



**An Roinn
Sláinte**
Department
of Health

Public Consultation by the Department of Health in Ireland

on proposed amendments to the Health and Social Care
Professionals Act 2005; the Medical Practitioners Act 2007; the
Nurses and Midwives Act 2011; and the Regulated Professions
(Health and Social Care) (Amendment) Act 2020

Fields marked with * are mandatory.

Background

Proportionality Test Directive

The [Proportionality Test Directive \(2018/958\)](#) which was transposed into Irish law in August 2022 ([SI 413/2022](#)), requires Member States to examine the proportionality of any professional regulations that are amending or

introducing new measures that may restrict access to or pursuit of a regulated profession. The Department of Health is currently engaged in the drafting of a **Regulated Professions (Health and Social Care) (Amendment) Bill**, which proposes amendments to:

- The [Health and Social Care Professionals Act 2005](#) (the 2005 Act)
- The [Medical Practitioners Act 2007](#) (the 2007 Act)
- The [Nurses and Midwives Act 2011](#) (the 2011 Act)
- The [Regulated Professions \(Health and Social Care\) \(Amendment\) Act 2020](#) (the 2020 Act)

As the Bill is proposing to amend existing regulatory provisions in these Acts, a proportionality assessment to examine these amendments is being carried out. As part of this assessment, the Department of Health is conducting a public consultation to seek the views of interested parties on the proportionality of relevant amendments via this online survey. Article 7 of the Proportionality Test Directive sets out a range of matters to be considered by Member States in determining whether a measure is proportionate. Article 7 can be viewed at the link to the Directive (above) and may provide helpful context for respondents completing the survey.

Providing your views

The Survey

This short survey is divided into four parts and comprises 16 questions.

Part 1 (questions 1 - 11) relate to amendments to the Health and Social Care Professionals Act 2005

Part 2 (questions 12 - 14) relate to amendments to the Medical Practitioners Act 2007

Part 3 (question 15) relates to amendments to the Nurses and Midwives Act 2011

Part 4 (question 16) relates to amendments to the Regulated Professions (Health and Social Care) (Amendment) Act 2020

Respondents may complete the entire survey (**Parts 1, 2 3 and 4**), or whichever part is most relevant. **Note:** Clicking on the links under the 'Pages' heading at the start of the survey allows for quicker navigation between the four parts of the survey, which may be helpful for respondents only completing individual parts.

For each question, you will be asked whether the amendments proposed are proportionate, and the answer options are '**Yes**', '**No**' or '**No view**'. You will also be able to provide a brief commentary in a free text box under each question (if required). Each question provides a summary of the legislative provisions and the proposed amendments. This summary is not a legal interpretation of any of the Acts, and for the precise wording of the relevant sections, please refer to the Irish Statute Book and, if necessary, consider obtaining

independent legal advice. The survey has been populated with hyperlinks to assist you in reviewing the relevant statutes should you require.

Use of information provided

The findings from the public consultation will assist the Department of Health in completing its Proportionality Assessment on the measures identified, which in turn will be submitted to the European Commission in accordance with the Directive.

Privacy Notice/Data protection

Any personal information provided in this survey will be treated strictly in accordance with the [General Data Protection Regulation 2016/679](#) and the [Data Protection Act 2018](#). Please note that requests for release of information provided in survey responses can be made under the [Freedom of Information Act 2014](#) and the Department may be required to release this information. If you have any queries in relation to this, please e-mail opendisclosurepolicy@health.gov.ie.

Survey window

The survey will be open from 24th October 2025 to 21st November 2025.

Personal Information

Note: If you are providing the views of an organisation, it is necessary that you provide your organisation's name and your position within the organisation. If you work for an organisation, but are expressing your own personal views, please select '**In a personal capacity**' in the selection options below.

* Are you completing this survey:

- ☐ In a personal capacity
- ☒ As an authorised representative of an organisation/body, expressing the views of that organisation/body

* What is your name?

Daro Bjayou

* What is your email address:

policy@fodo.com

What organisation do you work for/do you represent (if applicable)?

FODO Ireland - The Association of Eye Care Providers of Ireland

What is your position (if applicable)?

Policy Officer

If you are a member of a regulated profession regulated by one or more of the Acts being amended, please state your profession.

Please click '**Next**' to respond to the survey questions on ***The Health and Social Care Professionals Act 2005***. You may navigate back and forward at any stage during the completion of the survey.

Part 1

The Health and Social Care Professionals Act 2005

ANNOTATION OF REGISTRATION

Q1. Should the 2005 Act be amended to provide for annotation of registration?

It is proposed to introduce a new **section 38A** into the 2005 Act to provide for annotation of registration and restoration of previously annotated qualifications. Annotated activities are those activities that are considered to present a particular risk to the public, and where the competence of a practitioner to perform such activities will be signalled to the public through annotation of their registration. The new section proposes that the registration board of a designated profession will have the power to annotate a person's registration:

1. with post-registration qualifications to perform certain activities;
2. with competencies to perform certain activities where the person meets the requisite standard of proficiency acquired through an education and training programme leading to qualifications necessary for registration.

The registrant must apply for the annotation, pay the appropriate fee (if applicable), and satisfy the conditions for annotation as prescribed in bye-laws. The registration board may also restore previously annotated qualifications where an applicant meets the application criteria and the conditions prescribed in bye-laws.

As described in more detail in Q2, it is intended to provide registration boards of designated professions with the power to set standards for and to approve post-registration education and training programmes leading to post-registration qualifications to perform certain activities, which may be annotated. *[captured in 1. above]*

In addition, annotations may also be merited in cases where the requisite standard of proficiency attained by persons holding non-Irish qualifications qualifies them to perform the activity being annotated; and in cases where, in the future, relevant Irish training programmes may evolve to cover an annotated activity. In such cases, a person may have acquired the requisite standard of proficiency through their threshold qualification necessary for registration. *[captured in 2. above]*

These amendments support a programme of health workforce reform which the Department of Health is currently developing to create greater efficiencies in relation to patient care. One such reform is enabling physiotherapists to refer for radiological procedures, and the proposed amendments will strengthen the regulatory infrastructure to support this and future similar initiatives.

