

Queensland



**HEALTH PRACTITIONERS
LEGISLATION AMENDMENT
ACT 2001**

Act No. 6 of 2001

Queensland



HEALTH PRACTITIONERS LEGISLATION AMENDMENT ACT 2001

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Queensland



Health Practitioners Legislation Amendment Act 2001

Act No. 6 of 2001

**An Act to amend certain Acts administered by the Minister for Health
relating to health practitioners, and for other purposes**

[Assented to 11 May 2001]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Health Practitioners Legislation Amendment Act 2001*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF HEALTH PRACTITIONER REGISTRATION BOARDS (ADMINISTRATION) ACT 1999

3 Act amended in pt 2

This part amends the *Health Practitioner Registration Boards (Administration) Act 1999*.

4 Amendment of s 5 (The legislative scheme)

Section 5, ‘, the *Health*’ to ‘1966’—

omit, insert—

‘and the *Health Practitioners (Professional Standards) Act 1999*’.

5 Amendment of s 23 (Board to use office for administrative and operational support)

Section 23(2)—

insert—

‘(d) power under a health practitioner registration Act to appoint an inspector or a person to conduct a health assessment.’.

PART 3—AMENDMENT OF HEALTH PRACTITIONERS (PROFESSIONAL STANDARDS) ACT 1999

6 Act amended in pt 3

This part amends the *Health Practitioners (Professional Standards) Act 1999*.

7 Amendment of s 4 (The legislative scheme)

Section 4, ‘¹ the *Health*’ to ‘1966’—

omit, insert—

‘¹ and the *Health Practitioner Registration Boards (Administration) Act 1999*’.

8 Amendment of s 9 (Application of Act to persons who are no longer registered)

Section 9—

insert—

‘(3A) In this section a reference to a person who was a registrant includes a reference to a person who was registered under a repealed health practitioner registration Act.’.

9 Amendment of s 18 (Restrictions on membership of panel)

Section 18(2)—

omit, insert—

1 For the definition “health practitioner registration Act”—see the schedule (Dictionary).

‘(2) If the disciplinary matter to be heard by the panel relates to a complaint by a user of a service provided by the registrant, or an entity acting on behalf of a user of a service provided by the registrant, the panel must include at least 1 member who is the same gender as the user.’.

10 Amendment of s 32 (Restrictions on appointment of assessors)

Section 32(3), from ‘an individual’ to ‘complainant’—

omit, insert—

‘a user of a service provided by the registrant, or an entity acting on behalf of a user of a service provided by a registrant, either the constituting member or at least 1 of the assessors must be the same gender as the user’.

11 Amendment of s 41 (Disqualification from membership of panel of assessors)

Section 41(b)(ii)—

omit, insert—

- ‘(ii) the individual is a registrant—
 - (A) whose registration ceases to have effect; or
 - (B) whose registration is subject to conditions that limit the registrant’s right to practise the profession; or
 - (C) who has entered into an undertaking with the registrant’s board or has given the tribunal an undertaking; or
- (iii) the individual is registered, licensed or otherwise authorised to practise the profession in another State and—
 - (A) the registration, licence or other authorisation is cancelled or suspended; or
 - (B) the registration, licence or other authorisation is subject to conditions that limit the individual’s right to practise the profession; or
 - (C) the individual has entered into an undertaking with an entity in that State that performs the same functions as a disciplinary body.’.

12 Amendment of s 42 (Procedure for recommending members of panels of assessors)

Section 42—

insert—

‘(4) However, subsections (2) and (3) do not apply if the Minister reasonably believes that it is necessary to urgently appoint an individual as a member of a professional panel of assessors because—

- (a) the secretary or registrar considers a disciplinary matter is likely to raise issues of a specialist or technical nature, whether on the basis of advice received under section 19(1) or 33(1) from a board or otherwise; and
- (b) the secretary or registrar has advised the Minister that—
 - (i) none of the panel members have the desirable professional background or skills; or
 - (ii) panel members who do have the desirable professional background or skills will not be available to hear the matter.’.

