



Health Practitioners Competence Assurance Amendment Act 2019

Public Act 2019 No 11
Date of assent 11 April 2019
Commencement see section 2

Contents

		Page
1	Title	4
2	Commencement	4
3	Principal Act	4
Part 1		
Amendments to principal Act		
4	Section 5 amended (Interpretation)	4
5	New section 5A inserted (Transitional, savings, and related provisions)	4
	5A Transitional, savings, and related provisions	5
6	Section 12 amended (Qualifications must be prescribed)	5
7	Section 14 amended (Provisions relating to notices under sections 11 and 12)	5
8	Section 17 amended (Applications for registration of health practitioners and authorisations of scopes of practice)	5
9	Section 29 amended (Decisions of authority as to practising certificate and scope of practice)	5
10	Section 31 amended (Interim practising certificate)	6
11	Section 33 replaced (Surrender of practising certificate)	6
	33 Surrender of practising certificate	6
12	Section 36 amended (When authority may review health practitioner's competence)	6
13	Section 38 amended (Orders concerning competence)	6

14	Section 39 amended (Interim suspension of practising certificate or inclusion of conditions in scope of practice pending review or assessment)	7
15	Section 48 amended (Interim suspension of practising certificate or inclusion of conditions in scope of practice in cases of suspected inability to perform required functions due to mental or physical condition)	7
16	Section 49 amended (Power to order medical examination)	7
17	Section 50 amended (Restrictions may be imposed in case of inability to perform required functions)	7
18	Section 51 amended (Revocation of suspension or conditions)	8
19	Section 58 amended (Reporting requirements)	8
20	Section 65 amended (Response to complaints referred by Health and Disability Commissioner)	8
21	New section 67A inserted (Action to be taken by authority on receipt of notice of conviction)	8
	67A Action to be taken by authority on receipt of notice of conviction	8
22	Section 68 replaced (Referral of complaints and notices of conviction to professional conduct committee)	10
	68 Referral of information to professional conduct committee	10
23	Section 69 amended (Interim suspension of practising certificate pending prosecution or investigation)	10
24	New section 69A inserted (Interim suspension of practising certificate pending prosecution or investigation if risk of harm to public)	10
	69A Interim suspension of practising certificate pending prosecution or investigation if risk of harm to public	10
25	New section 92A inserted (Chairperson may prohibit publication of names pending hearing of charge)	11
	92A Chairperson may prohibit publication of names pending hearing of charge	11
26	Section 93 amended (Interim suspension of registration or imposition of restrictions on practice)	12
27	Section 94 amended (Health practitioner may apply for revocation of order)	13
28	Section 95 amended (Hearings to be public unless Tribunal orders otherwise)	13
29	Section 102 amended (Orders limiting restoration of registration)	13
30	Section 103 amended (Orders of Tribunal)	13
31	New section 103A inserted (Resourcing Tribunal's administration costs)	13
	103A Resourcing Tribunal's administration costs	14

32	Section 104 amended (Resourcing of Tribunal and nomination of executive officers)	14
33	New section 104A inserted (Recovery of costs, fees, and expenses)	14
	104A Recovery of costs, fees, and expenses	15
34	Section 105 amended (Recovery of fines and costs)	15
35	New sections 116A to 116D and cross-heading inserted	15
	<i>Amalgamation of authorities</i>	
	116A Authorities may be amalgamated	15
	116B Effect of amalgamation	16
	116C Final report of authority	16
	116D Members not entitled to compensation for loss of office	16
36	New section 116E and cross-heading inserted	16
	<i>List of authorities</i>	
	116E Director-General of Health to publish list of responsible authorities	16
37	Section 118 amended (Functions of authorities)	17
38	Section 120 amended (Membership of authorities)	17
39	New sections 122A and 122B and cross-heading inserted	17
	<i>Performance reviews of authorities</i>	
	122A Performance reviews	17
	122B Information about implementation of recommendations to be included in annual report	18
40	Section 134 amended (Annual report)	18
41	New section 134A and cross-heading inserted	19
	<i>Information about health practitioners</i>	
	134A Authority to provide to Director-General of Health information about health practitioners	19
42	Section 140 replaced (Health practitioners must notify Registrar of address)	20
	140 Health practitioners must notify Registrar of addresses for service	20
43	Section 147 amended (Removal of qualifications, or cancellation of registration, overseas)	20
44	Section 156 amended (Notice and service of documents)	20
45	New sections 156A and 156B inserted	21
	156A Orders of authority	21
	156B When orders of authority or Tribunal take effect	21
46	New sections 157A to 157I inserted	21
	157A Meaning of naming policy	21
	157B Authorities to issue naming policies	21
	157C Consultation on naming policies	22
	157D Naming policies to be available on Internet	22