Arising from this proposal, certain **consequential amendments** to the 2005 Act will be necessary, and these are set out below:

[Section 18](#) provides for power of the Council to charge and recover fees. The amendment to this section proposes to allow the Council to charge fees for annotation of registration, if applicable.

[Section 31](#) provides for registration board's powers to make bye-laws. The amendment to this section proposes that the registration board of a designated profession will have the power to make bye-laws in relation to the setting of criteria and procedures for annotation of registration.

In your view, is providing for annotation of registration a proportionate measure?

- ☒ Yes
- ☐ No
- ☐ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

The Department of Health is right to seek to improve the efficiency and timeliness of patient care by making use of the extended scopes of health and social care practitioners particularly outside hospital to provide safe care closer to patients' homes and avoid unnecessary trips to hospital. Annotation of the relevant register is an important and proportionate way of enabling the public to check, for instance, on the status of optometrists and dispensing opticians who can prescribe and supply medicines independently or who have additional qualifications to provide ophthalmic services outside hospital which were previously reserved to medical practitioners.

POST-REGISTRATION EDUCATION AND TRAINING

Q2. Should the 2005 Act be amended to provide that registration boards may approve or refuse to approve post-registration education and training programmes?

It is proposed to amend [section 48](#) of the 2005 Act which provides for **approval of education and training programmes**. The amendment proposes that registration boards of designated professions may approve or refuse to approve education and training programmes leading to post-registration qualifications to perform certain activities.

To date, the approval of training programmes has focused on setting the education standards for the profession as a whole and accrediting and monitoring programmes that meet those standards. These are threshold standards leading to the qualifications necessary to practise the profession. The 2005 Act does not provide explicit powers for registration boards to set standards and to approve education and training programmes other than those required to practise. As referred to in Q1, a programme of health workforce reform is currently being developed by the Department of Health which is intended to create greater efficiencies in relation to patient care. The proposed amendment will strengthen the regulatory infrastructure to support this programme of reform by allowing registration boards to set standards for and approve post-registration training programmes related to certain activities that are determined to pose a particular risk to the public, such as referring for radiological procedures. It is therefore proposed to amend the 2005 Act to allow registration boards to approve certain post-registration education and training programmes. Registrants who successfully undertake these programmes may apply to have their registration annotated which signals to the public that they hold the competency to perform the annotated activity.

Arising from this proposal, a **consequential amendment** to the Act will be necessary, and this is set out below.

[Section 27](#) of the 2005 Act provides for **object, functions and powers of registration boards**. The amendment to this section proposes that monitoring of the continuing suitability of education and training programmes leading to post-registration qualifications will be an objective of the registration boards.

In your view, is the proposal that registration boards may approve or refuse to approve post-registration education and training programmes a proportionate measure?

- ☒ Yes
- ☐ No
- ☐ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

This is a logical and proportionate continuation of their current powers to set standards and approve education and training courses necessary for registration.

APPEALS: REFUSAL/WITHDRAWAL OF PROGRAMME APPROVAL

Q3. Should the 2005 Act be amended to provide that any appeal by an institution of a decision by a registration board to refuse to approve/withdraw approval of an education and training programme should be made to the Court?

It is also proposed to amend [section 48](#) to provide that any appeal by an institution of a decision by a registration board to refuse to approve an education and training programme, or to withdraw approval, will be made to the Court. The ability of an institution to request the Minister for Health to direct the board to grant or continue approval under the 2005 Act will be removed, together with the obligation for the Minister to consult with the Minister for Further and Higher Education, Research, Innovation and Science (formerly the Minister for Education and Science).

Currently, if a registration board refuses to approve an education and training programme or informs an institution of its decision to withdraw such approval, the institution concerned may request the Minister to direct the board to grant or continue the approval. If, after consulting the Minister for Further and Higher Education, Research, Innovation and Science, the Minister is satisfied as to the suitability of the education and training programme, the Minister may direct the board to grant or continue the approval. This is a discretionary appeals process, with no obligation on the Minister to give a direction to a registration board or to confirm a board's decision. In addition, the Act is silent on how the Minister should come to a decision as to the suitability of an education and training programme and does not allow for the gathering of evidence/seeking of information to support decision-making in this regard. Given the imprecise nature of these provisions, it is proposed to introduce a statutory appeal to the Court, similar to that provided for in [section 90](#) of the Medical Practitioners Act 2007.

In your view, is providing that an appeal be made to the Court a proportionate measure?

- ☒ Yes
- ☐ No
- ☐ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

This change makes sense and is proportionate as it will prevent arbitrary decisions which could impact on public safety either way. Both the CORU registration board and the higher education institution to set out their cases clearly in order for the Court to be able to reach a decision.

UNDERTAKINGS/CONSENTS AT PRELIMINARY PROCEEDINGS COMMITTEE STAGE

Q4. Should the 2005 Act be amended to provide that the Preliminary Proceedings Committee can accept undertakings/consents?

It is proposed to introduce a new section into the 2005 Act to enable the Preliminary Proceedings Committee (PPC) to accept an undertaking/consent at PPC stage in a similar way that the Act enables a Committee of

Inquiry (COI) to accept an undertaking/consent at inquiry stage.

The purpose of undertakings/consents is to introduce measures that may more effectively address less serious complaints at an earlier stage in the fitness to practise process and thereby avoid the regulator and the registrant engaging further in costly and stressful inquiries. It allows the PPC to set out what remedial action, improvement or consent is needed to effectively address the complaint, and for the registrant to undertake or consent to what is required to achieve this objective. These are limited to *not repeating the conduct to which the complaint relates; undertaking training or other means of improving competence to practise; consenting to undergo medical treatment; or consenting to be admonished or censured by the Council*. If a registrant refuses to accept an undertaking or refuses to consent to an admonishment/censure, the PPC may proceed as if the undertaking/consent was not offered.