13 Amendment of s 176 (Pre-hearing conference)

Section 176(6), after ‘conference to’—

insert—

‘a panel member or’.

14 Amendment of s 190 (Interim orders)

Section 190(3), after ‘onerous order’—

insert—

‘the panel considers’.

15 Amendment of s 191 (Inspection of things)

(1) Section 191(2)(c)—

omit, insert—

‘(c) keep the thing while it is necessary for the hearing;

(d) give the thing to the secretary to keep while it is necessary for any appeal relating to the hearing.’.

(2) Section 191(3), after ‘panel’—

insert—

‘or secretary’.

16 Amendment of s 219 (Procedure for hearing by tribunal)

Section 219(3)(a)—

insert—

‘(iii) the effect that section 381C or 381G, if relevant, may have on the registrant’s registration; and’.

17 Amendment of s 231 (Interim orders)

Section 231(3), after ‘onerous order’—

insert—

‘the tribunal considers’.

18 Amendment of s 262 (Board may notify other registrants)

Section 262(2)(a), after ‘public’—

insert—

‘, or part of which has been heard in public’.

19 Amendment of s 264 (Matters to be included in board’s annual report)

Section 264(2)(a), after ‘public’—

insert—

‘, or part of which has been heard in public’.

20 Amendment of s 310 (Definition for pt 8)

Section 310, definition “foreign law”, paragraphs (a) and (b), ‘law of’—
omit, insert—
‘law applying in’.

21 Amendment of s 311 (Board may take action on basis of foreign law)

(1) Section 311(2)(c), ‘28 days’—
omit, insert—
‘14 days’.

(2) Section 311—
insert—

‘(8) This section does not limit the disciplinary action a disciplinary body may take under this Act.’.

22 Insertion of new pt 11, div 1 and div 2 hdg

Part 11, immediately before section 368—
insert—

‘Division 1—Evidence**‘367A Application of div 1**

‘This division applies to a proceeding under this Act.

‘367B Appointments and authority

‘(1) It is not necessary to prove—
(a) a relevant person’s appointment; or
(b) the authority of a relevant person to do anything under this Act.
(2) In this section—

“**relevant person**” means any of the following—

(a) a member of a board or a disciplinary committee;

- (b) a member of a panel;
- (c) an assessor;
- (d) a member of a panel of assessors;
- (e) an investigator or inspector;
- (f) the executive officer or a member of the staff of the office;
- (g) the secretary or registrar;
- (h) the commissioner;
- (i) a member of a health assessment committee;
- (j) a person appointed under section 108 to conduct a health assessment.

‘367C Signatures

‘A signature purporting to be the signature of the Minister, an investigator, an inspector, the executive officer or a member of the staff of the office is evidence of the signature it purports to be.

‘367D Evidentiary provisions

‘(1) A certificate purporting to be signed by the executive officer and stating any of the following matters is evidence of the matter—

- (a) a stated document is 1 of the following things made, given, issued or kept under this Act—
 - (i) an appointment, approval or decision;
 - (ii) a notice, direction, requirement or order;
 - (iii) a record, or an extract from a record;
- (b) a stated document is an undertaking given, entered into or approved under this Act;
- (c) a stated document is a complaint made under this Act or further information given about a complaint;
- (d) a stated document is a complaint made under the *Health Rights Commission Act 1991* and referred to a board, or further information given about a complaint;
- (e) a stated document is another document kept under this Act;

- (f) a stated document is a certificate of registration;
- (g) a stated document is a register, or an extract from a register, kept under a health practitioner registration Act;
- (h) a stated document is a copy of a thing mentioned in paragraph (a), (b), (c), (d), (e), (f) or (g);
- (i) on a stated day, or during a stated period, a stated person was or was not a registrant;
- (j) on a stated day, or during a stated period, a registration—
 - (i) was or was not in force; or
 - (ii) was or was not subject to a stated condition;
- (k) on a stated day, a registration was cancelled;
- (l) on a stated day, or during a stated period, an undertaking was or was not in force;
- (m) on a stated day, or during a stated period, an appointment of a person as an investigator or inspector was, or was not, in force;
- (n) on a stated day, a stated person was given a stated notice or direction under this Act;
- (o) on a stated day, a stated requirement was made of a stated person;
- (p) on a stated day, a code of practice or a provision of a code of practice, was, or was not, in force.

