

# Information sheet

## Immediate action



Aboriginal and Torres Strait  
Islander health practice  
Chinese medicine  
Chiropractic  
Dental  
Medical  
Medical radiation practice  
Nursing and Midwifery  
Occupational therapy  
Optometry  
Osteopathy  
Pharmacy  
Physiotherapy  
Podiatry  
Psychology

Australian Health Practitioner Regulation Agency

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### When and why does a National Board take 'immediate action'?

A National Board has the power to take immediate action in relation to a health practitioner's registration at any time, if it believes this is necessary to protect the public. This is an interim step that National Boards can take while more information is gathered or while other processes are put in place.

Immediate action is a serious step. The threshold for the National Board to take immediate action is high and is defined in section 156 of the National Law.<sup>1</sup> To take immediate action, the National Board must reasonably believe that:

- because of their conduct, performance or health, the practitioner poses a 'serious risk to persons' and that it is necessary to take immediate action to protect public health or safety, or
- that the practitioner's registration was improperly obtained, or
- the practitioner or student's registration was cancelled or suspended in another jurisdiction.

In relation to students, the National Board must reasonably believe that they:

- have been charged, convicted or found guilty of an offence punishable by 12 months' imprisonment or more
- have or may have an impairment, or
- have or may have contravened a condition on their registration or an undertaking given to the National Board, and it is necessary to take action to protect the public.

### What is immediate action?

Immediate action limits a practitioner's registration and their practice in some way and includes:

- suspending, or imposing a condition on, the registration of a practitioner or student, or
- accepting an undertaking from the practitioner or student, or
- accepting the surrender of the registration of the practitioner or student.

### What is the process before a National Board takes immediate action?

Under the National Law, a National Board can only take immediate action to suspend or impose conditions on a practitioner's registration after giving the practitioner an opportunity to make a submission about the proposal. In general, the following process applies:

- AHPRA becomes aware (often through a notification) of information indicating that a practitioner poses an immediate risk to public health and safety.
- AHPRA refers the matter to the National Board to consider whether it is necessary to take immediate action.
- If the National Board believes that the information available meets the threshold defined in the National Law, it implements a 'show cause' process (see page 2), which involves giving the practitioner notice that the National Board is considering taking immediate action.
- The practitioner usually makes a submission in person or in writing to the Board. Practitioners are usually legally represented when involved in immediate action.

The length of time involved in the 'show cause' and 'immediate action' process varies based on the National Board's assessment of the risk to the public.

After hearing from the practitioner or their legal representative, or considering the submissions made, the National Board must decide:

- whether or not to take immediate action
- if taking immediate action, whether the practitioner's registration should be limited in some way to protect the public, and
- what further action is required to manage the notification, such as referring the matter to investigation, seeking a health or performance assessment or referring a matter directly to a tribunal.

The National Board, through AHPRA, writes to the practitioner and gives them reasons for its decision.

<sup>1</sup> The Health Practitioner Regulation National Law, as in force in each state and territory (the National Law).

## How would I know that immediate action is being taken against me?

You will always be advised if the National Board is considering taking immediate action on your registration. You will be given the opportunity to make written or verbal submissions about the action being proposed. This is called a 'show cause' process.

## What is a 'show cause' process?

When a National Board proposes to take immediate action, a 'show cause' process is involved. This ensures that there is natural justice for the practitioner.

'Show cause' means that the National Board gives the practitioner notice that it proposes to take immediate action, including the specific action that the Board is proposing. The practitioner has the opportunity to respond to this notice.

The time given to the practitioner for a response will vary based on the degree of risk to the community, but the practitioner is always afforded natural justice, including the right to understand the concerns that have been raised about them and the right to be heard (or 'show cause').

## What should I do if I get an immediate action notice?

National Boards encourage practitioners to seek advice and representation through their professional indemnity insurer or legal representative at this stage.

## What happens after I make a submission?

The National Board must take into account any submissions made by or received from the practitioner or their legal representative, before making a decision to take action on the practitioner's registration. The National Board can decide to not take immediate action or to take the proposed immediate action (as above).

## What sort of issues would prompt a National Board to consider taking immediate action?

There are some issues that commonly prompt a National Board to propose immediate action and they are summarised in the table below. However, the National Board must base its decision to take immediate action on evidence, consider the credibility of any witnesses and take the practitioner's submission into account before making a decision about whether to restrict the practitioner's registration in some way.

## Immediate action – some examples

Category	Example
Police charges	Particularly offences relating to a health practitioner's work/professional practice
Patient outcome	A patient has died unexpectedly or a routine operation has had severe adverse outcomes
Drugs	Notified by a practitioner, or an independent body. Includes accusations of self-administering and inappropriate prescribing of illicit or prescription drugs
Alcohol	Allegations of presenting to work under the influence
Sexual behaviour	Inappropriate touching or professional/sexual boundary violation
Theft	Stealing drugs from the workplace
Health	Impairments – serious (for example, involuntary admission to hospital under the <i>Mental Health Act</i> ) or concerns about memory/behaviour
Breach of conditions	A practitioner has conditions on their registration and the conduct/incident described may breach registration conditions

## What happens if the Board decides to take immediate action?

Immediately after deciding whether or not to take immediate action, a National Board must also decide on what further action it considers appropriate. This can include conducting an investigation, seeking a health or performance assessment, or referring a matter directly to a tribunal. The National Board, through AHPRA, gives written notice to the practitioner and states the reasons for its decision.

## When does immediate action take effect and how long does it last?

The decision to take immediate action takes effect either on the date the notice of a decision by the National Board is given to the practitioner or student, or a later day stated on the notice.

The immediate action decision continues until:

- the decision is set aside after appeal to the responsible tribunal
- the suspension is revoked by the National Board (when the practitioner or student has been suspended)
- the conditions are removed by the National Board (when the practitioner or student has conditions imposed), or
- the National Board and the practitioner or student agree to end the undertaking (when the National Board has accepted an undertaking).

### **Can I appeal the Board's decision?**

A decision to suspend a practitioner or student's registration or impose conditions as a result of immediate action can be appealed to the responsible tribunal. For details, see the fact sheet on appeals at [www.ahpra.gov.au/Notifications/Fact-sheets/Appeals](http://www.ahpra.gov.au/Notifications/Fact-sheets/Appeals).

### **Does the outcome of immediate action appear on the public register?**

Restrictions on a practitioner's registration as a result of immediate action are usually published on the register of practitioners, unless they relate to the practitioner's health. Private health information is not published.