157E	When naming policies come into force	22
157F	Review of naming policies	22
157G	Naming policies to be consistent with law	23
157H	Status of naming policies	23
157I	Authority naming health practitioner in accordance with naming policy protected by qualified privilege	23

Part 2

Further amendments to principal Act

47	New Schedule 1AA inserted	23
48	Schedule 1 amended	23
49	Schedule 3 amended	23
50	Consequential amendments to other enactments	24

Schedule 1 25

New Schedule 1AA inserted

Schedule 2 26

Consequential amendments

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Health Practitioners Competence Assurance Amendment Act 2019.

2 Commencement

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

3 Principal Act

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

Part 1

Amendments to principal Act

4 Section 5 amended (Interpretation)

In section 5(1), repeal the definition of **medical practitioner**.

5 New section 5A inserted (Transitional, savings, and related provisions)

After section 5, insert:

5A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

6 Section 12 amended (Qualifications must be prescribed)

After section 12(4), insert:

- (5) An authority may, at any time, give notice to an educational institution accredited under subsection (2)(a) that the institution's accreditation is revoked.
- (6) The revocation of an educational institution's accreditation does not affect the registration of a health practitioner who qualified to practise within a scope of practice on the basis of having a degree or diploma from that institution.

7 Section 14 amended (Provisions relating to notices under sections 11 and 12)

After section 14(1), insert:

- (1A) The amendment, revocation, or replacement of a notice published under section 12 does not affect the registration of a health practitioner who qualified to practise within a scope of practice on the basis of having had a prescribed qualification for that scope of practice under the notice before the notice was amended, revoked, or replaced.

8 Section 17 amended (Applications for registration of health practitioners and authorisations of scopes of practice)

- (1) After section 17(4), insert:
- (4A) If any fine, costs, or expenses imposed on a former health practitioner by or under a former registration Act remain unpaid, the Registrar may decline to do any act, or to permit any act to be done, in relation to the registration of that health practitioner until the fine, costs, or expenses are paid.
- (2) In section 17(5), after "subsection (4)", insert "or (4A)".
- (3) Replace section 17(6) with:
- (6) Subsections (4) and (4A) override subsection (3).
- (7) In subsection (4A),—
former health practitioner means an applicant who, at any time, has been—
 - (a) registered under a former registration Act; or
 - (b) deemed to be registered under a former registration Act**former registration Act** has the meaning given to it by section 178(1).

9 Section 29 amended (Decisions of authority as to practising certificate and scope of practice)

Replace section 29(4)(a) with:

- (a) issue the certificate to the applicant electronically or in hard copy form; and

10 Section 31 amended (Interim practising certificate)

In section 31(1), replace “issue the interim practising certificate” with “issue the interim practising certificate (electronically or in hard copy form)”.

11 Section 33 replaced (Surrender of practising certificate)

Replace section 33 with:

33 Surrender of practising certificate

- (1) This section applies to a health practitioner who receives notice that his or her—
 - (a) name is removed from the register; or
 - (b) registration or practising certificate is suspended; or
 - (c) practising certificate is required to be endorsed by the Registrar under section 32.
- (2) If the practitioner’s practising certificate was issued electronically, the practitioner must, within 14 days after receiving the notice, send to the Registrar an acknowledgement of receipt of the notice.
- (3) If the practitioner’s practising certificate was issued in hard copy form, the practitioner must, within 14 days after receiving the notice, send to the Registrar his or her practising certificate.
- (4) Every person commits an offence and is liable on conviction to a fine not exceeding \$2,000 who, being required to comply with subsection (2) or (3), fails to comply with that subsection.