‘(2) A statement, in a complaint forming the basis for disciplinary proceedings under this Act, of the date on which the matter of the complaint came to the knowledge of the complainant is evidence that the matter came to the knowledge of the complainant on that date.

‘Division 2—Proceedings’.

23 Amendment of s 371 (Limitation on time for starting summary proceedings)

Section 371(b)—

omit, insert—

- (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.'.

24 Amendment of s 381 (Effect of suspension)

(1) Section 381(3)(a), 'annual licence fee'—

omit, insert—

'registration fee or specialist registration fee'.

(2) Section 381—

insert—

(4) The registrant's board must, immediately after the suspension ends—

- (a) return to the registrant the registrant's certificate of registration; or
- (b) if the board does not consider it practicable to return the registrant's certificate of registration—issue another certificate of registration to the registrant to replace the certificate returned to the board.'

25 Insertion of new pt 12, divs 2A and 2B

After section 381—

insert—

'Division 2A—Provisions about certain registrants

'Subdivision 1—Preliminary

'381A Definitions for div 2A

'In this division—

"dental prosthetist" means a person registered under the *Dental Technicians and Dental Prosthetists Registration Act 2001* in the dental prosthetics profession.

“dental technician” means a person registered under the *Dental Technicians and Dental Prosthetists Registration Act 2001* in the dental technology profession.

“general registrant” means a person registered under a health practitioner registration Act as a general registrant.

“relevant action” means—

- (a) disciplinary action; or
- (b) the suspension of, or imposition of conditions on, a registrant’s registration under section 59(2); or
- (c) action taken under section 118(1)(c)(iv); or
- (d) action taken under section 276(2)(a); or
- (e) action taken under section 299(2)(a), (b) or (c).²

“specialist registrant” means a person registered under a health practitioner registration Act as a specialist registrant.

‘Subdivision 2—Provisions about registrants who are general and specialist registrants

‘381B Application of relevant action to registrants who are general and specialist registrants

‘(1) This section applies if—

- (a) a registrant is registered as a general registrant and a specialist registrant in a profession; and
- (b) a disciplinary body or the Court of Appeal decides to take relevant action in relation to the registrant’s registration.

‘(2) The disciplinary body or Court of Appeal may decide to take the relevant action in relation to either or both of the registrant’s general registration or specialist registration.

‘(3) This section is subject to section 381C(2).

² Sections 59 (Immediate suspension or imposition of conditions on registration), 118 (Decision on investigation), 276 (Decision about action to be taken for impaired registrant) and 299 (Decision about action to be taken for impaired registrant)

‘381C Effect on specialist registration if general registration suspended or cancelled

‘(1) This section applies if—

- (a) a registrant is registered as a general registrant and a specialist registrant in a profession; and
- (b) the registrant’s registration as a general registrant is cancelled or suspended under an Act, other than a health practitioner registration Act.

‘(2) The registrant’s specialist registration—

- (a) if the registrant’s general registration is cancelled—is taken to be cancelled on the same day; or
- (b) if the registrant’s general registration is suspended—is taken to be suspended during the period the general registration is suspended.

‘(3) If the cancellation or suspension of the registrant’s general registration is set aside, the cancellation or suspension of the registrant’s specialist registration is also set aside.

‘381D Notice to be given about change to specialist registration

‘(1) This section applies if, under section 381C(2), a registrant’s specialist registration is cancelled or suspended because of the cancellation or suspension of the registrant’s general registration.

‘(2) As soon as practicable after the registrant’s specialist registration is cancelled or suspended, the registrant’s board must give the registrant written notice about the cancellation or suspension.