The amendment will provide that when a registrant accepts an undertaking/consent, the investigation into the complaint will be completed and the complaint cannot be referred to mediation or to inquiry. The PPC will submit a report to the Council specifying the nature of the complaint that resulted in the investigation and the measure included in the undertaking/consent. When imposing sanction, the Council will not be able to impose a sanction other than the measure agreed between the PPC and the registrant. Where a registrant fails to comply with an agreed undertaking or consent, it will become a ground for complaint. When a registrant consents to undergo medical treatment, the Health Committee will have responsibility to support the registrant in this regard. The Council will also have responsibility for ensuring that a registrant who has given an undertaking to improve their competence by means of undertaking additional training will cooperate with such an undertaking to the satisfaction of the Council.

The proposed amendments as set out above are already mainly contained in the 2005 Act in respect of undertakings/consents at COI stage ([s.61](#)), with detailed operating principles contained in CORU's published Committee of Inquiry Procedures 2021. Where there are differences between the proposed new section and section 61, the 2024 Bill proposes to amend section 61 to ensure alignment of provisions. Precedents for undertakings at PPC stage exist in both the Medical Practitioners Act 2007 ([s.59A](#)) and the Nurses and Midwives Act 2011 ([s.57A](#)).

Arising from this proposal, certain **consequential amendments** to the 2005 Act will be necessary, and these are set out below.

[Section 51](#) provides for **disciplinary committees**. The amendment to this section proposes to enable the Health Committee, in addition to its functions as a COI, to also undertake responsibilities in support of registrants who have consented to undergo medical treatment as part of an undertaking given to either the PPC or a COI. As it is proposed that undertakings and consents be introduced at PPC stage to facilitate the early resolution of complaints, and as one such consent is to undergo medical treatment, it is considered necessary that the Health Committee be given additional responsibilities in support of those who have consented to undergo medical treatment. A similar provision is contained in both the Medical Practitioners Act 2007 ([s.20](#) (4)(b)) and the Nurses and Midwives Act 2011 ([s.24](#) (5)(b)).

[Section 52](#) provides for **complaints about conduct or competence of registrants**. The amendment to this section proposes to make failure to comply with an undertaking or failure to take any action specified in a consent a ground for complaint. This is similar to the consequences for failure to comply with an undertaking at inquiry stage (already contained in [s.61](#)).

[Section 56](#) provides for **referral of complaint to mediation, etc., or to Committee of Inquiry**. The amendment to this section proposes to disapply the provisions of section 56 once an undertaking or consent has been agreed at PPC stage.

[Section 61](#) provides for **if registrant consents to censure or remedial action**, etc. The amendments to this section propose to ensure that the same provisions which are proposed for undertakings at PPC stage will also apply to undertakings at COI stage, including:

- that the Council and not the registration board will specify educational courses required to improve a registrant's competence to practise where that registrant has given an undertaking to take such a course. CORU have indicated that the Council has greater expertise than the registration boards in this area.
- that the Council can give a notice in writing to a registrant who has agreed to undertake an educational course etc. to cooperate with the undertaking to the satisfaction of the Council and that the registrant must comply with this notice. This models similar provisions contained in [s.94](#) (3) and (4) of the Medical Practitioners Act 2007 and [s.87](#) (4) and (5) of the Nurses and Midwives Act 2011 in relation to undertakings/consents.
- that once an undertaking/consent has been agreed at COI stage, the investigation of the complaint shall be considered to be completed. While this has been how CORU have historically dealt with undertakings/consents (in accordance with CORU's published Committee of Inquiry Procedures 2021 - paras 19.1-19.5), the amendment is situating the requirement in the primary Act rather than relying on procedures. This is in keeping with the undertakings/consents provisions in the 2007 and the 2011 Acts respectively.

[Section 63](#) provides for **report to Council by Committee of Inquiry**. The amendment to this section proposes that section 63 be amended to specify that if there is an undertaking or consent agreed at COI stage, then the report of the COI to the Council must specify this.

[Section 64](#) provides for **steps to be taken by Council after receiving report**. The amendment to this section proposes that if there is an undertaking or consent agreed at COI stage, then the measure contained

in the report of the COI will be the measure which the Council takes in respect of the registrant.

[Section 78](#) provides for **privilege relating to disciplinary proceedings**. The amendment to this section proposes that privilege in relation to communication and reports by a PPC in respect of undertakings /consents attracts the same privilege as communication and reports by a COI in respect of undertakings /consents.

In your view, is providing for undertakings and consents at PPC stage, and ensuring that provisions underpinning these are aligned across both COI and PPC stages, a proportionate measure?

- ☒ Yes
☐ No
☐ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

Yes this is a wise and proportionate change. It will protect patients earlier and speed up the investigatory /disciplinary process for both complainants and practitioners saving money for the State.

HUMANITARIAN PERMITS

Q5. Should the 2005 Act be amended to allow CORU to issue humanitarian permits?

It is proposed to amend [section 79](#) of the 2005 Act which provides for **use of professional titles**. The amendment proposes that any health and social care professional who is legally qualified to practise their profession under the law of a state outside of Ireland, and whose profession is one that is regulated by CORU, may apply to the regulator for a permit to practise that profession in Ireland for a limited period of time for humanitarian purposes.

Similar powers are provided for in both the Medical Practitioners Act 2007 ([s.38B](#)) and the Nurses and Midwives Act 2011 ([s.41](#)), and CORU have indicated that it would be beneficial to also have these powers. While the intention is to provide that health and social care professionals from any jurisdiction may apply for a permit, it is recognised that permits would have particular cross-border benefits, as well as benefits across the broader United Kingdom given Ireland's close geographical proximity and the similarities in our respective health services. These benefits may include, for example, allowing Northern Ireland and other UK social workers to legally carry out cross-border emergency interventions to safeguard and promote the welfare of children, young people and vulnerable adults where a social worker is not registered with CORU.

