

Conditions Handbook

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Foreword

Creating conditions to be imposed on the registration of health practitioners is not as easy as it looks. The aim is to create conditions that achieve the aim of protecting the health and safety of the public, whilst also allowing health professionals to practise their profession.

Conditions have a life beyond the moment of their imposition. On a daily basis, the staff of the health professional Councils monitor practitioners' compliance with their conditions. In doing so, they develop a strong working knowledge of how conditions "operate", and some of the practical pitfalls that can occur when trying to interpret conditions and communicate with practitioners about their conditions.

This Conditions Handbook attempts to harness the knowledge gained into a single resource, to assist you in the drafting of conditions (and orders) that are both workable and effective, and ultimately achieve their intended purpose.

The Handbook is divided into two sections – the "Explanatory Paper" and the "Bank". The "Explanatory Paper" guides you through the practical considerations relevant when drafting conditions. The "Bank" provides a (non-exhaustive) set of template conditions, which have been formulated to suit most circumstances.

The Handbook will be updated from time to time. It is recommended that you refer to the online version, or contact the relevant staff for an up-to-date version.

Please contact Council staff if you would like further assistance or if you would like to provide any suggestions or amendments to this document.

This edition was last revised June 2014.

Overview of the process of imposing conditions and orders

1. POWERS

1.1 Power to impose a condition or make a particular order

The powers you have depend on the nature of the proceedings you are conducting and are set out in the [Health Practitioner Regulation National Law \(NSW\) \("the Law"\)](#).

[Table 1](#) summarises those powers for ease of reference, however decision-makers should refer back to the provisions of the Law, because powers are qualified in some instances.

1.1.1 Power to make recommendation

[Table 1](#) also summarises those instances where the ability to make a recommendation is explicitly provided for in the Law. (Of course, it is open to a decision-maker to make a variety of recommendations or observations, for the consideration of the Council or other bodies, even if the ability to do so is not explicitly provided for in the Law). In these circumstances, these recommendations are helpful pointers to guide the Council or a practitioner.

1.2 Differentiating between conditions and orders

- Refer to [HPCA Legal Practice Note 1 – Conditions and Orders \(March 2014\)](#)
- A condition makes a practitioner's or student's registration conditional on compliance with the condition. An order requires them to do a specific activity or task.
- What do you want to achieve?

Are you seeking to restrict the practitioner's registration i.e. the way in which they practise their profession?

- If so, a condition may be appropriate
- If not, some other order may be appropriate

- Conditions will generally be recorded in the public National Register, one exception being "health" conditions (see ss [225](#) and [226](#) of the Law and [2.2 Making private conditions](#)).
- Any other order (see ss [156C\(2\)](#), [146B\(1\)](#), [148E](#), and [149A\(1\)](#)), such as an order requiring a practitioner to attend an education course, will not generally appear on the Register.
- Both orders and conditions can be the subject of an appeal.
- Conditions (and suspensions and cancellations or disqualifications of registration) can be the subject of formal review under ss [150A](#), [150C](#), [152K](#) or [163B](#) of the Law depending on the circumstances (see [4.1 Reviewability of conditions/orders](#)).

- Orders cannot be the subject of formal review hearings (see [4.1 Reviewability of conditions/orders](#)).

1.3 Making critical compliance conditions and/or orders

- Only Professional Standards Committees (PSC) and Tribunals may impose critical compliance conditions (or orders).
- Conditions (or orders) become critical compliance conditions when the PSC or Tribunal orders that contravention of the condition (or order) will result in the practitioner's or student's registration being cancelled (see ss [146B\(3\)](#) and [149A\(4\)](#) of the Law).
- The effect of a proven contravention (breach) is swift and comprehensive (see ss [150\(3\)](#) and [149C\(3\)](#) of the Law and the [2009 Medical Tribunal of NSW case of Jason Martin](#) where equivalent provisions were applied). A critical compliance condition (or order) should only be imposed when you are satisfied suspension or cancellation of the practitioner's registration is appropriate in the event of a breach.
- Note that if you intend to impose critical compliance conditions (or orders), it is most unlikely (and probably inappropriate) that every condition or order warrants being designated for critical compliance.

1.4 Dealing with pre-existing conditions and/or orders

- In some circumstances you will not have the power to remove or vary a condition already on a practitioner's registration. You need to understand the origin of any such condition as this will dictate whether you have the power to review such conditions.

- **Power to remove or alter existing conditions**

When you are sitting as:	Do you have the power to review/alter existing conditions?
The Council (or Council delegates) exercising powers under ss 150 , 150A , or 150C	Only if you are reviewing conditions previously imposed under s 150 of the Law.
An Impaired Registrants Panel (IRP)	You can recommend that the Council remove or alter conditions imposed following a previous IRP, or s 150 conditions (using ss 150F and 150I of the Law) and the Council can put such recommendation into effect. Note: The Council's ability to remove or alter other pre-existing conditions on your recommendation will depend on whether the Council was given the power to review these conditions when they were originally imposed (see ss 163 and 163A).
A Performance Review Panel (PRP)	No (you could make recommendations for a subsequent review body to take into account).
A PSC or Tribunal dealing	No (You could make recommendations for a subsequent review body to take into account).