‘(3) The notice must—

- (a) state that there is no appeal in relation to the cancellation or suspension of the registrant’s specialist registration; and
- (b) include a direction to the registrant to return the registrant’s certificate of specialist registration within 14 days after the registrant’s receipt of the notice.

‘381E Decision about recording suspension

‘(1) This section applies if, under section 381C(2), a registrant’s specialist registration is suspended because of the suspension of the registrant’s general registration.

‘(2) The decision made about recording details of the suspension of the registrant’s general registration applies in the same way to the suspension of the registrant’s specialist registration.

‘Subdivision 3—Provisions about registrants who are dental technicians and dental prosthetists**‘381F Application of relevant action to registrants who are dental technicians and dental prosthetists**

‘(1) This section applies if—

- (a) a registrant is registered as a dental technician and a dental prosthetist; and
- (b) a disciplinary body or the Court of Appeal decides to take relevant action in relation to the registrant’s registration.

‘(2) The disciplinary body or Court of Appeal may decide to take the relevant action in relation to either or both of the registrant’s registration as a dental technician or the registrant’s registration as a dental prosthetist.

‘(3) This section is subject to section 381G(2).

‘381G Effect on specialist registration if general registration suspended or cancelled

‘(1) This section applies if—

- (a) a registrant is registered as a dental technician and a dental prosthetist; and
- (b) the registrant’s registration as a dental technician is cancelled or suspended under an Act, other than a health practitioner registration Act.

‘(2) The registrant’s registration as a dental prosthetist—

- (a) if the registrant’s registration as a dental technician is cancelled—is taken to be cancelled on the same day; or

- (b) if the registrant's registration as a dental technician is suspended—is taken to be suspended during the period the registration as a dental technician is suspended.

‘(3) If the cancellation or suspension of the registrant's registration as a dental technician is set aside, the cancellation or suspension of the registrant's registration as a dental prosthetist is also set aside.

‘381H Notice to be given about change to registration as dental prosthetist

‘(1) This section applies if, under section 381G(2), a registrant's registration as a dental prosthetist is cancelled or suspended because of the cancellation or suspension of the registrant's registration as a dental technician.

‘(2) As soon as practicable after the registrant's registration as a dental prosthetist is cancelled or suspended, the registrant's board must give the registrant written notice about the cancellation or suspension.

‘(3) The notice must—

- (a) state that there is no appeal in relation to the cancellation or suspension of the registration as a dental prosthetist; and
- (b) include a direction to the registrant to return the registrant's certificate of registration as a dental prosthetist within 14 days after the registrant's receipt of the notice.

‘381I Decision about recording suspension

‘(1) This section applies if, under section 381G(2), a registrant's registration as a dental prosthetist is suspended because of the suspension of the registrant's registration as a dental technician.

‘(2) The decision made about recording details of the suspension of the registrant's registration as a dental technician applies in the same way to the suspension of the registrant's registration as a dental prosthetist.

‘Division 2B—Certificates of registration**‘381J Return of certificate of registration to board if registration suspended or cancelled**

‘(1) This section applies if, under this Act, a registrant’s registration is suspended or cancelled.

‘(2) The registrant must return the registrant’s certificate of registration to the registrant’s board within 14 days after receiving notice about the suspension or cancellation, unless the registrant has a reasonable excuse.

Maximum penalty—10 penalty units.

‘381K Amendment or replacement of certificate of registration

‘(1) This section applies if, under this Act—

- (a) conditions are imposed on, or removed from, a registrant’s registration; or
- (b) a board or the tribunal enters into an undertaking with a registrant; or
- (c) an undertaking entered into by a registrant with the registrant’s board or the tribunal ends.

‘(2) The registrant must return the certificate of registration to the registrant’s board within 14 days after the action mentioned in subsection (1) takes effect, unless the registrant has a reasonable excuse.

Maximum penalty—10 penalty units.

‘(3) On receiving the certificate, the board must—

- (a) amend the certificate in an appropriate way and return the amended certificate to the registrant; or
- (b) if the board does not consider it practicable to amend the certificate—issue another certificate of registration to the registrant to replace the certificate returned to the board.’.

