

Fact sheet

Immediate action (section 150) proceedings



Council of New South Wales

Summary

What

Section 150 of the *Health Practitioner Regulation National Law (NSW)* gives the Council the power to suspend or impose conditions on your registration as an interim measure at any time to protect the public.

Why

Our role is to manage complaints about the health, conduct and/or performance of health practitioners to protect public health and safety.

We must take immediate action under section 150 if we decide that it is appropriate to protect the health and safety of any person or it is in the public interest.

How

When considering action under section 150, we will review:

- relevant information such as a complaint
- your response if you provide one
- information provided at the proceedings.

We may formally meet to consider this material or make a decision based on the documents available.

After considering all information, we may decide that immediate action is not appropriate, or we may:

- suspend your registration
- impose conditions on your registration
- alter existing conditions.

Who

All Council members may attend the proceedings, or we may delegate consideration to two or more people. Any proceeding must include a professional peer and a community member. A Council officer may attend to assist the Council.

If we decide the matter based on the available documentation, you are not required to attend a meeting.

If we hold the proceedings as a meeting, we will invite you to attend to provide further information.

You can also apply to attend if you were not invited. We will consider your request and let you know our decision.

You may bring a support person, but he or she cannot represent you at the meeting.

Witnesses, experts or others may be asked to provide information, an opinion, records or documents or to attend the meeting.

The meeting will be audio-recorded if you attend.

When

We will hold proceedings as soon as possible. We will send you a written notice that includes:

- the time and date of proceedings
- an outline of our concerns
- the documents we will consider in our decision.

We may also provide information about conditions that could be imposed.

In the majority of cases we hold proceedings after we notify you and give you time to respond. The timeframe may vary from hours to a week, depending on the seriousness of the matter.

What next

We will notify you of the outcome as soon as possible, usually within two working days of the decision. We will also try to contact you by phone.

You must comply immediately with any suspension or conditions imposed, even if you intend to request a review or to appeal the decision.

After proceedings, the Council or Health Care Complaints Commission (HCCC) will continue to manage the complaint. Any conditions or suspension will stay in place until the complaint is resolved or we remove them because we believe the public is no longer at risk or it is not in the public interest.

Further details

This fact sheet details the following topics:

1. What information do I need to provide?
2. Are the proceedings confidential?
3. Where can I get support or advice?
4. What happens after the proceedings?
5. Are there other options?

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Further details

1. What information do you need to provide?

If we start proceedings under section 150 of the *Health Practitioner Regulation National Law (NSW)*, we will send you a letter outlining what you need to provide.

If we request information under section 164G or 150J of 'the Law', we will give you a date and time by which that information **must** reach us. Failing to respond is an offence and may incur a fine. It is also an offence to provide false or misleading information.

You can also respond to our notice in writing by submitting documents to help our decision-making. These may include:

- a letter from your employer outlining how they are managing the matter
- a recent performance review or report from a supervisor
- a letter from your treating health practitioner who knows your health history and can provide information on your current wellbeing and fitness to practise
- a discharge report from your recent hospital stay
- information about criminal charges or convictions
- a resume and continuing professional development portfolio
- any other information you consider relevant.

2. Are the proceedings confidential?

In certain circumstances we may share confidential information with other regulators of health practitioners or authorities. This may include the HCCC, AHPRA, the National Board, the Pharmaceutical Regulation Unit at the Ministry of Health, the police and the courts.

We will audio record the proceedings if you or a witness attends in person or virtually (by phone or video call). However, this recording is not admissible in civil or criminal proceedings, except proceedings under the *Health Practitioner Regulation National Law (NSW)*. It is not admissible for an inquest or inquiry under the *Coroners Act 2009*.

3. Where can you get support or advice?

Before the proceedings

You may seek legal advice. Your insurer or professional association may be able to help you.

If you are concerned about your mental health or need other assistance, call the NSW Mental Health Line on 1800 011 511, Beyond Blue on 1300 269 438 or Lifeline on 13 11 14.

During the proceedings

You can bring a support person, who may be a lawyer, but they cannot represent you during the proceedings. You can request a break in proceedings if you need to compose a response or seek advice from your support person.

4. What happens after the proceedings?

The Council or HCCC will continue to manage the complaint and will advise you of the decision within two working days.

Within one month, we will send you a report of proceedings, including the reasons for our decision. We will forward a copy of the report and a recording of the meeting (if available) to the HCCC. We may also provide the report to a Council-appointed health practitioner, supervisor or others.

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If we suspend, place or change the conditions on your registration, we will also notify:

- AHPRA so it can enter the suspension or conditions on the AHPRA National Register
- HCCC so we can consult with it on the matter
- your employer, or, if you are a registered student, your education facility
- the complainant if the action is recorded publicly on the AHPRA National Register.

5. What options are then available?

Changing or surrendering your registration

If, due to your personal circumstances or the stage of your career, you decide you no longer want to practise in the profession, you may:

- change your registration to 'non-practising'
- surrender your registration.

If you surrender or change your registration, you must tell us. You should also understand that, if you reapply in future, the National Board will consider your previous history, this complaint, your recent practise, and your continuing professional development with your application. The National Board may require you to complete further assessments.

The required forms for changing or surrendering your registration are available from <http://www.occupationaltherapyboard.gov.au/Registration/Forms.aspx>

Post the completed form to: Manager, Occupational Therapy Registrations
 AHPRA
 GPO Box 9958
 SYDNEY NSW 2001

Reviewing the decision

You may write to us at any time to request a review of an immediate action decision, under section 150A. A review under section 150A can only vary or set aside a decision if we are satisfied that a change in your circumstances justifies it.

The Council may initiate a review under section 150C if we receive new information that suggests it may be appropriate to remove or change a suspension or conditions.

Appealing the decision

You may appeal our decision to:

- take immediate action or
- refuse to lift a suspension or
- remove or change conditions at a review.

You must appeal directly to the NSW Civil and Administrative Tribunal (NCAT) within 28 days of being notified of the decision. To find out more, phone 1300 006 228 or visit www.ncat.nsw.gov.au.