



**The Hon Roger Cook MLA
Deputy Premier
Minister for Health; Mental Health**

Our Ref: 60-04403

Hon Michael Mischin MLC
Chair
Standing Committee Uniform Legislation and Statutes Review
Legislative Council Committee Office
18-32 Parliament Place
WEST PERTH WA 6005

Dear Mr Mischin

Thank you for your letter of 16 October 2017 regarding further information on the process that will be undertaken as part of the making of a new set of National Regulations and whether or not the new set of National Regulations would be subject to the requirements of sections 41 and 42 of the *Interpretation Act 1984* (WA).

I requested advice from the Department of Health and I have been advised as follows:

Difference between the current process and the new process

The *Health Practitioner Regulation National Law (WA) Regulations 2010* (WA Regulations) were made by the COAG Health Council under section 245 of the Schedule to the *Health Practitioner Regulation National Law (WA) Act 2010* (WA Act).

Under regulations 3 and 4(1) of the WA Regulations, the National Regulations (the *Health Practitioner Regulation National Law Regulation*) made by the COAG Health Council on 17 June 2010 are applied as a regulation in Western Australia (WA) as in force from time to time. Section 245(1) and clause 24(1) and (2) of Schedule 7 to the WA Law were relied upon to make regulations in those terms.

The outcome of the approach in the WA Regulations is that amendments that were made to the National Regulation were not made under section 245 of the Schedule to the WA Act. Therefore, the amendments were not covered by sections 41 and 42 of the *Interpretation Act 1984* (WA).

In comparison, the proposal is that the COAG Health Council will repeal the current set of National Regulations and the WA Regulations and replace them with new National Regulations. The new National Regulations will be operational in all participating jurisdictions including WA.

WA will then be able to follow the process required under sections 41 and 42 of the *Interpretation Act 1984* and the Premier's Circular 2014/01. That is, the new National Regulations and any future amendments to them will be gazetted in WA, tabled in the WA Parliament and subject to its disallowance.

Please note, the COAG Health Council and the Ministerial Council referred to in step 1 are the same body.

Steps in the process of making the new National Regulations and future amendments

1. The Ministerial Council may make regulations for the purposes of this Law under section 245(1) of the *Health Practitioner Regulation National Law* (National Law) as enacted in participating jurisdictions. The Ministerial Council is defined in section 5 of the National Law by "*the Australian Health Workforce Ministerial Council comprising Ministers of the governments of the participating jurisdictions and the Commonwealth with portfolio responsibility for health*". The Minister for Health in WA sits on the Ministerial Council representing WA.
2. Following the making of the new set of National Regulations, the new set of National Regulations would be published by the Victorian Government Printer in accordance with the arrangements for the publication in Victoria.
3. The new set of National Regulations would be sent to a nominated officer at the Department of Health in WA by email with electronic copies in PDF attached.
4. The Department of Health in WA and Parliamentary Counsel's Office in WA will arrange the gazettal in the *Government Gazette* in WA in accordance with the *Interpretation Act 1984* sections 41 and 42.
5. The State Law Publisher publishes the new set of National Regulations in the *WA Government Gazette* in accordance with publication timeframes. Following gazettal, electronic copies of the new set of National Regulations would also be sent to the officer who organised gazettal at the Department of Health.
6. The new set of National Regulations would be tabled in both Houses of the WA Parliament.
7. Once the new set of National Regulations are published in the *WA Government Gazette*. The Department of Health in WA would in accordance with Premier's Circular 2014/01 forward to the Joint Standing Committee on Delegated Legislation the required documents within 10 working days.

The above process for the new set of National Regulations will also be followed for any subsequent amendments to the National Regulations.

At the behest of the Department of Health in WA, Queensland and WA are working together to ensure that the WA Parliament's specific requirements are met.

Procedures currently in place in WA would be followed as well as sections 41 and 42 of the *Interpretation Act 1984* (WA) for the new set of National Regulations and any subsequent amendments.

Point of clarification

In relation to the email request of 11 October 2017 and response provided on page 3 to the second query and received by the Committee on 12 October 2017

Please note there was an administrative error in the list of sections in the response to this query regarding the sections that would be operational on the day after the WA Act receives the Royal Assent should have finished at section 97. As you would be aware, Part 3 covers sections 98 – 117 which are not operational on assent.

The response should read:

Query

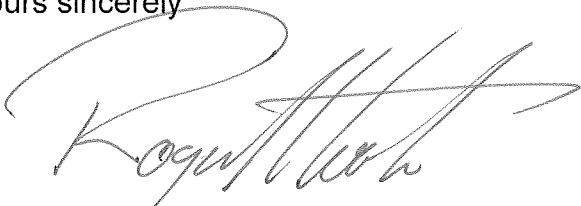
As a result of section 3 of the Queensland Act having come into operation, sections 3, 4, 5, 6, 7, 8, 9(1) and (2), 23, 24, 26, 36(a), 37, 40(2), 41(2), 42(2), 48, 50, 55(6), 71(2) and 88 of the *Health Practitioners Regulation National Law (WA) Amendment Bill 2017* will come into operation on the day after assent of the Bill. Could you please confirm if my understanding is correct or advise otherwise.

Response

I am advised that your understanding is correct. Once the *Health Practitioner Regulation National Law (WA) Amendment Bill 2017* has been enacted by the WA Parliament, sections 3 -8, 9(1) and (2), 23, 24, 26, 36(a), 37, 40(2), 41(2), 42(2), 48, 50, 55(b), 71(2), 88, 97 will, under s. 2(b)(i), come into operation on the day after the WA Act receives the Royal Assent.

Thank you for seeking clarification on the above process and your understanding in dealing with the complex 2010 legislative arrangements which were put in place.

Yours sincerely



HON ROGER COOK MLA
DEPUTY PREMIER
MINISTER FOR HEALTH; MENTAL HEALTH

19/10/17.