26 Insertion of new ss 385A–385C

Part 12, division 3, after section 385—

insert—

‘385A Registrant to give notice of certain convictions to board

‘(1) This section applies if a registrant—

- (a) is convicted of an indictable offence; or
- (b) is convicted of an offence against a corresponding law.

‘(2) The registrant must, within 30 days after the conviction, give the registrant’s board notice of the conviction.

Maximum penalty—50 penalty units.

‘(3) The notice must be in the approved form.

‘(4) Information in the notice must, if the approved form requires, be verified by a statutory declaration.

‘385B Registrant to give board notice of certain judgments and settlements

‘(1) This section applies if—

- (a) a registrant is a party to proceedings in a court, brought by another party against the registrant, claiming damages or other compensation for alleged negligence by the registrant in the practice of the registrant’s profession; and
- (b) there is—
 - (i) a judgment in relation to the proceedings; or
 - (ii) a settlement of the proceedings, or part of the proceedings.

‘(2) The registrant must give the registrant’s board notice of the judgment or settlement within 30 days after the date of the judgment or settlement.

Maximum penalty—50 penalty units.

‘(3) The notice must be in the approved form.

‘(4) Information in the notice must, if the approved form requires, be verified by a statutory declaration.

‘(5) To remove doubt, it is declared that subsections (2) and (3) apply despite any agreement entered into by the parties to the settlement.

‘(6) Subsection (2) does not apply to a settlement of proceedings under an agreement reached in conciliation under the *Health Rights Commission Act 1991*, part 6³ or a relevant interstate law.

‘(7) In this section—

“**relevant interstate law**” means a law of another State that provides for the same matter as the *Health Rights Commission Act 1991*, part 6.

385C Registrant to give board notice about certain events

‘(1) This section applies if—

- (a) a person is registered under a health practitioner registration Act and is also registered, licensed or certified under a corresponding law to practise the same profession; and
- (b) after the registrant is registered under the health practitioner registration Act, the registrant’s registration, licence or certification under the corresponding law is affected by disciplinary action or is otherwise cancelled, suspended or made subject to a condition or undertaking (the “**relevant action**”).

‘(2) The registrant must, within 30 days after the registration, licence or certification is affected by the relevant action, give the registrant’s board notice about the relevant action.

Maximum penalty—50 penalty units.

‘(3) The notice must be in the approved form.

‘(4) Information in the notice must, if the approved form requires, be verified by a statutory declaration.’

27 Insertion of new s 386A

After section 386—

insert—

386A Protection of officials from liability

‘(1) An official is not civilly liable for an act done or omission made, honestly and without negligence under this Act.

3 *Health Rights Commission Act 1991*, part 6 (Conciliation)

‘(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to—

- (a) for an official who is a member of a board—the board of which the official is a member; or
- (b) for an official who is a member of a health assessment committee or who is asked to prepare an assessment report or expert’s report—the board that appointed the official or asked the official to prepare a report; or
- (c) for an official who is an investigator or inspector—the board that appointed the official; or
- (d) for an official who is a person acting under the direction or authority of an investigator—the board that appointed the investigator; or
- (e) for an official who is the executive officer—the board on whose behalf the official is acting.

‘(3) In this section—

“official” means—

- (a) a member of a board, other than when the member is performing the member’s duties in carrying out disciplinary proceedings; or
- (b) a member of a health assessment committee; or
- (c) a person who is asked by a board to prepare an assessment report or an expert’s report; or
- (d) an investigator; or
- (e) an inspector; or
- (f) a person acting under the direction or authority of an investigator; or
- (g) the executive officer.’.

28 Amendment of s 392 (Confidentiality)

Section 392(3)—

insert—

‘(ba)if the disclosure is to a foreign regulatory authority and the disclosure is necessary for the authority to perform its functions; or’.

29 Omission of s 396 (Board meetings by distance or flying minute)

Section 396—

omit.

