



POSITION STATEMENT – NSW S8 AND/OR S4D DRUG AUTHORITY – NOTIFICATIONS FROM PHARMACEUTICAL SERVICES

Date of publication: June 2012 **Record Number:** DD12/04406 **File Number:** FF12/031

Version: 1

Summary: The Council is to consider whether or not interim immediate action is necessary when a practitioner's authority to prescribe is withdrawn or restricted in NSW, so that the withdrawal or restriction can be enforced nationally.

Where an Impaired Registrants Panel is convened in response to the withdrawal or restriction of a practitioner's prescribing authority, the Panel should give consideration to the necessity for a condition reflecting this, in order to ensure that the restriction operates nationally.

Applies to: Medical Council of NSW

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Related legislation, Awards, Policy and Agreements:

- *Health Practitioner Regulation National Law (NSW)*
- *Poisons and Therapeutic Goods Act 1996 (NSW)*
- *Poisons and Therapeutic Goods Regulation 2008 (NSW)*

Review date: June 2017

POSITION STATEMENT – NSW S8 AND/OR S4D DRUG AUTHORITY – NOTIFICATIONS FROM PHARMACEUTICAL SERVICES

PURPOSE

When the Council receives an investigation report from the Ministry for Health Pharmaceutical Services (PS), it must as soon as practicable, consult with the Health Care Complaints Commission (HCCC) and notify the National Board of the complaint/notification.

It is the Council's view that it is necessary for it to consider whether to convene proceedings under section 150 of the *Health Practitioner Regulation National Law (NSW)* (the Law), even if the health practitioner's prescribing authority has been withdrawn or restricted. This enables a mechanism to impose appropriate conditions which reflect the withdrawal or restriction that will operate nationally, if these are deemed necessary. Where an Impaired Registrants Panel is convened in response to the withdrawal or restriction of a practitioner's prescribing authority, the Panel should give consideration to the necessity for a condition reflecting this, in order to ensure that the restriction operates nationally.

BACKGROUND

PS administers the Poisons legislation in NSW. The withdrawal or restriction in a prescribing authority under this legislation will not operate outside of NSW and therefore will not operate nationally. This has particular significance following the commencement of the National Registration and Accreditation Scheme, as medical practitioners once registered can practise in any State or Territory, subject to any limitations or conditions or undertakings that apply to their registration.

Under section 130 of the Law, a health practitioner must notify the National Board within seven days of a relevant event, which includes a cancellation or restriction in the practitioner's authority relating to scheduled medicines.

The Australian Health Practitioner Regulation Agency has advised the Health Professional Councils Authority that when such a complaint/notification is received, the National Board will either accept an undertaking from the practitioner or take immediate action to ensure that the cancellation or restriction of prescribing authority operates nationally and will be published on the Register. This procedure however will not apply to a health practitioner whose principal place of practice is NSW and where the behaviour occurred in NSW.

In such cases, the relevant NSW Health Professional Council and the Health Care Complaints Commission must manage the complaint/notification, including considering whether any immediate action is necessary.

STATEMENT AS TO MANAGEMENT OF SUCH MATTERS

On receipt of information that a practitioner has had his/her Schedule 8 or Schedule 4 Appendix D drug authority withdrawn or restricted, the Council will proceed with assessment of the complaint/notification with the Health Care Complaints Commission and notify the National Board through the Australian Health Practitioner Regulation Agency. In addition, the Council may require the practitioner to provide it with further information about the circumstances of the matter.

If the matter indicates a practitioner's impairment, then it is likely that an Impaired Registrants Panel will be convened, following assessment by a Council appointed practitioner. In such cases, an Impaired Registrants Panel will usually recommend that the practitioner agree to the restriction or relinquishment of his or her prescribing authorities and often other conditions will be necessary in order to manage the practitioner's health. The conditions that do not relate to the practitioner's health or treatment will be published on the Register and will operate nationally.

If the matter does not indicate a practitioner's impairment, it is likely the matter will be investigated by the HCCC and any consequent disciplinary hearing is likely to be determined at a much later stage. In such matters, it is the Council's view that the Health Professional Councils Authority should consult with delegates of the Council for consideration as to whether section 150 proceedings should be convened.

Such consultation will prompt case by case consideration of whether action might be appropriate under section 150 of the National Law to impose conditions on the practitioner's registration which reflect the withdrawal or restriction and which will operate nationally and be published on the Register.

June 2012