When you are sitting as:	Do you have the power to review/alter existing conditions?
with a complaint	Note: If the existing conditions were imposed under s 150 and you are now dealing with a complaint resulting from the same matter, the s 150 conditions fall away by reason of you dealing with the complaint (see s 150I of the Law).
A Tribunal or a Council dealing with a review application under s 163B	Yes, but only as set out in s 163A(4) of the Law regarding “relevant orders” as defined in that section (i.e. suspension, cancellation, disqualification, conditions on registration).
A Tribunal dealing with an appeal concerning disciplinary outcomes or dealing with an appeal concerning National Board registration decisions under s 175	May only deal with any conditions under appeal. (You could make recommendations about other pre-existing conditions for a subsequent review body to take into account)
A Council Inquiry dealing with a complaint under s 148	No, not under your Inquiry powers. But if the Council is the review body under s 163B of the Law and the practitioner consents to, for example, alteration or removal of conditions under s 163B, the Council can deal with the conditions concurrently with the Inquiry. See also s 41P of the Law regarding the exercise of Council functions with consent.

If you do not have the power to deal with pre-existing conditions, as a general principle, it is best to impose all the conditions you think are appropriate in relation to the current complaint or issue before you, regardless of whether there are pre-existing conditions on the practitioner’s registration related to the area of concern.

If the result is superfluous or overlapping conditions on the practitioner’s registration, it is appropriate to make recommendations as to what pre-existing conditions should be removed or varied. The Council staff can then arrange for the matter to be considered by the appropriate review body.

- Please contact Council staff for further advice on any specific issues.

2. DRAFTING CONDITIONS

2.1 Finding template conditions

- Refer to the [Template Conditions Bank](#).
- Please refer to the most current version of the Template Conditions as:
 - They are generally capable of being monitored by the Council.
 - Practitioners have successfully complied with most of the conditions over the years.
 - They have been developed in consultation with relevant organisations e.g. Medicare, Pharmaceutical Services Unit, Toxicology Unit (for Urine Drug Testing) and Concord Hospital (for Urine Ethyl Glucuronide testing).
 - Template conditions are continually reviewed and evolve in response to submissions from subject practitioners and the Councils' monitoring and legal experiences.

2.2 Making private conditions

- Some conditions do not appear on the public national register.
- Make it clear in your decision if you believe the National Board should not record certain conditions in the public national register, as the National Board will generally be guided by the decision makers.
- Generally it is appropriate to keep conditions relating to the personal health of a practitioner private, unless there is a stronger public interest in making the conditions public.

Typically in such cases, the following statement appears on the register: *"Registration is subject to conditions that relate to personal health. These conditions are not publicly available due to privacy considerations."*

Note: It has been a long-standing policy not to provide third parties with details of health conditions unless special circumstances apply. If you do consider it necessary that a third party be aware of a practitioner's health conditions (almost certainly for monitoring purposes), please explain this in your decision. See also [3.3 Notifying others of conditions and/or a decision](#).

- Be aware that while [s 225](#) of the Law stipulates what information must be recorded on the register, [s 226](#) allows the National Board to decide not to record certain information in the public register (including for reasons of impairment). Ultimately what information is recorded in the national register is a matter to be determined by the relevant National Board.

2.3 Incorporating policies or protocols into conditions

- Where applicable, you are strongly encouraged to incorporate relevant policy or protocol into your conditions and orders. It can save you a lot of detailed drafting, encourages consistency and greatly assists the Council and the practitioner in ensuring compliance. The Template Conditions have been drafted with this in mind.
- The Template Conditions includes a copy of all policies, position statements, guidelines or protocols incorporated in the conditions. Copies are provided to subject practitioners and they are also available on the HPCA or Councils' websites.
- Breach of a policy or protocol can amount to a contravention of conditions or orders if it has been incorporated into the condition, and in turn unsatisfactory professional conduct (see [sub-ss 139B\(1\)\(c\) and \(d\)](#) of the Law).

2.4 Written reasons for imposing conditions and/or orders

- If you have explained the "why", the subject practitioner is more likely to accept the need for the order/condition and is therefore more likely to comply.
- It is important for your order or condition to be reasonably connected in your written decision to both the evidence you have relied on and your reasons.
- The Council will look to your written decision for guidance in its monitoring of the practitioner's compliance with any imposed conditions and/or orders.
- Any subsequent review body, usually the Council, will also look to your decision for guidance.

3. EFFECTIVENESS OF CONDITIONS

3.1 Ensuring conditions are clearly understood by the public

- Employers and members of the public are actively encouraged to check the public registers of practitioners.
- Avoid using ambiguous or undefined terms wherever possible (see the Australian Health Practitioner Regulation Agency's [Glossary of Terms in the Register](#)).
- Craft conditions that can stand alone, for example, include a specific date rather than referring to the "date of this decision", as the decision will not be part of the public Register. Also, conditions may be gradually eased and incrementally removed from the public Register, so any remaining conditions will need to make sense.
- Refer to "the practitioner" in each condition (and not to refer by name, remembering that the conditions can only be accessed through practitioners' individual register entries.) Also, avoid terms such as 'applicant', 'respondent', or 'registrant' which are not meaningful to most people reading the public register.