In your view, is the proposal to allow CORU to issue humanitarian permits a proportionate measure?

- ☒ Yes
☐ No

Provide a brief commentary, if you wish

1000 character(s) maximum

This is a proportionate approach for facilitating humanitarian actions whilst safeguarding patients.

JURISDICTION OF PRACTISE EXPERIENCE FOR GRANDFATHERING

Q6. Should the 2005 Act be amended to provide that practice of a profession by existing practitioners during the transitional period of the register can be obtained in the State, in a Member State or in the United Kingdom? This relates to professions yet to be regulated.

It is proposed to amend [Section 91](#) of the 2005 Act which provides for **registration of existing practitioners**.

The amendment proposes to ensure that the practice of a profession for the purposes of grandfathering during the transitional period of registers yet to be established can be obtained in the State, in a Member State or in the United Kingdom.

The transition period is the first two years that a register is open, and during this period, those who were practising in the profession prior to regulation can apply for 'grandfathering' registration if they meet certain requirements. Grandfathering is a mechanism which allows those who were practising a profession designated for regulation prior to regulation to apply for registration within two years of the register for the profession opening. It ensures that existing practitioners who do not have the required qualifications for registration are provided with a route to registration. Those being grandfathered must have been engaged in the practice of the profession for a period which, when taken together, amounts to 2 years in the previous 5 years before the date on which the register is established. The 2005 Act currently provides that this practice must have been gained **in the State**. In addition, applicants must meet the other criteria for registration as set out at [section 91](#)(1)(a) – (e).

The need for the proposed amendment arises from legal advice obtained during the development of the [Regulated Professions \(Health and Social Care\) \(Amendment\) Act 2023](#) (the 2023 Act). The advice provided that the requirement that only existing practitioners who have been practising in the State are eligible for the grandfathering route to registration is not permissible under EU law and must be amended as it gives rise to indirect discrimination on the grounds of nationality. While the 2023 Act amended the 2005 Act in respect of social care workers (by removing the 'in the State' requirement), time did not permit comparable amendments to be made in that Act for the other professions designated for regulation by CORU for which registers have not yet been established/opened. These include: Psychologists; Counsellors; Psychotherapists; Clinical Biochemists; and Orthoptists.

Accordingly, this amendment proposes to ensure that the practice of a profession for the purposes of grandfathering during the transitional period of registers yet to be established can be obtained in the State, in a Member State or in the United Kingdom.

In your view, is the proposal to allow that practice of a profession by existing practitioners during the transitional period of the register can be obtained in the State, in a Member State or in the United Kingdom a proportionate measure?

- ☐ Yes
- ☐ No
- ☒ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

QUORUM

Q7. Should the 2005 Act be amended to provide that the quorum for a Council meeting, where a decision on sanction is being taken, is calculated as a percentage of Council members 'in office' rather than as a percentage of the Council at its intended size under the Act?

It is proposed to amend [Schedule 1](#) of the 2005 Act which provides for ***The Council: Miscellaneous Provisions.***

The amendment proposes to provide that 40% of members of the Council 'in office' constitute a quorum for meetings of Council where decisions relating to fitness to practise matters are made. However, it also proposes that the minimum threshold for a quorate meeting cannot be less than 10 members. CORU has a Council membership of 33 members. However, its ability to comply with quorum requirements can be challenging as regularly the Council is not operating at its intended size under the Act due to outstanding vacancies on the Council. Accordingly, this proposed amendment, which recognises the fluctuating nature of CORU's larger membership, will facilitate the Council in performing its statutory functions. It will also ensure consistency with quorum requirements operating in the other health regulatory Acts.

In your view, is the proposal that quorum requirements for Council sanction meetings as described is a proportionate measure?

- ☒ Yes
- ☐ No
- ☐ No view

Provide a brief commentary, if you wish

500 character(s) maximum

This is a fair and proportionate way of ensuring fairness whilst avoiding inefficient system delays.

TECHNICAL AMENDMENTS

Q8. Proposed amendment to section 9

It is proposed to amend [section 9](#) of the 2005 Act which provides for ***membership of the Council***.

This amendment proposes to remove the requirement to obtain the consent of the Minister for Enterprise, Trade and Employment when persons representing the general public are being appointed to the Council. This arises as a result of 2014 reforms which were made to the public appointments system. Since then, all Government Departments are required to adhere to new procedures introduced by the Public Appointments Service (PAS) and many appointments to State Boards must be advertised openly on the State Boards portal operated by PAS. The requirement to obtain the consent of the Minister for Enterprise, Trade and Employment in this situation is therefore redundant.

In your view, is this measure proportionate?

- ☒ Yes
- ☐ No
- ☐ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

The current requirement is redundant.

Q9. Proposed amendment to section 28

It is proposed to amend [section 28](#) of the 2005 Act which provides for ***membership of registration boards***.

This amendment proposes to remove the requirement to obtain the consent of the Minister for Enterprise, Trade and Employment when persons representing the general public are being appointed to CORU's registration boards. The removal is proposed for the same reasons set out at Q7.

In your view, is this measure proportionate?

- ☒ Yes
- ☐ No
- ☐ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

The current requirement is redundant.

Q10. Proposed amendment to section 31

It is proposed to amend [section 31](#) of the 2005 Act which provides for **registration board's powers to make bye-laws**.

This amendment proposes to remove the requirement that certain draft bye-laws which might result in an additional burden being imposed on the Exchequer be approved by the Minister for Health. These draft bye-laws relate to qualifications awarded in the State as attesting to the standards of proficiency required for registration. By way of background, education programmes listed in approved qualification bye-laws are already established and funded through the Department of Further and Higher Education, Research, Innovation, and Science. Hence there can be no question of an additional financial burden to the Exchequer. In fact, at the point at which the Council refers the draft bye-laws to the Minister for approval, the CORU programme approval process has been completed, the relevant registration board has satisfied itself as to the suitability of the programme, and a public consultation has been conducted. The current provision creates an unnecessary administrative burden in a scenario where an additional financial burden being imposed on the Exchequer does not arise.

