



Information on “immediate action”

20 January 2012

What is immediate action?

Under the Health Practitioner Regulation National Law Act (National Law) as in force in each state and territory, immediate action means:

1. suspension of a medical practitioner’s or student’s registration or
2. imposition of a condition/s on a medical practitioner’s or student’s registration or
3. accepting an undertaking from a medical practitioner or student or
4. accepting the surrender of a medical practitioner’s or student’s registration.

When can the Board take immediate action?

The Medical Board of Australia (the Board) has the power to take “immediate action” at any time. The Board may take immediate action after receiving a notification or other information that raise serious concerns, or during the investigation of a notification.

The National Board has delegated the power to take immediate action to State and Territory Boards and Immediate Action Committees.

The Board may take immediate action in relation to a registered medical practitioner if they reasonably believe that:

1. the practitioner poses a serious risk to persons because of their conduct, performance or health; **and**
2. it is necessary to take immediate action to protect public health or safety.

The Board may take immediate action in relation to a registered medical student if they reasonably believe that:

1. the student poses a serious risk to persons because they
 - have been charged with an offence, or have been convicted or found guilty of an offence, that is punishable by 12 months imprisonment or more or
 - have, or may have, an impairment or
 - have, or may have, contravened a condition of the student’s registration or an undertaking given by the student to a Board, **and**
2. it is necessary to take immediate action to protect public health or safety.

The Board may take immediate action in relation to a registered medical practitioner if their registration was improperly obtained because the practitioner or someone else gave the Board information or a document that was false or misleading in a material particular.

The Board may also take immediate action in relation to a registered medical practitioner or medical student if their registration has been cancelled or suspended under the law of a jurisdiction, whether in Australia or elsewhere, that is not a participating jurisdiction.

The show cause process

Before taking immediate action, the Board must give the registered medical practitioner or medical student notice of the proposed immediate action and invite them to make submissions to the Board within the time stated in the notice. The submissions may be in writing or the practitioner may appear before the Board. Typically, practitioners are supported and assisted during the show cause process by their professional indemnity insurer or other legal advisor.

When deciding whether or not to take immediate action, the Board must have regard to any submissions made.

Period of immediate action

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

The immediate action decision continues until:

- the decision is set aside on appeal
- the suspension is revoked by the Board (when the practitioner or student had been suspended)
- the conditions are removed by the Board (when the practitioner or student had conditions imposed)
- the Board and the practitioner or student agree to end the undertaking (when the Board had accepted an undertaking).

Advice for medical practitioners and medical students who have been issued a notice of proposed immediate action

Immediate action is a serious matter. A medical practitioner or medical student who has been issued a notice of proposed immediate action should contact their professional indemnity insurer or other legal advisor to assist and advise them.

Right of appeal

Many of the decisions of the Board can be appealed. A decision to suspend a practitioner or student's registration or impose conditions as a result of immediate action can be appealed to the responsible tribunal.

Note

The Medical Board of Australia has delegated all powers necessary to deal with individual practitioner's registration and notifications. References to "the Board" in this document mean "the delegated decision-maker".