3.2 Ensuring conditions are capable of effective monitoring

- The public is best protected if the Council can be satisfied a practitioner is demonstrating compliance with conditions and orders. The Tribunal has stated that a "condition must be drafted with precision, so that the practitioner understands the obligations placed on her or him, and its compliance capable of objective, not subjective assessment."¹
- Your conditions and orders must be directed to the subject practitioner and not others. (It would be inappropriate to require the compliance of anyone other than the subject practitioner.) The [Template Conditions](#) are drafted with this in mind.

3.2.1 Workability, effect dates and timeframes

- Include clear effect dates and allow workable and realistic timelines. If in doubt, contact Council staff for assistance.
- Practitioners, employers and other interested parties, including monitoring staff, need certainty. A clear effect date will prevent ambiguity about whether a condition or order has been breached.

¹ [Paragraph 133 of Health Care Complaints Commission v Perceval \[2014\] NSWCATOD 38](#)

- Allow time for necessary administrative arrangements. Conditions and orders have immediate effect, unless otherwise stated and it can be unfair to expect a practitioner to comply immediately. For example, supervision involves approaching supervisors and having them submit to an approval process by the Council which may take 21-28 days.
- If your level of concern is such that you intend that the practitioner is not to practise until a condition is met, state this clearly. Otherwise, bear in mind that the practitioner will be allowed a reasonable time to make administrative arrangements to comply with conditions.
- With educative orders, check courses exist and are offered in the timeframe you are ordering, or ensure alternatives can be substituted (the Council staff can assist with this).
- Allow time for a practitioner to demonstrate improvement. For example, an audit may be appropriate in six months as audits are generally intended to assess a practitioner's implementation of revised practices.

3.2.2 Creating mechanisms for information exchange with third parties

- Wherever possible, create mechanisms for exchange of information with third parties, which assist the Council to independently verify a practitioner's compliance with conditions. Such mechanisms will also help inform any review of conditions (see [4. Reviews](#)).
- Mechanisms which assist the Council include:
 - Requiring supervision;
 - Requiring urine drug screens;
 - Facilitating the provision of Medicare data; and
 - Advising key stakeholders of the imposition of conditions (i.e. Pharmaceutical Services Unit and the Public Health Unit of the Ministry of Health , current and future employers or treating practitioners etc) so they are in a position to notify any concerns.

Be aware that complaints from patients who have accessed the register and are aware of conditions can also play a role in the monitoring process.

- Think carefully about whether employers (or the like) should be included as part of any mechanism. For example, it is unusual to provide details of health conditions to employers (usually they are informed of the fact that health conditions have been imposed rather than the details of such conditions), but in some instances the safety imperatives might outweigh any privacy or confidentiality considerations.
- Be aware that some conditions are typically "paired" with other conditions to create mechanisms that allow verification and more effective monitoring. For example:

- If aspects of practice (e.g. prohibiting the performance of certain procedures) or patient numbers are restricted, a condition authorising provision of information from Medicare allows the Council to independently verify compliance with the restriction (a word of caution – to be effectively monitored, the restriction might need to match a Medicare item number);
- If you require review by a Council appointed psychiatrist (who sends their report to the Council) it is logical to also require subsequent attendance at a review interview at the Council in the same timeframe;
- A condition to not possess, supply, administer or prescribe any Schedule 8 or Schedule 4 Appendix D drugs can be strengthened by also requiring the practitioner to attend Pharmaceutical Services Unit to surrender the relevant drug authorities.

3.2.3 Potential impact of conditions on third parties

- Ensure that all your orders and conditions are drafted so they put any obligations onto the subject practitioner. The [Template Conditions](#) take this into account.
- Understand that whilst some conditions clearly require others to take on responsibilities (such as supervisors), affected people are always asked by the Council if they consent to the role before being formally approved.
- If your decision will place an appreciable burden on an identifiable third party, that third party must be given an opportunity to make a submission on the decision, see [s 176C](#) of the Law.
- This does not preclude you from stating in your decision that a particular person appears to be suitable for a role envisaged by your orders or conditions, because the Council will consult with them before formal approval is given.

3.2.4 Other factors to consider

- Craft stand-alone conditions. Imagine them subsequently being lifted incrementally. Any remaining conditions need to make sense for future monitoring and review and to future employers or supervisors.
- Ensure any critical compliance conditions are clearly identified as such (see [sub-ss 146B\(3\)-\(4\)](#) for PSCs and [sub-ss 149A\(4\)-\(5\)](#) for Tribunals).
- Ensure supervision, audit and like conditions (e.g. UDT, CDT and EtG testing) include who is to pay the costs. Generally it is the practitioner who bears the associated costs of complying with conditions/orders. The exception is where a Council appointed health practitioner is required to review or assess a practitioner in the Council's health program.

- Note that some conditions can only be monitored by self-reporting. Although less effective, such conditions can still have a role.
- Avoid drafting conditions that put the Council in the position of approving an aspect of the practitioner's practice – rather aim to have the practitioner demonstrate they practise in accordance with published standards, policies, or guidelines. For examples, see the [Training and Education conditions A and C](#).