In your view, is this measure proportionate?

- ☒ Yes
- ☐ No
- ☐ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

The current requirement creates an unnecessary administrative burden without effect.

Q11. Proposed amendment to section 48

It is proposed to amend [section 48](#) of the 2005 Act which provides for **approval of education and training programmes**.

This amendment proposes to rectify an inconsistency in the 2005 Act. Section 48 of the Act provides for the annual approval of programmes of education and training. However, [section 49](#) provides that *the board shall, as occasion may require, but in any event not less than once in every 5 years, satisfy itself as to the suitability of any training programme approved by the board*. The latter reflects the actual practice of the

registration boards, as CORU have advised that it would not be possible from an operational and resources perspective to monitor the continuing suitability of education and training programmes annually. Accordingly, this amendment proposes to delete the word 'annually' in section 48(1).

In your view, is this measure proportionate?

- ☒ Yes
☐ No
☐ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

This is appropriate, reflects modern practice and makes the maintenance of standards more proportionate.

Please click '**Next**' to respond to the survey questions on ***The Medical Practitioners Act 2007***

Part 2

The Medical Practitioners Act 2007

FITNESS TO PRACTISE

Q12. Should the 2007 Act be amended to reduce the mandatory involvement of members of the Medical Council (the Council) in certain aspects of the fitness to practise process, thereby freeing the Council up to focus on high level regulatory oversight?

It is proposed to amend sections [61](#), [71](#) and [71A](#) of the 2007 Act which provide respectively for ***no further action or referral of complaint to another body or authority or to professional competence scheme; duty of Council to decide on appropriate sanction;*** and ***duty of Council to decide on appropriate sanction in certain cases (Supervised Division).***

The amendments propose to reduce the mandatory involvement of the Council in certain aspects of the fitness to practise process, thereby freeing it up to focus on high level regulatory oversight. Certain risks have been identified with the current statutory regime which requires the Council to actively participate in many different aspects of the complaints and inquiry process, in addition to undertaking its strategy, policy and governance role as the board of a professional regulator. The involvement of the Council throughout the fitness to practise process brings challenges, both legally and operationally. The legal concerns are primarily around bias, with the mandatory involvement of the Council at all stages in the fitness to practise process. The operational concerns relate to the unsustainability of the current regime because of the significant burden of work

associated with fitness to practise arising from the quantum of complaints which are received annually, the rise in complaints year on year, and the simultaneous increase in the clinical complexity and seriousness of cases. This is creating significant delays in concluding fitness to practise cases, which itself becomes a significant risk to public protection.

The reforms proposed are:

- that the Preliminary Proceedings Committee (PPC) will have autonomy in its decisions and will be the final decision maker in respect of the preliminary stage of the process. If it decides that no further action is warranted; that the complaint should be referred to another body or authority; that the doctor should be referred to a professional competence scheme; or that the complaint is one that could be resolved by mediation, its decision will be final. This will not affect the right of either party to the complaint to seek leave to bring judicial review proceedings to the High Court;
- that sanctions will be imposed by the Fitness to Practise Committee (FtPC) following a finding by that Committee rather than by the Council, as is currently the case.

Arising from this proposal, certain **consequential amendments** to the 2007 Act will be necessary, and these are set out below.

[Section 7](#) provides for ***functions of Council***. The amendments to this section propose that the committees being established under subsection (2)(j) to inquire into complaints will have broader functions than currently stated, given it is proposed that the FtPC will decide on sanction. In addition, they provide that the Council's functions (as per subsection (2)(k)) will no longer include giving directions under Part 9 of the Act (imposition of sanction).

[Section 20](#) provides for ***committees of Council***. The amendment to this section proposes that in addition to its role relating to inquiring into complaints, the FtPC will also perform functions associated with making decisions on sanction of registered medical practitioners.

[Section 57](#) provides for ***complaints concerning registered medical practitioners***. The amendment to this section proposes to substitute references to 'the Council' with 'the Fitness to Practise Committee' to reflect the proposed transfer of powers.

[Section 59A](#) provides for ***undertakings and consents***. The amendment to this section proposes to remove the requirement that the PPC send a report to the Council about undertakings/consents. Instead, having accepted an undertaking, the PPC will confirm to the practitioner that they have provided an undertaking and (if applicable) consented to be censured.

[Section 63](#) provides for ***referral of complaint to Fitness to Practise Committee***. The amendment to this section proposes to remove the power of the Council to direct the PPC to refer the complaint to the FtPC.

[Section 67](#) provides for ***if registered medical practitioner consents to censure or remedial action, etc.*** The amendment to this section proposes to remove the reference to the registered medical practitioner consenting to be censured 'by the Council', as the Council will no longer have a role in censuring.

[Section 69](#) provides for ***report to Council by Fitness to Practise Committee***. The amendment to this section proposes to remove the requirement that the report of the FtPC goes to the Council. The report will instead be a matter of record and will be a full account from hearing to finding to sanction.

[Section 70](#) provides for ***steps to be taken by Council after receiving report***. The amendment to this section proposes to reflect that the Council will not receive a report or take steps associated with dismissing the complaint or imposing sanction, which will be undertaken by the FtPC.

[Section 70B](#) provides for ***measures to be taken by Council after receiving report referred to in section 59A(2)(c)***. The amendment to this section proposes to reflect that the Council will have no role in imposing measures on registrants who have given an undertaking/consent at PPC stage.

[Section 72](#) provides for ***provisions supplementary to section 71***. The amendments to this section propose to reflect that the FtPC rather than the Council will specify, in the case of a sanction being imposed on a registered medical practitioner, the amount of fine to be imposed; the nature of conditions to be attached; the division of the register to which the practitioner's registration is to be transferred; the period of suspension of the practitioner's registration; and the period for which the practitioner is prohibited from applying for restoration of registration. It is also proposed that the FtPC will make decisions about the cancellation of a practitioner's registration where it is of the view that the practitioner is not a fit and proper person to practise medicine, or where the practitioner has a conviction for an offence that would render them unable to be registered.