12 Section 36 amended (When authority may review health practitioner’s competence)

After section 36(3), insert:

- (3A) An authority that receives a notice under section 34(1) or (2) must inform the person from whom the notice was received as to whether it has decided to conduct a review of the competence of the health practitioner who is the subject of the notice.

13 Section 38 amended (Orders concerning competence)

Replace section 38(3) and (4) with:

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

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

Replace section 39(4) with:

- (4) If an order is made under this section following a review conducted on receipt of a notice given under section 34(1) or (2), the Registrar of the responsible authority must, as soon as practicable after the making of the order, inform the person from whom the notice was received that an order under subsection (2)(a), (b)(i) or (ii), as the case may be, has been made.

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

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

16 Section 49 amended (Power to order medical examination)

- (1) Replace the heading to section 49 with “**Power to order examination or testing**”.
- (2) In section 49, replace “a medical practitioner” with “an assessor” in each place.
- (3) In section 49, replace “the medical practitioner” with “the assessor” in each place.
- (4) Replace section 49(5) with:
- (5) An assessor who conducts an examination or a test under this section may consult any other practitioner who the assessor considers is able to assist in the completion of the examination or test.
- (5) After section 49(7), insert:
- (8) In this section and section 50, **assessor** means a medical practitioner or any other health practitioner.

17 Section 50 amended (Restrictions may be imposed in case of inability to perform required functions)

- (1) In section 50(1)(a), replace “medical practitioner” with “assessor” in each place.
- (2) Replace section 50(5), (6), and (7) with:

- (5) If an order is made under subsection (3) or (4) following receipt of a notice given under section 45, the Registrar of the authority must, as soon as practicable after the making of the order, inform the person from whom the notice was received that an order under subsection (3) or (4), as the case may be, has been made.

18 Section 51 amended (Revocation of suspension or conditions)

- (1) In section 51(1), replace “section 39 or section 50” with “section 39, 48, 50, or 67A”.
- (2) In section 51(2), replace “section 39 or section 50” with “section 39, 48, 50, 67A, or 69A”.
- (3) In section 51(3), replace “section 39 or section 50” with “section 39, 48, 50, 67A, or 69A”.
- (4) Replace section 51(6) with:
- (6) If an order is made under this section, the Registrar of the responsible authority must, as soon as practicable after the making of the order,—
- (a) ensure that a copy of the order is given to any person who,—
 - (i) under section 39(4), has received a copy of an order made under section 39 to which the revocation relates; or
 - (ii) under section 48(5) or 50(5), has received a copy of an order made under section 48 or 50 to which the revocation relates; and
 - (b) take all administrative steps necessary to give effect to the order.

19 Section 58 amended (Reporting requirements)

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

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

After section 65(2), insert:

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

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

After section 67, insert:

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

- (1) This section applies if a responsible authority receives a notice of conviction—
- (a) given under section 67(a); or

- (b) given under section 67(b) and the conviction to which the notice relates—
 - (i) is for an offence punishable by imprisonment or a fine of or exceeding \$1,000; or
 - (ii) is otherwise an offence that the authority considers raises concerns about the appropriateness of the conduct or about the safety of the practice of the health practitioner.
- (2) If this section applies, the responsible authority must, as soon as is reasonably practicable,—
 - (a) refer the notice of conviction to a professional conduct committee; or
 - (b) order the health practitioner to—
 - (i) undergo any specified medical examination and treatment; or
 - (ii) undergo any specified psychological or psychiatric examination, counselling, or therapy; or
 - (iii) attend any specified course of treatment or therapy for alcohol or drug abuse.
- (3) The responsible authority may not make an order under subsection (2)(b) unless the health practitioner consents—
 - (a) to the examination, treatment, counselling, or therapy concerned; and
 - (b) to the provision to the responsible authority of a report on the outcome of the examination, treatment, counselling, or therapy.
- (4) An order made under subsection (2)(b) must specify—
 - (a) the date by which the examination, treatment, counselling, or therapy is to be conducted, being a date that is not earlier than the date on which the order is, under section 156, to be treated as having been received by the health practitioner concerned; and
 - (b) the date by which the person who has examined, treated, counselled, or provided therapy to the health practitioner must report to the responsible authority the outcome of that examination, treatment, counselling, or therapy.
- (5) After receiving a report referred to in subsection (4)(b), the responsible authority must promptly—
 - (a) arrange for a copy of the report to be sent to the health practitioner to whom the report relates; and
 - (b) consider the report.
- (6) After considering a report, the responsible authority may—
 - (a) take no further action in respect of the notice of conviction; or
 - (b) order that conditions be included in the health practitioner's scope of practice if the authority is satisfied that the practitioner is able to perform