30 Amendment of s 397 (Forms)

Section 397—

insert—

‘(3) A board may approve forms for use, under this Act, in relation to the board.’.

31 Insertion of new pt 13, div 1 hdg

Part 13, immediately before section 399—

insert—

‘Division 1—Provisions for Health Practitioners (Professional Standards) Act 1999’.

32 Amendment of s 403 (Saving of existing orders made by boards or Medical Assessment Tribunal)

Section 403—

insert—

‘(3A) If a final order mentioned in subsection (1) or (2) was an order or decision of the Medical Assessment Tribunal imposing conditions on a registrant’s registration, the order may be reviewed under part 9, division 4, as if the final order were a decision made by the Health Practitioners Tribunal under section 241(2)(b) to impose conditions on the registrant’s registration.

‘(3B) If a final order mentioned in subsection (1) or (2) was an order made under the *Medical Act 1939*, section 30K, imposing conditions on a registrant’s registration—

- (a) for an order imposing conditions relating to a registrant's competency to practise because of an impairment—the registrant may give the registrant's board a notice under section 306 to arrange a further health assessment of the registrant as if the conditions had been imposed under section 299(2) and the period during which the registrant may not ask for a further assessment had ended; or
- (b) for another order—the order may be reviewed under part 9, division 2, as if the order were a decision made by a panel under section 201(2)(b) to impose conditions on the registrant's registration.'.

33 Insertion of new div 2 hdg and s 405

After section 404—

insert—

'Division 2—Provisions for Health Practitioners Legislation Amendment Act 2001

'405 Transitional provision about health practitioner registration Act

'For the purpose of this Act continuing to apply—

- (a) to a person who was registered under a repealed health practitioner registration Act and who, on the repeal of that Act, continued to be a registrant under this Act; or
- (b) in relation to something done or omitted by the person before the repeal of the repealed Act;

a reference in this Act to a registrant or a health practitioner registration Act is taken to include a reference to the person or the repealed Act.'.

34 Amendment of schedule (Dictionary)

(1) Schedule, definition "chairperson"—

omit.

(2) Schedule—

insert—

‘**“certificate of registration”**’ means a certificate of registration issued under a health practitioner registration Act.

“certificate of specialist registration” means a certificate of specialist registration issued under a health practitioner registration Act.

“chairperson”, of a board, means the chairperson of the board appointed under the health practitioner registration Act that establishes the board.

“corresponding law” means a law applying in another State, the Commonwealth or a foreign country that provides for the same matter as this Act or a health practitioner registration Act.

“repealed health practitioner registration Act” means any of the following Acts after the Act is repealed—

- *Chiropractors and Osteopaths Act 1979*
- *Dental Act 1971*
- *Dental Technicians and Dental Prosthetists Act 1991*
- *Medical Act 1939*
- *Occupational Therapists Act 1979*
- *Optometrists Act 1974*
- *Pharmacy Act 1976*
- *Physiotherapists Act 1964*
- *Podiatrists Act 1969*
- *Psychologists Act 1977*
- *Speech Pathologists Act 1979*.’.

(3) Schedule, definition “approved form”—

insert—

‘(c) for a board—a form approved by the board under section 397(3).’.

(4) Schedule, definition “foreign disciplinary body”, ‘law of’—

omit, insert—

‘law applying in’.

(5) Schedule, definition “foreign regulatory authority”, paragraph (b), ‘law of’—

omit, insert—

‘law applying in’.

PART 4—AMENDMENT OF INDY CAR GRAND PRIX ACT 1990

35 Act amended in pt 4

This part amends the *Indy Car Grand Prix Act 1990*.

36 Amendment of s 23 (Limited rights of medical and paramedical practitioners)

Section 23(2)(c)—

omit, insert—

‘(c) nursing;’.

PART 5—REPEAL OF MEDICAL ACT AND OTHER ACTS (ADMINISTRATION) ACT 1966

37 Repeal

The *Medical Act and Other Acts (Administration) Act 1966* (1966 Act No. 24) is repealed.