[Section 72A](#) provides for ***provisions supplemental to section 71A***. The amendment to this section proposes to reflect that the FtPC rather than the Council will specify, in the case of a sanction being imposed on a registered medical practitioner previously registered in the Supervised Division (and who is not registered in any other division of the register), the amount of fine to be imposed; the nature of conditions to be attached; and the period for which the practitioner is prohibited from applying for restoration of registration.

[Section 73](#) provides for ***duty to notify registered medical practitioner of Council's sanction***. The amendment to this section proposes that the FtPC will give notice in writing to practitioners about sanction.

[Section 75](#) provides for ***appeal to Court against Council's decision under section 71***. The amendment to this section proposes that the FtPC will be responsible for complying with a direction of the Court where a medical practitioner has appealed a sanction imposed, and for notifying the medical practitioner concerned.

[Section 76](#) provides for ***application to Court for confirmation of Council's decision***. The amendment to this section proposes that the FtPC will make an application to the Court for confirmation of a decision to impose a sanction in the circumstances outlined in the section.

[Section 77](#) provides for ***evidence relating to appeal under [section 75\(1\)](#) or application under [section 76 \(1\)](#) to Court***. The amendment to this section proposes to reflect that it will be the FtPC that may appeal against the decision of the Court. A technical amendment to change the 'Supreme Court' to the 'Court of Appeal' is also being proposed. This arises following the establishment of the Court of Appeal in 2014, which has significantly narrowed the Supreme Court's role to hear only appeals of major public importance or where the interest of justice requires the Supreme Court to intervene.

[Section 78](#) provides for ***duty to notify registered medical practitioner of compliance with decisions confirmed or given by Court***. The amendment to this section proposes to reflect that it will be the FtPC that will take relevant actions in compliance with a decision confirmed or given by the Court and will make the relevant notifications to the registered medical practitioner.

[Section 84](#) provides for ***notification to Minister, Health Service Executive and employer of certain matters relating to sanctions***. The amendment to this section proposes to reflect that it will be the FtPC that makes the relevant notifications under this section, as amended.

[Section 85](#) provides for ***information Council may publish in public interest***. The amendment to this section proposes to reflect that it will be the FtPC that makes the relevant publications under this section.

[Section 94](#) provides for ***duty of registered medical practitioners to maintain professional competence***. The amendment to this section proposes to reflect that it will be the FtPC which will give written notice to the registered medical practitioner requiring the practitioner to cooperate with an undertaking regarding continuing professional development.

[Section 104](#) provides for ***privilege***. The amendment to this section proposes that the FtPC will have privilege in respect of communications under [section 70](#). It also proposes a technical amendment to delete paragraph (e)(ii) given the proposal that the Council will not perform functions under Parts 7, 8 and 9.

[Schedule 2](#) provides for ***Council: Membership and Meetings***. The amendment to paragraph (8) of Schedule 2 proposes to remove quorum requirements associated with meetings of Council where the imposition of sanction is being considered. This arises as the Council will no longer be making decisions on sanction.

In your view, is the proposal to reduce the mandatory involvement of Council members in certain aspects of the fitness to practise process as described a proportionate measure?

- ☐ Yes
- ☐ No

☐ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

CONFIDENTIALITY

Q13. Should the 2007 Act be amended to remove the offence provision regarding the disclosure of information associated with professional competence schemes?

It is proposed to amend [Section 95](#) of the 2007 Act which provides for **confidentiality**. The amendment proposes to remove the provision which makes it an offence for persons who perform functions relating to any professional competence scheme to disclose this information, or cause or permit any other person to have access to this information except in limited circumstances.

Under the 2007 Act, the Medical Council is required to satisfy itself that registered medical practitioners maintain their professional competence. In this regard, the Council has established professional competence schemes and has made arrangements with training bodies for the purposes of administering the schemes. Each registered medical practitioner is required to accumulate a certain number of hours or credits annually for their continuing professional development and members of Council staff are required to monitor their compliance with the annual scheme with the assistance of the relevant training body.

A separate scheme known as a performance assessment scheme was also established by the Council. Performance assessments are usually activated following disciplinary proceedings under Parts 7, 8 or 9 of the 2007 Act. A registered medical practitioner may be referred to a competence scheme arising from an investigation into a complaint, an undertaking to the FtPC, or a sanction imposed by the Council following inquiry. A performance assessment includes obtaining the patient files of the registered medical practitioner and observing the practitioner in their consultations with patients. Members of Council staff are involved in monitoring compliance with professional competence schemes, supporting the investigative process leading to an inquiry (including engaging with complainants or witnesses giving evidence to the FtPC), and in logistical and administrative processes associated with arranging performance assessments within health care settings. It is considered that section 95(5) creates an unnecessary risk for these members of staff, who are unsure what information can be disclosed in the normal performance of their duties, and what constitutes committing an offence under the Act. Accordingly, it is proposed to remove the associated offences provision.

In your view, is the proposal to remove the offence provision regarding the disclosure of information associated with professional competence schemes as described a proportionate measure?

- ☐ Yes
- ☐ No
- ☐ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

REPORTING DISCRETION

Q14. Should the 2007 Act be amended to provide the Chief Executive Officer of the Medical Council with discretion in relation to reporting certain matters (under section 105) to the Garda Síochána and the Minister?

It is proposed to amend [section 105](#) of the 2007 Act which provides for **investigation**. The amendment proposes to provide that the Chief Executive Officer (CEO) of the Medical Council can use discretion in reporting certain matters to the Garda Síochána and the Minister under this section. It also introduces a degree of flexibility in terms of the immediacy to report matters.