the functions required for the practice of his or her profession, but only if those conditions are observed; or

- (c) refer the notice of conviction to a professional conduct committee.

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

Replace section 68 with:

68 Referral of information to professional conduct committee

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

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

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

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

After section 69, insert:

69A Interim suspension of practising certificate pending prosecution or investigation if risk of harm to public

- (1) This section applies if a practitioner is alleged to have engaged in conduct that—
- (a) is relevant to—
- (i) a criminal proceeding that is pending against the practitioner; or
- (ii) an investigation about the practitioner that is pending under this Act or the Health and Disability Commissioner Act 1994; and
- (b) in the opinion of the responsible authority held on reasonable grounds, poses a risk of serious harm to the public.

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

25 New section 92A inserted (Chairperson may prohibit publication of names pending hearing of charge)

After section 92, insert:

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

- (1) At any time after a notice has been given to a health practitioner under section 92(1), the parties to the proceedings may jointly apply to the chairperson of the Tribunal for an order prohibiting the publication of the name, or any particulars of the affairs, of—
 - (a) the health practitioner; or
 - (b) any other person; or
 - (c) the health practitioner and any other person.

- (2) If, after having regard to the interests of any person (including, without limitation, the privacy of any complainant) and to the public interest, the chairperson of the Tribunal is satisfied that it is desirable to do so, the chairperson may make the order sought.
- (3) An order continues in force until whichever of the following occurs first:
 - (a) the expiry of any period specified in the order;
 - (b) the order is revoked by the chairperson of the Tribunal;
 - (c) the charge against the health practitioner is heard by the Tribunal.
- (4) A person who contravenes an order without reasonable excuse commits an offence and is liable on conviction to a fine not exceeding \$10,000.

26 Section 93 amended (Interim suspension of registration or imposition of restrictions on practice)

- (1) Replace section 93(1) with:
 - (1) Subsections (1A) and (1B) apply at any time after a notice has been given to a health practitioner under section 92(1).
 - (1A) If, in the opinion of the Tribunal held on reasonable grounds, the conduct in which the health practitioner is alleged to have engaged poses a risk of serious harm to the public, the Tribunal may order that, until the charge to which the notice relates has been disposed of, the registration of the practitioner be suspended.
 - (1B) If the Tribunal is satisfied that it is necessary or desirable to do so, having regard to the need to protect the health or safety of members of the public, the Tribunal may order that, until the charge to which the notice relates has been disposed of, the health practitioner may practise as a health practitioner only in accordance with conditions stated in the order.
- (2) Replace section 93(5) and (6) with:
 - (5) The appropriate executive officer of the Tribunal must ensure that a copy of the order is promptly given to—
 - (a) the health practitioner concerned; and
 - (b) the responsible authority; and
 - (c) any employer of the practitioner.
 - (6) If so directed, the responsible authority must ensure that a copy of the order is promptly given to any other persons specified by the Tribunal.
 - (7) On receiving a copy of an order under subsection (5)(b), the Registrar of the responsible authority must take all administrative steps necessary to give effect to the order.