3.3 Notifying other parties of conditions and/or a decision

- Most conditions are recorded in the public Register. This is regardless of whether the decision that imposed the conditions is made publicly available, or whether the relevant hearing or proceedings were open to the public. "Private" or "health" conditions generally are not recorded in the public Register (see [2.2 Making private conditions](#)).
- A third party may need to be provided with a copy of your decision, or your conditions and orders, so they are suitably informed and in a position to assist the Council in its monitoring activities. Examples might be supervisors and treating practitioners. If a third party is to be provided with a copy of your decision, consider:
 - Ordering a third party be provided with your decision and/or your orders (see [Table 2](#)).
 - Including a condition that the subject practitioner/student is to ensure the provision of the conditions and/or decision to the relevant individuals. This may require the practitioner/student to return a copy of the conditions and/or decision signed by the relevant individual to the Council (see [Monitoring conditions A and B](#)).
- Note also that certain decision making bodies have specific statutory responsibilities to release a decision to parties or a third party (see [Table 2](#)). Understanding who receives a decision in any case may inform your decision as to whether protection of the public will be better served by an order that your decision, or your conditions and orders, be provided to others.
- Make sure you consider whether the disclosure of otherwise confidential information is warranted for the protection of the health and safety of the public and is lawful. The Legal Team can assist.

4. REVIEWS

4.1 Reviewing conditions and orders

- If you are imposing conditions as a Tribunal, PSC, PRP, Council Inquiry, or the Supreme Court on appeal, nominate the Council to be the “*appropriate review body*” if you want the relevant conditions to be reviewed by the Council, otherwise, the appropriate review body will default to the Tribunal (see [s 163\(1\)\(c\)](#) of the Law).
 - The Council is well placed to be the appropriate review body for applications to review conditions. It has regulatory experience, and there are cost and convenience benefits for both the practitioner and the Council. Many applications for review of conditions are dealt with by the Council considering the matter “on the papers”. A review hearing can also be conducted under [s 163B](#) of the Law.
 - In contrast, applications for review of a Tribunal order to cancel or suspend a practitioner’s registration (or to disqualify from being registered) are generally referred to a differently constituted Tribunal for an Inquiry under [s 163A](#) of the Law.

Note: Orders are not reviewable but can be appealed. Once the ordered thing is done, the order should be able to be lifted (see [1.2 Differentiating between conditions and orders](#)).

- If you are the Council imposing conditions under s 150, or under ss 152J or 152M following an IRP, the Council will automatically be able to review its own orders under ss 150A, 150C and 152K without you needing to specifically nominate the Council as the review body.
- In accordance with the Law’s objective of workforce mobility (see [s 3](#) of the Law), all decision making bodies should consider including a provision which caters for a practitioner moving interstate and seeking a subsequent review of conditions. The suggested form of words for achieving this is included in the [Monitoring conditions text box](#).

4.2 Self-executing conditions and orders

- Consider carefully whether you intend to impose a condition or order (a suspension order for example), which disappears once a period of time has passed.
- As a general rule, safety of the public is likely to be more effectively achieved if there is some reassuring monitoring activity on the expiration of a suspension or of certain conditions.
 - For example, simply requiring supervision for six months will mean the requirement for supervision will vanish despite the possibility of adverse feedback in supervision reports to the Council during the 6 months.
 - Equally, suspension for 6 months without any conditions being required on the expiration of the suspension (such as a period of supervision) may do little to demonstrate that a practitioner has learned or improved.

- Ordering conditions that are intended to operate during a period of suspension is not recommended. It is doubtful whether a Council has jurisdiction to monitor a suspended practitioner. (See [1.1.1 Power to make a recommendation](#)).

Note: Suspensions by Tribunals and recommendations of suspension by IRPs need to specify the period of suspension (see ss [149C](#) and [152I\(2\)\(b\)](#)), whereas suspensions under s 150 do not need a period to be specified (because reviews can be made at any time under [s 150A](#) of the Law).

- There may be merit in not specifying a condition expiry date at all, as you are operating in a protective jurisdiction. This is because the practitioner can always (subject to [s 163B\(5\)](#) of the Law) make a review application and ask that a condition be altered or removed.

5. FURTHER RESOURCES

- The Council staff are happy to discuss whether proposed conditions are workable.
- Given the sensitive nature of the matter, discretion is assured should you seek such assistance in the course of a hearing. Such discussions are best conducted as a hypothetical.

PRACTICE CONDITIONS		
For publication on the Public Register		
PROCEDURAL CONDITIONS		SUPPLEMENTARY MATERIALS / NOTES
Notifying current employers		
<input type="checkbox"/>	<p>To forward evidence to the Aboriginal and Torres Strait Islander Health Practice Council of NSW within 14 days of [insert date], that <i>he/she</i> has provided a copy of [this decision / full conditions / practice conditions] to:</p> <p>[List intended recipients i.e. the responsible senior officer in any place that he/she works (including any Aboriginal medical service, locum agencies and hospitals).]</p>	This condition can be worded so as to require the practitioner to provide different information to different parties.
Notifying future employers		
<input type="checkbox"/>	<p>Within 14 days of a change in the nature or place of <i>his/her</i> practice, <i>he/she</i> is to forward evidence to the Aboriginal and Torres Strait Islander Health Practice Council of NSW that <i>he/she</i> has provided a copy of [this decision / full conditions / practice conditions] to:</p> <p>[List intended recipients i.e. the responsible senior officer in any place that he/she works (including any Aboriginal medical service, locum agencies and hospitals).]</p>	This condition can be worded so as to require the practitioner to provide different information to different parties.
Information exchange		
<input type="checkbox"/>	This condition does not apply to ATSI health practitioners in NSW	
<input type="checkbox"/>	To authorise the Aboriginal and Torres Strait Islander (ATSI) Health Practice Council of NSW to notify current and future persons or organisations at places where <i>he/she</i> works as an ATSI health practitioner in Australia, of any issues arising in relation to compliance with these conditions.	