This section requires the CEO to investigate cases where an individual is suspected of practising or having practised medicine without holding registration. Where, following an investigation, the CEO has reasonable grounds to confirm the suspicions, they are required to report the matter forthwith to the Garda Síochána and the Minister and may seek an injunction of the High Court requiring the person to cease the activities which the CEO believes to be in contravention of the Act. This means that medical practitioners who inadvertently fail to pay their retention fees but continue to practise medicine also fall to be reported under this section, thereby risking prosecution.

Accordingly, this amendment proposes to give the CEO some reporting discretion and greater flexibility in terms of how quickly a report is required to be made.

In your view, is the proposal to afford the CEO greater reporting discretion and flexibility as described a proportionate measure?

- ☐ Yes
- ☐ No
- ☐ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

Please click **'Next'** to respond to the survey question on ***The Nurses and Midwives Act 2011***

Part 3

The Nurses and Midwives Act 2011

FITNESS TO PRACTISE

Q15. Should the 2011 Act be amended to reduce the mandatory involvement of members of the Nursing and Midwifery Board of Ireland (the Board) in certain aspects of the fitness to practise process, thereby freeing the Board up to focus on high level regulatory oversight?

It is proposed to amend sections [59](#), and [69](#) of the 2011 Act which provide respectively for ***no further action, or referral of complaint to another body or authority, etc.*** and ***duty of Board to decide on appropriate measures to be taken.***

Similar to the proposed amendments set out at Q.12, these amendments propose to reduce the mandatory involvement of the Board in certain aspects of the fitness to practise process, thereby freeing it up to focus on high level regulatory oversight. The Board has indicated that it is becoming increasingly untenable for it to retain its oversight powers in relation to opinions formed by the Preliminary Proceedings Committee (PPC), and in relation to the imposition of sanctions following a fitness to practise inquiry, whilst also retaining its other powers under the 2011 Act.

In relation to the PPC, this committee performs a high-level role in relation to the investigation of complaints to determine whether a *prima facie* case exists to warrant a referral to the Fitness to Practise Committee (FtPC). It does not receive evidence *per se* and cannot make findings of fact where issues are in dispute. Nor does it adjudicate upon evidential issues. The current process, whereby the PPC's opinion, the reasons for that opinion, and the material gathered during the course of an investigation are put before the Board for its consideration and agreement, is leading to delays. Accordingly, this raises certain due process concerns for registrants who must await the next available Board meeting to know the final outcome in respect of a complaint against them. Furthermore, a review of statistics in recent years highlights that the decisions of the PPC have rarely been overturned by the Board, and when they have, it has not ultimately resulted in a finding /sanction in most cases.

In relation to the FtPC, the predominant difficulty relates to the delay which the Board's involvement in imposing sanctions is causing. The Board meets for one day every alternate month to consider fitness to practise matters. Members of the Board, who sit in a voluntary capacity and must manage their Board commitments in addition to other commitments, are required to read all material submitted. During meetings, the registrant and their legal representative have the right to make submissions, and the Board often exceeds the time allotted to consider a matter, which can lead to a loss of quorum towards the end of meetings, and adjournments. This ultimately creates delays which affect due process and fair procedures for registrants

engaged in an already lengthy fitness to practise process. In cases where the FtPC concludes that no allegation is proven, the Board must dismiss the complaint. Irrespective of the Board's inability to overturn a dismissal decision by the FtPC, it must review all documentation that was before the inquiry before the complaint is dismissed.

Concerns have been raised that these issues will be compounded by the expected steady increase in complaints year on year, making the current system unsustainable in the long term. The proposed amendments will alleviate some of the challenges faced by the Board and reduce the length of time it takes to conclude inquiries.

The reforms proposed are:

- that the Preliminary Proceedings Committee will have autonomy in its decisions and will be the final decision maker. If it decides that no further action is warranted; that the complaint should be referred to another body or authority; or that the complaint is one that could be resolved by mediation, its decision is not subject to review by the Board. This will not affect the right of either party to the complaint to seek leave to bring judicial review proceedings to the High Court;
- that sanctions will be imposed by the Fitness to Practise Committee following a finding by that Committee rather than by the Board.

Arising from this proposal, certain **consequential amendments** to the 2011 Act will be necessary, and these are set out below:

[Section 9](#) provides for ***functions of the Board***. The amendments to this section propose that the committees being established under subsection (2)(i) to inquire into complaints will have broader functions than currently stated, given it is proposed that the FtPC will decide on sanction. Also, that the Board's functions (as per subsection (2)(j)) will no longer include giving directions under Part 9 of the Act (imposition of sanction).

[Section 24](#) provides for ***committees of Board***. The amendment to this section proposes that in addition to its role relating to inquiring into complaints, the FtPC will also perform functions associated with making decisions on sanction on registered nurses and midwives.

[Section 55](#) provides for ***complaints concerning registered nurses and registered midwives***. The amendment to this section proposes to substitute references to 'the Board' with 'the Fitness to Practise Committee' to reflect the proposed transfer of powers.

[Section 57A](#) provides for ***undertakings and consents***. The amendment to this section proposes to remove the requirement that the PPC send a report to the Board about undertakings/consents. Instead, having accepted an undertaking, the PPC will confirm to the practitioner that they have provided an undertaking and

(if applicable) consented to be censured.

[Section 61](#) provides for **referral of complaint to Fitness to Practise Committee**. The amendment to this section proposes to remove the power of the Board to direct the PPC to refer the complaint to the FtPC.

[Section 65](#) provides for **if registered nurse or registered midwife consents to censure or remedial action, etc.** The amendment to this section proposes to remove the reference to the registered nurse or registered midwife consenting to be censured 'by the Board', as the Board will no longer have a role in censuring.

[Section 67](#) provides for **report to Board by Fitness to Practise Committee**. The amendment to this section proposes to remove the requirement that the report of the FtPC goes to the Board. The report will instead be a matter of record and will be a full account from hearing to finding to sanction.