27 Section 94 amended (Health practitioner may apply for revocation of order)

- (1) In section 94(1), replace “section 93(1)” with “section 93(1A) or (1B)”.
- (2) In section 94(3)(b)(ii), replace “section 93(1)(b)” with “section 93(1B)”.
- (3) In section 94(4), replace “section 93(1)” with “section 93(1A) or (1B)”.

28 Section 95 amended (Hearings to be public unless Tribunal orders otherwise)

In section 95(7), after “who”, insert “, without reasonable excuse,”.

29 Section 102 amended (Orders limiting restoration of registration)

- (1) Replace section 102(1) with:
 - (1) When making an order that the registration of a health practitioner be cancelled, the Tribunal may do either or both of the following:
 - (a) fix a date before which the person may not apply for registration again:
 - (b) impose 1 or more conditions that the person must satisfy before the person may apply for registration again.
 - (2) In section 102(2), after “conditions”, insert “imposed under subsection (1)(b)”.
 - (3) In section 102(3), replace “under” with “of the kind specified in”.
 - (4) After section 102(3), insert:
 - (3A) If the Tribunal fixes a date before which the person may not apply for registration again, no application for registration may be made by the person before that date.

30 Section 103 amended (Orders of Tribunal)

- (1) After section 103(1), insert:
 - (1A) The appropriate executive officer of the Tribunal must ensure that a copy of an order made under section 92(4) is given to the health practitioner concerned.
- (2) After section 103(2), insert:
 - (2A) If the Tribunal makes any 1 or more of the orders authorised by section 101(1)(a) to (d) against a health practitioner who is an employee, the appropriate executive officer must, if so directed by the Tribunal, ensure that a copy of each order is given to the health practitioner’s employer.
- (3) Repeal section 103(3) and (4).

31 New section 103A inserted (Resourcing Tribunal’s administration costs)

Before section 104, insert:

103A Resourcing Tribunal's administration costs

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

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

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

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

After section 104, insert:

104A Recovery of costs, fees, and expenses

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

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

34 Section 105 amended (Recovery of fines and costs)

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

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

After section 116, insert:

Amalgamation of authorities

116A Authorities may be amalgamated

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—
 - (a) amalgamate an existing authority with 1 or more other existing authorities; and
 - (b) either—
 - (i) continue the existing authorities as one of the existing authorities; or
 - (ii) continue the existing authorities as a new authority; and
 - (c) provide for any arrangement to complete the amalgamation and provide for the subsequent management and operation of the amalgamated authority; and
 - (d) amend any enactment (for example, this Act) to reflect and give effect to the amalgamation effected by the order.
- (2) The Minister may recommend that an Order in Council be made only if—
 - (a) the Minister has consulted—
 - (i) the authorities concerned; and
 - (ii) any other organisations that the Minister considers will be affected by the amalgamation; and
 - (b) the Minister is satisfied that it is in the public interest that the order be made.
- (3) An Order in Council is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

116B Effect of amalgamation

On the date on which existing authorities amalgamate,—

- (a) the amalgamated authority succeeds to all the property, rights, powers, and privileges of each of the amalgamating authorities; and
- (b) the amalgamated authority succeeds to all the liabilities and obligations of each of the amalgamating authorities; and
- (c) proceedings pending by, or against, an amalgamating authority may be continued by, or against, the amalgamated authority; and
- (d) a conviction, ruling, order, or judgment in favour of, or against, an amalgamating authority may be enforced by, or against, the amalgamated authority.

116C Final report of authority

- (1) As soon as practicable after an authority (A) has been amalgamated under section 116A, the amalgamated authority must prepare and forward to the Minister a final report on A's operations.
- (2) The final report must be for the period (the **report period**)—
 - (a) commencing at the start of the financial year in which A was amalgamated; and
 - (b) ending with the close of the day immediately preceding the date on which A was amalgamated.
- (3) The final report must include audited financial statements for the report period.
- (4) The Minister must present a copy of the final report to the House of Representatives within 16 sitting days after receiving it.
- (5) In this section, **financial year** has the same meaning as in section 134.

116D Members not entitled to compensation for loss of office

No member of an authority is entitled to any compensation for loss of office resulting from an Order in Council made under section 116A.