NOTE: When sitting as a Tribunal, Council Inquiry or PRP, include the following sentence when imposing conditions where you intend the Council to be the review body, otherwise, the Tribunal is by default the review body (see s 163 the Law).

- The Aboriginal and Torres Strait Islander Health Practice Council is the appropriate review body for the purposes of Part 8, Division 8 of the Health Practitioner Regulation National Law (NSW).*

When sitting as the Tribunal, Council Inquiry, PRP or the Council, include the following sentence to ensure practitioners who move interstate can have conditions reviewed by the ATSI Health Practice Board of Australia when not practising in NSW.

- Sections 125 to 127 of the Health Practitioner Regulation National Law are to apply whilst the practitioner's principal place of practice is anywhere in Australia other than in New South Wales, so that a review of these conditions can be conducted by the Aboriginal and Torres Strait Islander Health Practice Board of Australia.*

PRACTICE CONDITIONS			
For publication on the Public Register			
LIMITING PRACTICE		SUPPLEMENTARY MATERIALS / NOTES	COMPLEMENTARY CONDITIONS
Limiting the place/nature of practice			See also supervision, mentoring and counselling conditions.
A <input type="checkbox"/>	To obtain Aboriginal and Torres Strait Islander Health Practice Council of NSW approval prior to changing the nature or place of <i>his/her</i> practice.		
B <input type="checkbox"/>	To inform the Aboriginal and Torres Strait Islander Health Practice Council of NSW in writing at least seven days prior to changing the nature or place of <i>his/her</i> practice.		
C <input type="checkbox"/>	Group practice - this condition does not apply to Aboriginal and Torres Strait Islander health practitioners in NSW		
D <input type="checkbox"/>	To practise only in an Aboriginal and Torres Strait Islander Health Practice Council of NSW approved [describe employment setting / position] . For example: Aboriginal Medical Service/ hospital position / community health centre.		
Limiting the scope of practice			See also procedural conditions
E <input type="checkbox"/>	Solo practice – this condition does not apply to ATSI health practitioners in NSW		
F <input type="checkbox"/>	Locum positions – this condition does not apply to ATSI health practitioners in NSW		
G <input type="checkbox"/>	Not to conduct [home//community health centre/clinic] visits.		
Limiting hours			
· Conditions limiting hours can be used to assist health impaired practitioners.			
H <input type="checkbox"/>	Limiting hours – this condition does not apply to ATSI health practitioners in NSW		
I <input type="checkbox"/>	This condition does not apply to ATSI health practitioners in NSW		
J <input type="checkbox"/>	This condition does not apply to ATSI health practitioners in NSW		

PRACTICE CONDITIONS			
For publication on the Public Register			
LIMITING PRACTICE		SUPPLEMENTARY MATERIALS / NOTES	COMPLEMENTARY CONDITIONS
K <input type="checkbox"/>	This condition does not apply to ATSI health practitioners in NSW		
Limiting the number of patients · Conditions limiting patient numbers can be used to improve the quality of clinical care and conduct of the practitioner.			
L <input type="checkbox"/>	This condition does not apply to ATSI health practitioners in NSW		
Limiting procedures · Conditions limiting procedures can be used to improve the quality of clinical care of practitioners.			
M <input type="checkbox"/>	Not to undertake [describe specific procedure] .		
N <input type="checkbox"/>	To limit <i>his/her</i> procedures to: [List procedures (a) – (...)]		
Periodic reporting			See also Procedural Conditions
O <input type="checkbox"/>	This condition does not apply to ATSI practitioners in NSW		
P <input type="checkbox"/>	This condition does not apply to ATSI practitioners in NSW		

PRESCRIBING AND OTHER DRUG CONDITIONS

- Scheduled poisons are regulated according to State/Territory based legislation, although the scheduling of poisons conforms with the Commonwealth's Standards for the Uniform Scheduling of Medicines and Poisons published under the Therapeutic Goods Act 1989.
- In NSW ATSI health practitioners **are not** authorised to supply, administer or possess Scheduled poisons such as Schedule 8s (drugs of addiction) and Schedule 4Ds (which class include benzodiazepines), unlike medical practitioners, pharmacists, dentists, nurse practitioners, optometrists and podiatrists.
- In contrast to NSW, the Northern Territory under section 250 of the Medicines, Poisons and Therapeutic Goods Act, allows 'approved' ATSI health practitioners to supply, administer and possess Schedule 4 and/or Schedule 8 substances in accordance with the Scheduled Substance Treatment Protocol. Monitoring is carried out by the Medicines and Poisons Control.
- Decision makers should keep in mind that work force mobility is a feature of the National Registration Scheme when drafting restrictions on practice and reasons for decision.