[Section 68](#) provides for **steps to be taken by Board**. The amendment to this section proposes to reflect that the Board will not receive a report or take steps associated with dismissing the complaint or imposing sanction, which will be undertaken by the FtPC.

[Section 68A](#) provides for **measures to be taken by Board after receiving report referred to in section 57A(2)(c)**. The amendment to this section proposes to reflect that the Board will have no role in imposing measures on registrants who have given an undertaking/consent at PPC stage.

[Section 70](#) provides for **provisions supplementary to section 69**. The amendments to this section propose to reflect that the FtPC rather than the Board will specify, in the case of a sanction being imposed on a registered nurse or registered midwife, the amount of fine to be imposed; the nature of conditions to be attached; the division of the register to which the practitioner's registration is to be transferred; the period of suspension of the practitioner's registration; and the period for which the practitioner is prohibited from applying for restoration of registration. It is also proposed that the FtPC will make decisions about the cancellation of a practitioner's registration where it is of the view that the practitioner is not a fit and proper person to practise nursing or midwifery, or where the practitioner has a conviction for an offence that would render them unable to be registered.

[Section 71](#) provides for **duty to notify registered nurse or midwife of Board's sanction**. The amendment to this section proposes that the FtPC will give notice in writing to practitioners about sanction.

[Section 73](#) provides for **appeal to Court against Board's decision under section 69**. The amendment to this section proposes that the FtPC will be responsible for complying with a direction of the Court where a nurse or midwife has appealed a sanction imposed, and for notifying the nurse or midwife concerned.

[Section 74](#) provides for **application to Court for confirmation of Board's decision**. The amendment to this section proposes that the FtPC will make an application to the Court for confirmation of a decision to impose a sanction in the circumstances outlined in the section.

[Section 75](#) provides for **evidence relating to appeal under [section 73\(1\)](#) or application under [section 74 \(1\) to Court](#)**. The amendment to this section proposes to reflect that it will be the FtPC that may appeal against the decision of the Court. A technical amendment to change the 'Supreme Court' to the 'Court of Appeal' is also being proposed. This arises following the establishment of the Court of Appeal in 2014, which has significantly narrowed the Supreme Court's role to hear only appeals of major public importance or where the interest of justice requires the Supreme Court to intervene.

[Section 76](#) provides for **duty to notify registered nurse or registered midwife of compliance with decisions confirmed or given by Court**. The amendment to this section proposes to reflect that it will be the FtPC that will take relevant actions in compliance with a decision confirmed or given by the Court and will make the relevant notifications to the registered nurse or midwife.

[Section 82](#) provides for **notification to Minister, Health Service Executive and employer of certain matters relating to sanctions**. The amendment to this section proposes to reflect that it will be the FtPC that makes the relevant notifications under this section, as amended.

[Section 83](#) provides for **information Board may publish in public interest**. The amendment to this section proposes to reflect that it will be the FtPC that makes the relevant publications under this section.

[Section 102](#) provides for **privilege**. The amendment to this section proposes that the FtPC will have privilege in respect of communications under [section 68](#). It also proposes a technical amendment to delete paragraph (e)(ii) given the proposal that the Board will not perform functions under Parts 7, 8 and 9.

The [Schedule](#) provides for **Board: Membership and Meetings**. The amendment to paragraph (8) of the Schedule proposes to remove quorum requirements associated with meetings of the Board where the imposition of sanction is being considered. This arises as the Board will no longer be making decisions on sanction.

In your view, is the proposal to reduce the mandatory involvement of Board members in certain aspects of the fitness to practise process as described a proportionate measure?

- ☐ Yes
- ☐ No
- ☐ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

Please click **'Next'** to respond to the survey question on ***The Regulated Professions (Health and Social Care) (Amendment) Act 2020***

Part 4

The Regulated Professions (Health and Social Care) (Amendment) Act 2020

DECLARATIONS BY PHARMACY OWNERS

Q16. Should the 2020 Act be amended to remove the requirement that pharmacy owners make annual declarations?

It is proposed to repeal [section 58](#) of the 2020 Act insofar as it introduces section 21C into the Pharmacy Act 2007. The 2020 Act introduces two new sections into the Pharmacy Act - Section 21B and Section 21C - which provide respectively that registered pharmacists and registered pharmacy owners shall make annual declarations to the Pharmaceutical Society of Ireland (PSI) in relation to certain matters in the State or other jurisdictions. These matters include any disciplinary or judicial proceedings (other than proceedings under [the Pharmacy Act 2007](#)) in respect of which the pharmacist or pharmacy owner is subject. The amendment proposes to remove the obligation on pharmacy owners only.

Arising from the broad proportionality testing of [the 2020 Act](#), it was determined that requiring pharmacy owners to make annual declarations is not a proportionate use of the significant resources which would be required by the PSI to implement this provision. The PSI, unlike other health regulators, regulates both individual pharmacists and corporate entities, and operationalising declarations requirements for pharmacy owners would be a significant undertaking. The provision does not create any additional public protection safeguards, given pharmacy owners are largely not regulated health professionals and do not deal directly with the public. This revocation is proposed on the basis that the requirement is not proportionate relative to any potential public protection risk posed by pharmacy owners. The requirement for registered pharmacists to make a declaration, which came into operation in May 2025, will remain, and any pharmacy owner who is also a registered pharmacist will be required to make a declaration by virtue of being a pharmacist.

Arising from this proposal, a **consequential amendment** to the Act will also be necessary, and this is set out below:

[Section 62](#)(a)(ii)(ii) of the 2020 Act amends [section 36](#) of the Pharmacy Act to make contravention by a pharmacy owner of section 21C(7)(a) a ground for complaint. Given that section 21C is proposed for repeal, it is proposed to remove this provision.

In your view, is the proposal to remove the requirement that pharmacy owners make annual declarations as described a proportionate measure?

- ☐ Yes
☐

No

☒ No view

Provide a brief commentary, if you wish

1000 character(s) maximum

Not applicable to the primary eye care professions.

Contact

professional_regulation_consultation@health.gov.ie