36 New section 116E and cross-heading inserted

After new section 116D (as inserted by section 35 of this Act), insert:

List of authorities

116E Director-General of Health to publish list of responsible authorities

- (1) The Director-General of Health must—
 - (a) maintain a list of responsible authorities appointed by or under this Act and the health professions in respect of which each of those authorities is appointed; and
 - (b) publish that list in the *Gazette*.

- (2) The Director-General of Health must republish the list if an Order in Council is made under—
- (a) section 115; or
 - (b) section 116A.

37 Section 118 amended (Functions of authorities)

- (1) Replace section 118(f) with:
- (f) to receive information from any person about the practice, conduct, or competence of health practitioners and, if it is appropriate to do so, act on that information:
- (2) In section 118(i), replace “cultural competence” with “cultural competence (including competencies that will enable effective and respectful interaction with Māori)”.
- (3) After section 118(j), insert:
- (ja) to promote and facilitate inter-disciplinary collaboration and co-operation in the delivery of health services:

38 Section 120 amended (Membership of authorities)

After section 120(5), insert:

- (6) If an authority is established by Order in Council under section 115(1)(b)(i), then, for a period not exceeding 3 months commencing on the day the order is made, subsection (2)(a) must be read as if the reference in that subsection to health practitioners were a reference to persons who are proposing to apply for registration as health practitioners with that authority.

39 New sections 122A and 122B and cross-heading inserted

After section 122, insert:

Performance reviews of authorities

122A Performance reviews

- (1) From time to time, there must be conducted in respect of each authority a review of how effectively and efficiently the authority is performing its functions (a **performance review**).
- (2) The first performance review must be conducted within 3 years after the commencement of this section.
- (3) Subsequent performance reviews must be conducted at intervals that are no more than 5 years apart.
- (4) For each performance review to be conducted in respect of an authority, the Ministry of Health must, in consultation with the authority,—
 - (a) appoint an independent person to conduct the review (a **reviewer**); and

- (b) set the terms of reference for the review.
- (5) Before setting the terms of reference for a review, the Ministry of Health may, but is not obliged to, consult any other person, organisation, or group about the terms of reference.
- (6) A reviewer must, as soon as practicable after conducting a review,—
 - (a) prepare a written report on the conclusions reached and of any recommendations; and
 - (b) give a copy of the report to—
 - (i) the Minister; and
 - (ii) the authority.
- (7) On receipt of a report under subsection (6)(b)(ii), an authority must, as soon as practicable, publish the report on its Internet site.
- (8) The costs of conducting a performance review in respect of an authority must be met by the authority.

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

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

40 Section 134 amended (Annual report)

Replace section 134(1) with:

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

41 New section 134A and cross-heading inserted

After section 134, insert:

Information about health practitioners

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

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

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

Replace section 140 with:

140 Health practitioners must notify Registrar of addresses for service

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

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

Replace section 147(1) with:

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

44 Section 156 amended (Notice and service of documents)

- (1) Replace section 156(1)(c) with:

(c) by sending it to the electronic address provided by the person as an address for service.

- (2) In section 156(2), replace “given to” with “received by”.

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

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

45 New sections 156A and 156B inserted

After section 156, insert:

156A Orders of authority

- (1) An order made by a responsible authority must—
 - (a) be in writing; and
 - (b) state the reasons why it was made; and
 - (c) state clearly the health practitioner’s right to appeal to the District Court against the order; and
 - (d) be signed by the Registrar of the authority.
- (2) The Registrar of a responsible authority must, as soon as practicable after an order is made by the authority,—
 - (a) ensure that a copy of the order is given to—
 - (i) the health practitioner concerned; and
 - (ii) any employer of the health practitioner; and
 - (iii) any person who works in partnership or association with the practitioner; and
 - (b) take all administrative steps necessary to give effect to the order.

