic, and environmental factors. We advocate for access and health equity through evidence-informed, person-centred care across the lifespan.

If you would like to discuss any aspect of ACN's response, please get in touch with [REDACTED] at [REDACTED]

Yours sincerely,



Kathryn Zeitz, PhD FACN
Chief Executive Officer
Australian College of Nursing

09 January 2025

Background

A national registration and accreditation scheme regulates fifteen health professions in Australia.¹ From the eight professions governed by the Australian Health Practitioner Regulation Agency (Ahpra), 11,200 notifications of misconduct were made in 2023-2024, an increase of 15.4% compared to the previous year.² Of these, immediate action was taken on 499 cases due to the nature of the misconduct, which is primarily reported as poor clinical care and boundary violations – including sexual misconduct.³ In public tribunals, healthcare practitioners involved in serious misconduct will face disciplinary charges, such as deregistration.⁴ There is no publicly available data on the number of practitioners who are reregistered each year. However, it is known that only 10-15% of practitioners seek to return after a tribunal deregistration.⁵

It is essential to ensure the protection of the public whilst retaining a strong healthcare workforce. Transparency and accurate reporting of misconduct are essential to promote patient safety and trust in the healthcare system. However, strong governance and education is also required to ensure healthcare practitioners are not mislabelled and stigmatised. ACN trusts in the tribunal and legal processes aligned with disqualifying a healthcare practitioner from the provision of services and has no tolerance for healthcare practitioners engaging in sexual harassment, abuse, or misconduct. While ACN actively supports preventive care, it acknowledges that nurses already receive comprehensive education on integrity and professional standards. Nevertheless, ACN recognises that reports in the United Kingdom found that misunderstanding cultural differences and ethical norms can contribute to misconduct.⁶ Therefore, increasing cross-cultural awareness can help reduce the risk of unintentional breaches of professional conduct.⁷

Response to Proposed Amendments

a. Protect public safety by establishing a nationally consistent process for practitioners to regain registration after their registration has been cancelled, or they have been disqualified from registration, by a tribunal – cancelled and disqualified practitioners will be required to obtain a reinstatement order from a responsible tribunal before applying to a National Board for re-registration

ACN supports the promotion of public safety and is an advocate for nationally consistent systems. This requirement for reinstatement orders to be received from a responsible tribunal after disqualification/deregistration by a tribunal is currently utilised by NSW.⁸

Further, we support the stipulation that a person may be restricted “*either permanently or for a stated period*” from applying for a reinstatement order. This will ensure that a disqualified practitioner cannot reapply if deemed a risk to public safety.

¹ Millbank, J. (2022). Reinstatement of Previously Deregistered Health Professionals in Australia: Legal Determinations of Risk, Patient Safety and Public Interest. *Federal Law Review* (50). doi:10.2139/ssrn.4075437

² Ahpra & National Boards. (2024). *Annual Report 2023/24, Leadership and collaboration for safer healthcare*. Ahpra.

³ IBID

⁴ Millbank, J. (2022). Reinstatement of Previously Deregistered Health Professionals in Australia: Legal Determinations of Risk, Patient Safety and Public Interest. *Federal Law Review* (50). doi:10.2139/ssrn.4075437

⁵ IBID

⁶ Searle, R. H., Rice, C., McConnell, A. A., & Dawson, J. F. (2017). *Bad apples? Bad barrels? Or bad cellars? Antecedents and processes of professional misconduct in UK Health and Social Care: Insights into sexual misconduct and dishonesty* [Research paper]. University of Coventry.

⁷ IBID

⁸ *Health Practitioner Regulation National Law (NSW) No 86a of 2009*.

b. Increase transparency for the public about disciplinary action against health practitioners found by a tribunal to have engaged in serious sexual misconduct – National Boards will be required to permanently publish additional information on the national public registers.

The latest 'Ethical Index' from the Governance Institute of Australia found Health as the most ethical sector, with Nurses as the second most trusted profession one point behind Fire Services.⁹ Any erosion of this trust can undermine nurses' ability to deliver quality care and may discourage patients from seeking the support they need. This ripple effect can lead to poorer health outcomes for individuals and erode public confidence in the broader healthcare system.¹⁰

Most recent Ahpra data from the 2022-2023 reporting period found 841 complaints about boundary violations by health practitioners – including sexual misconduct.¹¹ ACN believes that the associated negative effects of experiencing inappropriate sexual conduct, along with the current prevalence, reinforces the need for strong governance and regulation for all healthcare providers. All staff providing care needs, such as personal care or support with activities of daily living, should be regulated to ensure safety, trust, and quality healthcare are upheld. ACN believes in and supports the Royal Commission into Aged Care's recommendation number 77, which suggests that a regulation agency regulates all unregulated healthcare workers.^{12,13,14}

ACN supports the amendments that a healthcare practitioner's details be removed from the sexual misconduct register if "*the tribunal decision has been stayed, overturned, or materially modified*".

c. Strengthen protections for notifiers (complainants) against reprisals or other detriment, threats and intimidation, and clarify consumer protections in relation to nondisclosure agreements about the health, conduct or performance of health practitioners.

ACN commends the strengthening of protections for notifiers and potential notifiers. However, strong governance of systems is required to ensure that healthcare practitioners are protected from malicious or false complaints.

ACN supports the amendment to add offences, where persons/organisations must not 'use threats, intimidation, or refuse to employ or dismiss a person in the belief that they have made or intend to make a disclosure/notification'.

ACN also supports the amendment adding an offence for 'employers, registered health practitioners, or health service providers entering a non-disclosure agreement without clearly stating to the person, in writing, that they retain the ability and right to make a notification/complaint'.

⁹ Governance Institute of Australia. (2024). *Cost of Living pressures dominate Ethical Concerns for 2024* [Media release]. CGI.

¹⁰ Nursing and Midwifery Board Ahpra. (2024). *What do nurses and midwives do?* [Fact sheet]. Ahpra.

¹¹ Ahpra & National Boards. (2023). *Regulator boosts resources to meet jump in sexual misconduct complaints*. Ahpra.

¹² Royal Commission into Aged Care Quality and Safety. (2021). *Final Report: Care, Dignity and Respect*. Royal Commission.

¹³ Australian College of Nursing. (2019). *Regulation of the Unregulated Health Care Workforce across the Health Care System* [White paper]. ACN.

¹⁴ Australian College of Nursing. (2021). *Unregulated Health Care Workers* [Position statement]. ACN.

About ACN

The Australian College of Nursing is the peak professional body and leader of the nursing profession. We are a for-purpose organisation committed to our mission of Shaping Health and Advancing Nursing.

We support nurses to uphold the highest possible standards of integrity, clinical expertise, ethical conduct, and professionalism through our six pillars of Education, Leadership, Community, Social Impact, Advocacy and Policy.

We are the Australian member of the International Council of Nurses headquartered in Geneva in collaboration with the Australian Nursing and Midwifery Federation (ANMF).