If there are concerns that the practitioner is a risk to public health and safety if their principal place of practice changes to the Northern Territory and he/she is permitted to deal with scheduled poisons, then those concerns should be explained in the decision. A procedural conditions can also be imposed which requires the practitioner to inform the Council in writing before any change in the nature and place of his/her practice is made or requires the practitioner to furnish evidence that a future employer has been given a copy of the relevant decision and the conditions – see the procedural conditions.

PRACTICE CONDITIONS			
For publication on the Public Register			
PRESCRIBING AND OTHER DRUG CONDITIONS		SUPPLEMENTARY MATERIALS / NOTES	COMPLEMENTARY CONDITIONS
Surrendering authority and restrictions			
A <input type="checkbox"/>	Schedule 8 drugs This condition does not apply to ATSI health practitioners in NSW		
B <input type="checkbox"/>	Schedule 4D drugs This condition does not apply to ATSI health practitioners in NSW		
C <input type="checkbox"/>	Not to possess, supply, administer or prescribe [list specific drug e.g. Benzodiazepines] .	This condition does not apply to ATSI health practitioners in NSW but may be relevant to practise in the NT	See the health conditions See the procedural conditions
D <input type="checkbox"/>	This condition concerning self-treatment (prescribing) does not apply to ATSI health practitioners in NSW		
Qualified restrictions			
E <input type="checkbox"/>	Not to possess, supply, administer or prescribe any drug listed in [Schedule 8 /Schedule 4 Appendix D] in the latest edition of the Commonwealth's Poisons Standard.	This condition does not apply to ATSI health practitioners in NSW but may be relevant to practise in the NT	Consider whether you want current and future employers to be sent a copy of the practitioner's conditions. See the procedural conditions
Education courses			
F <input type="checkbox"/>	This condition does not apply to ATSI health practitioners in NSW		See the training and education conditions

TRAINING AND EDUCATION CONDITIONS

When ordering a practitioner to undertake further training or education, consider whether you require the practitioner to:

- Attend a particular conference/seminar; or
- Demonstrate that they have satisfactorily completed a particular course.

PRACTICE CONDITIONS

For publication on the Public Register

TRAINING & EDUCATION CONDITIONS		SUPPLEMENTARY MATERIALS / NOTES	COMPLEMENTARY CONDITIONS
A	This condition does not apply to the regulation of ATSI health practitioners in NSW		
B	<p>To complete within [e.g. 6 or 12 months] of [insert date of decision] the [insert name of course/seminar] organised by [insert name of education/training provider].</p> <p>(a) Within [insert timeframe] of [insert date of decision] <i>he/she</i> must provide evidence to the Aboriginal and Torres Strait Islander Health Practice Council of NSW of <i>his/her</i> enrolment in the abovementioned course.</p> <p>(b) Within [insert timeframe] of completing the abovementioned course, <i>he/she</i> is to provide documentary evidence to the Council that <i>he/she</i> has satisfactorily completed the course.</p> <p>(c) To bear responsibility for any costs incurred in meeting this condition.</p>	<p>See 3.2.1 Workability, effect dates and timeframes</p>	<p>See Condition C</p>
C	In the event that the [list specific course] is unavailable, <i>he/she</i> must propose to the Aboriginal and Torres Strait Islander Health Practice Council of NSW for approval a similar course to be undertaken and satisfactorily completed by <i>him/her</i> [by date / within timeframe] .		
D	This condition does not apply to ATSI health practice in NSW		

Table 1: Power to impose a condition or make a particular order

The powers you have depend on the nature of the proceedings you are conducting and are set out in the Law. For ease of reference the table below summarises those powers. However, as powers are qualified in some instances, references should be made back to the provisions of the Law.

	S150	IRP	Council on recommendation from IRP	Council inquiry (N/A for medicine, nursing & midwifery)	PRP Practitioners only (not students)	PSC (for medicine, nursing & midwifery only) Practitioners only (not students)	Tribunal
Suspension	Yes s 150(1)(a) (practitioners and students) <i>Must</i> suspend if critical compliance order or condition contravened: s 150(3)	N/A Can only recommend practitioner or student agree to suspension for a specified period: s 152I(2)(b) For students only, can recommend suspension for max. of two years in the public interest: s 152M	Yes ss 152J and 152I(2)(b) practitioners and students For students only, can make written order of suspension for max. of two years in the public interest: s 152M	N/A Can only recommend suspension of practitioner or student for a specified period in certain circumstances: s 148G	N/A	N/A Can only recommend suspension for a specified period in certain circumstances: s 146D	Yes, for a specified period: s 149C(1) practitioners s 149C(2) students

This table is only a summary of the powers under the law. Reference should be made to the provisions of the law as powers may be qualified.