156B When orders of authority or Tribunal take effect

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

46 New sections 157A to 157I inserted

After section 157, insert:

157A Meaning of naming policy

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

157B Authorities to issue naming policies

- (1) Each authority must issue a naming policy not later than 12 months after this section comes into force.
- (2) The purpose of the naming policy is to—
 - (a) enhance public confidence in the health professions for which the authority is responsible and their disciplinary procedures by providing transparency about their decision-making processes; and

- (b) ensure that health practitioners whose conduct has not met expected standards may be named where it is in the public interest to do so; and
 - (c) improve the safety and quality of health care.
- (3) A naming policy must set out—
- (a) the class or classes of health practitioners in respect of whom the naming policy applies; and
 - (b) the circumstances in which a health practitioner may be named; and
 - (c) the general principles that will guide the authority's naming decisions; and
 - (d) the criteria that the authority must apply when making a naming decision; and
 - (e) the requirement to have regard to the consequences for the health practitioner of being named, including the likely harm to the health practitioner's reputation; and
 - (f) the procedures that the authority must follow when making a naming decision; and
 - (g) the information the authority may disclose when naming a health practitioner; and
 - (h) the means by which a health practitioner may be named.

157C Consultation on naming policies

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

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

157D Naming policies to be available on Internet

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

157E When naming policies come into force

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

157F Review of naming policies

- (1) An authority must review its naming policy within 3 years after the policy comes into force, and then at intervals of not more than 3 years.

- (2) Sections 157B to 157E apply with all necessary modifications to the review of a naming policy.

157G Naming policies to be consistent with law

A naming policy must be consistent with—

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

157H Status of naming policies

A naming policy is—

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

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

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

Part 2

Further amendments to principal Act

47 New Schedule 1AA inserted

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

48 Schedule 1 amended

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

49 Schedule 3 amended

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

- (1) An authority may from time to time, by written notice, delegate any of its functions, duties, or powers to a committee appointed under clause 16 or to its Registrar.
- (1A) However, an authority may not delegate—
- (a) any power under section 69 to a committee appointed under clause 16:
 - (b) any power under section 69 or 71 to its Registrar.

50 Consequential amendments to other enactments

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

Schedule 1

New Schedule 1AA inserted

s 47

Schedule 1AA

Transitional, savings, and related provisions

s 5A

Part 1

Provisions relating to Health Practitioners Competence Assurance Amendment Act 2019

- 1 Interim suspension of registration or imposition of restrictions on practice**
- (1) Section 93(1), as in force immediately before the commencement date, continues to apply as if the amendment Act had not been enacted in any case where the alleged conduct that is the subject of the charge against a health practitioner occurred—
- (a) before the commencement date; or
 - (b) before the commencement date and continued after the commencement date.
- (2) In this clause,—
- amendment Act** means the Health Practitioners Competence Assurance Amendment Act 2019
- commencement date** means the date on which the amendment Act comes into force.
- 2 Effect of amalgamation on registration and practice**
- (1) A health practitioner who is, or is deemed to be, registered with an amalgamating authority is to be treated, from the date of the amalgamation, as being registered with the amalgamated authority.
- (2) An annual practising certificate issued by the Registrar of an amalgamating authority must be treated, from the date of the amalgamation, as being issued by the Registrar of the amalgamated authority.
- (3) In this clause,—
- amalgamated authority** means the authority under which the amalgamating authorities are continued from the date of the amalgamation
- amalgamating authority** means an authority that, under section 116A, is amalgamating with 1 or more other authorities.

Schedule 2

Consequential amendments

s 50

Part 1

Amendments to other Acts

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

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

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

Veterans' Support Act 2014 (2014 No 56)

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

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

Veterinarians Act 2005 (2005 No 126)

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

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

Part 2

Amendment to legislative instrument

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

Replace regulation 16(2) with:

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

Legislative history

15 February 2018	Introduction (Bill 25–1)
20 February 2018	First reading and referral to Health Committee
17 September 2018	Reported from Health Committee (Bill 25–2)
27 November 2018	Second reading
14 March 2019	Committee of the whole House (Bill 25–3)
9 April 2019	Third reading
11 April 2019	Royal assent

This Act is administered by the Ministry of Health.