	S150	IRP	Council on recommendation from IRP	Council inquiry (N/A for medicine, nursing & midwifery)	PRP Practitioners only (not students)	PSC (for medicine, nursing & midwifery only) Practitioners only (not students)	Tribunal
Conditions	Yes s 150(1)(b) practitioners s 150(1)(c) students	N/A Can only recommend practitioner or student agree to conditions: s 1521(2)(b) For students only, can recommend specified condition/s be imposed for max. of two years in the public interest: s 152M	Yes ss 152J and 1521(2)(b) (practitioners and students) For students only, can make written order imposing conditions for max. of two years in the public interest: s 152M	Yes s 148E(1)(c) practitioners s 148E(2)(b) students	Yes s 156C(2)(a)	Yes s 146B(1)(b)	Yes s 149A(1)(b) practitioners s 149A(2)(b) students
Critical Compliance Conditions	N/A	N/A	N/A	N/A	N/A	Yes s 146B(3)	Yes s 149A(4)
Prohibition Orders	N/A	N/A	N/A	N/A	N/A	N/A	Yes s 149C(5)

This table is only a summary of the powers under the law. Reference should be made to the provisions of the law as powers may be qualified.

	S150	IRP	Council on recommendation from IRP	Council inquiry (N/A for medicine, nursing & midwifery)	PRP Practitioners only (not students)	PSC (for medicine, nursing & midwifery only) Practitioners only (not students)	Tribunal
Order counselling/ medical or psychological treatment	N/A*	N/A Can recommend practitioner or student undertake specified counselling: s 152I(2)(a) OR can recommend practitioner or student agree to counselling and/or treatment condition Can counsel practitioner or student: s 152I(2)(a)	Can impose recommended counselling and/or treatment condition only if satisfied that practitioner or student has voluntarily agreed: ss 152J and 152I(2)(b)	Yes 148E(1)(d) practitioners 148E(2)(c) students	N/A*	Yes s 146B(1)(c)	Yes s 149A(1)(c) practitioners s 149A(2)(b) students

* A condition requiring counselling/treatment may be imposed.

* There is nothing in the Law to preclude making informal recommendations in the decisions.

This table is only a summary of the powers under the law. Reference should be made to the provisions of the law as powers may be qualified.

	S150	IRP	Council on recommendation from IRP	Council inquiry (N/A for medicine, nursing & midwifery)	PRP Practitioners only (not students)	PSC (for medicine, nursing & midwifery only) Practitioners only (not students)	Tribunal
Recommend Council take appropriate action	N/A*	Yes s 152I(2)(c)	N/A	N/A*	Yes, can make appropriate recommendations to Council about the practitioner s 156C(1) Must recommend that Council make a complaint against practitioner in certain circumstances s 156C(3)	N/A*	N/A*

* A condition requiring skills testing may be imposed.

This table is only a summary of the powers under the law. Reference should be made to the provisions of the law as powers may be qualified.

	S150	IRP	Council on recommendation from IRP	Council inquiry (N/A for medicine, nursing & midwifery)	PRP Practitioners only (not students)	PSC (for medicine, nursing & midwifery only) Practitioners only (not students)	Tribunal
Order skills testing	N/A* Note: a condition requiring performance assessment has no effect until Commission agrees ss 150(5) and 150E	N/A	N/A	N/A	May order skills testing in the form of a condition May direct performance be re-assessed at a future date s 156D	N/A	N/A
Recommend complaint be dealt with by s 148 Council Inquiry	N/A	Yes, but only for a practitioner or student registered in a health profession <u>other than</u> medical or nursing and midwifery: ss 152(2)(c) and 145B(1)(e)	N/A	N/A	N/A	N/A	N/A

* A condition requiring skills testing may be imposed.

This table is only a summary of the powers under the law. Reference should be made to the provisions of the law as powers may be qualified.

	S150	IRP	Council on recommendation from IRP	Council inquiry (N/A for medicine, nursing & midwifery)	PRP Practitioners only (not students)	PSC (for medicine, nursing & midwifery only) Practitioners only (not students)	Tribunal
Reprimand/ Caution	N/A	N/A	N/A	Yes s 148E(1)(a) practitioners s 148E(2)(a) students	N/A	Yes s 146B(1)(a)	Yes s 149A(1)(a) practitioners s 149A(2)(a) students
Order refund of fees	N/A	N/A	N/A	Yes s 148E(1)(b) practitioners only	N/A	N/A	N/A
Order educational course be completed	N/A*	N/A	N/A	Yes s 148E(1)(e) practitioners s 148E(2)(d) students	Yes s 156C(2)(b)	Yes s 146B(1)(d)	Yes s 149A(1)(d) practitioners s 149A(2)(d) students
Order practitioner to report on practice to Council	N/A*	N/A	N/A	Yes s 148E(1)(f) practitioners only	Yes s 156C(2)(c)	Yes s 146B(1)(e)	Yes s 149A(1)(e) practitioners only

* A condition may be imposed, however please consider whether such conditions are an appropriate outcome for urgent interim action under s 150.

This table is only a summary of the powers under the law. Reference should be made to the provisions of the law as powers may be qualified.

	S150	IRP	Council on recommendation from IRP	Council inquiry (N/A for medicine, nursing & midwifery)	PRP Practitioners only (not students)	PSC (for medicine, nursing & midwifery only) Practitioners only (not students)	Tribunal
Order practitioner to take advice re management of practice	N/A*	N/A	N/A	Yes s 148E(1)(g) practitioners only	Yes s 156C(2)(d)	Yes s 146B(1)(f)	Yes s 149A(1)(f) practitioners only
Fines	N/A	N/A	N/A	Yes s 148F practitioners only	N/A	Yes s 146C	Yes s 149B practitioner only
Recommend to Tribunal that registration be cancelled	N/A	N/A	N/A	Yes, in certain circumstances: s 148G	N/A	Yes, in certain circumstances: s 146D	N/A
Cancel registration or disqualify practitioner if no longer registered	N/A	N/A	N/A	N/A	N/A	N/A	Yes s 149C(1) practitioners s 149C(2) students s 149C(4) <i>Must cancel practitioner or student's registration if critical compliance order or condition contravened:</i> s 149C(3)
Award costs	N/A	N/A	N/A	N/A	N/A	N/A	Yes cl 13, Sch 5D

* A condition may be imposed, however please consider whether such conditions are an appropriate outcome for urgent interim action under s 150.

Table 2: Publishing decisions – Summaries of the relevant provisions of the Law

The following table summarises the provisions of the Law relevant to whether written reasons may be published. Please refer back to the law as the table is a summary only, and the powers are qualified in some instances.

Decision-maker	Whether written reasons for the decision may be published?
<p>Council (or Council delegates) conducting proceedings pursuant to ss 150, 150A or 150C</p>	<p>Written reasons for decision are generally not published by the Council, because the proceedings are confidential and the decision contains "protected information" (defined in s 214) subject to confidentiality provisions: s 216</p> <p>Written reasons for decision are as a matter of course provided to the practitioner concerned and any legal representative: ss 150(6) and 216(2)(d)</p> <p>Written reasons for decision may be provided to the HCCC: ss 216(2)(b)(i), 150D(2) and 150E(3).</p>
<p>Impaired Registrants Panel (IRP)</p>	<p>IRP reports are generally not published by the Council, because they are "protected reports" (defined in s 138) and therefore subject to stringent confidentiality provisions: s 176F</p> <p>IRP reports are, as a matter of course, provided to the practitioner concerned and any legal representative.</p> <p>IRP reports may be provided to the HCCC: s 176F(2)(b)</p>

Decision-maker	Whether written reasons for the decision may be published?
<p>Performance Review Panel (PRP)</p>	<p>PRP written statements of decision are generally not published by the Council because:</p> <ul style="list-style-type: none"> (i) they contain “protected information” (defined in s 214) prohibited from disclosure by s 216; and (ii) almost certainly have the character of a protected report (defined in s 138), because they invariably disclose the contents of a Performance Assessment Report, and are therefore subject to stringent confidentiality provisions: s 176E <p>PRP written statements of decision are provided to the practitioner and any legal representative: s 156E(1)</p> <p>A PRP may make recommendations to the Council regarding disclosure of its written statement of decision, keeping in mind that the Council may provide a copy of the written statement of decision to any persons it sees fit: s 156E(3)</p>
<p>Professional Standards Committee (PSC)</p>	<p>A PSC can order that its statement of decision on inquiry not be made publicly available: s 171E(5)</p> <p>If no such order is made, a PSC’s written statement of the decision on inquiry must be made publicly available by the Council if the complaint is proved or admitted in whole or in part: s 171E(4)(a)</p> <p>If the complaint is not proved or admitted in whole or in part, the Council may nevertheless disseminate the decision if it sees fit to do so: s 171E(4)(b). Any publication will, however, be subject to any non-publication direction made by the PSC in accordance with cl 7 of Schedule 5D.</p> <p>Statements of decision on inquiry must be provided to the practitioner and any legal representative, the Council and the complainant (usually the HCCC): s 171E(1)</p> <p>The PSC may also provide a copy to such persons as it sees fit: s 171E(3)</p> <p>It is open to a PSC to make recommendations to the Council regarding publication of its statement of decision on inquiry.</p>

Decision-maker	Whether written reasons for the decision may be published?
<p style="text-align: center;">Tribunal</p>	<p>A Tribunal can order that its written statement of decision not be made publicly available: s 165M(4)</p> <p>If no such order is made, a Tribunal’s written statement of decision must be made publicly available by the Tribunal if the complaint is proved or admitted in whole or in part: s 165M(4)</p> <p>Unless the Tribunal has ordered otherwise, if the complaint is not proved or admitted in whole or in part, the Tribunal may nevertheless disseminate the decision if it sees fit to do so: s 165M(3)</p> <p>Any publication will, however, be subject to any non-publication direction made by the Tribunal in accordance with cl 7 of Schedule 5D.</p> <p>Statements of decision must be provided to the parties and the Council: s 165M(1)</p> <p>The Tribunal may also provide a copy to such persons as it sees fit: s 165M(3)</p>
<p style="text-align: center;">Council Inquiry</p>	<p>Written statements of decision are generally not published by the Council, because they contain “protected information” (defined in s 214) subject to confidentiality provisions: s 216</p> <p>However, it is a matter for the individual Council whether a Council Inquiry decision is published. Considering the objective of the Law, Council may decide to publish depending on the educative value of the decision to the profession and community.</p> <p>Written reasons for decision must be provided to the practitioner concerned and any legal representative, the complainant, the National Board and any other person the Council thinks fit: s 148H(1)</p> <p>A copy must be provided to the HCCC if the HCCC made a submission to the Council with respect to the complaint: s 148H(2)</p>