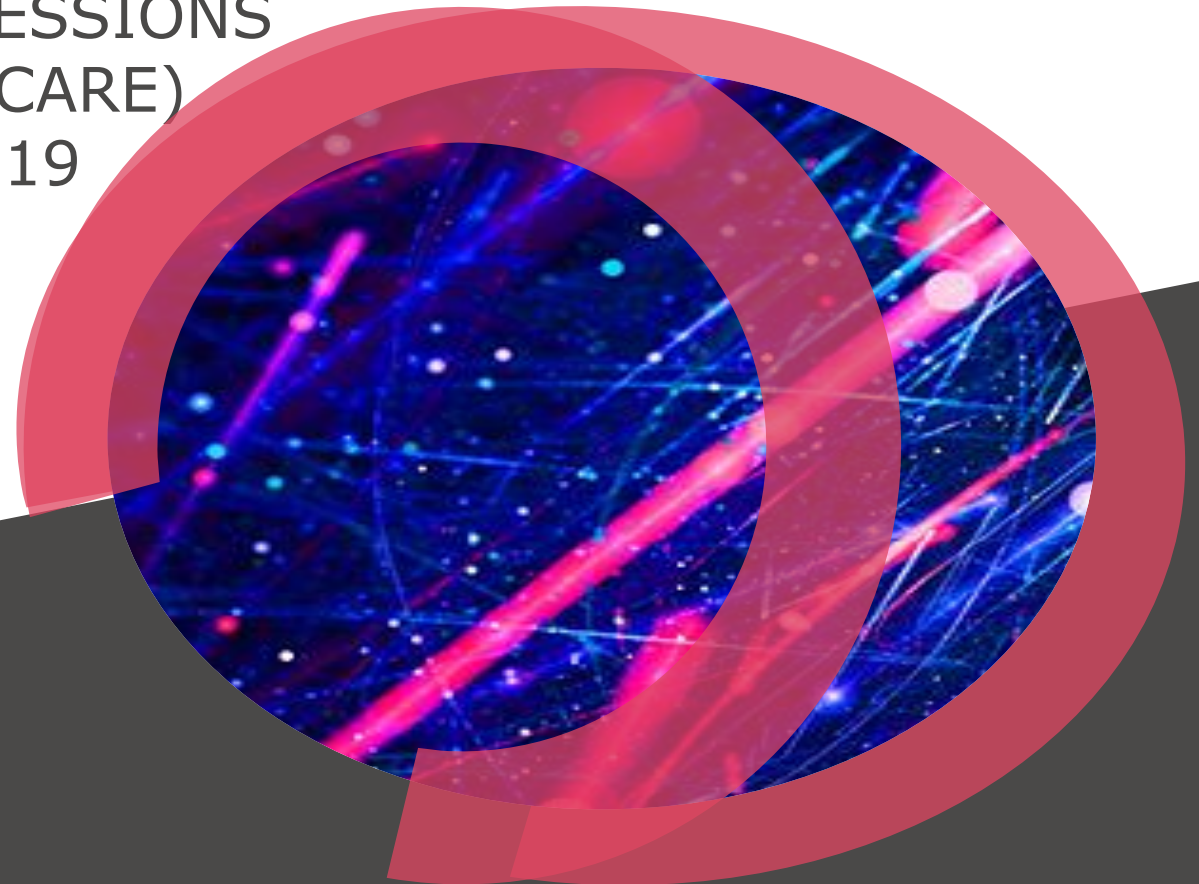


2019 PRDBA CONFERENCE

THE REGULATED PROFESSIONS (HEALTH AND SOCIAL CARE) (AMENDMENT) BILL 2019

17 MAY 2019

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The Regulated Professions (Health and Social Care) (Amendment) Bill 2019 (the "Bill")

- Amends the five health professional regulatory Acts, in particular in relation to fitness to practise and registration processes.
- The five acts are:
 - the Dentists Act 1985;
 - the Health and Social Care Professionals Act 2005;
 - the Pharmacy Act 2007;
 - the Medical Practitioners Act 2007; and
 - the Nurses and Midwives Act 2011.
- [Read the Regulated Professions \(Health and Social Care\) \(Amendment\) Bill 2019 here.](#)
- [Read the Explanatory Memorandum to the Regulated Professions \(Health and Social Care\) \(Amendment\) Bill 2019 here.](#)

A SUMMARY OF KEY AMENDMENTS AT INVESTIGATION AND INQUIRY STAGE



Investigation of Complaints-Medical Council and Nursing and Midwifery Board

- Which Bodies?

- Medical Council and Nursing and Midwifery Board of Ireland

- What is proposed?

- Proposed new system for investigation of complaints
- Sub-committees
- CEO led investigations assisted by authorised officers
- CEO determination as to where case is "*frivolous*" or "*vexatious*"
- Decision as to whether there is a "*prima facie*" case remains with PPC
- Undertakings and consents

Investigation of Complaints-CORU (Health and Social Care Professionals Council)

- Which Bodies?
 - CORU
- What is proposed?
 - That the Preliminary Proceedings Committee and its Chairperson, will have the power, rights and privileges that a Court has in relation to the production of records.

Undertakings and Consents at Investigation Stage

- Which Bodies?

- Medical Council and Nursing and Midwifery Board of Ireland

- What is proposed?

- The Preliminary Proceedings Committee can request the registrant:
 - not to repeat the conduct;
 - to be referred to a professional competence scheme (medical practitioners)/demonstrate his or her relevant competencies (nurses/midwives);
 - take such steps as may be specified by the NMBI, which may include taking a course of education or training or gaining clinical practical experience for the express purpose of updating her or his skills and knowledge (nurses/midwives);
 - consent to undergo medical treatment;
 - consent to being censured

Undertakings and Consents at Investigation Stage

- If the registrant **agrees**,
 - then the investigation into the complaint is considered completed and the complaint is not referred to the Fitness to Practise Committee
 - A report is provided to the Council/Board:
 - Specifying the nature of the complaint that resulted in the investigation, and
 - The measures included in the undertaking or consent
- If the registrant **refuses** the request then the Preliminary Proceedings Committee proceeds as if the request was not made

Requests for Information from An Garda Síochána

○ Which Bodies

- Dental Council, CORU, Pharmaceutical Society of Ireland, Medical Council and Nursing and Midwifery Board of Ireland

○ What is proposed?

- A request can be made for information for a registrant's criminal record from An Garda Síochána in relation to complaints before the Fitness to Practise Committee/Committee of Inquiry; and
- a copy of the certificate of conviction/order/judgment may also be requested from the Registrar/Clerk of the Court which convicted the registrant

New Grounds of Complaint

- Which Bodies?

- Dental Council, CORU, Pharmaceutical Society of Ireland, Medical Council and Nursing and Midwifery Board of Ireland

- What is proposed?

- A new ground of complaint on the grounds of

- a prohibition against a registrant providing one or more than one kind of **health or social care** in the State or another jurisdiction, or
- a restriction on his or her ability to provide one or more than one kind of **health or social care** in the State or another jurisdiction

Admissibility of Evidence

- Which Bodies?
 - Dental Council, CORU, Pharmaceutical Society of Ireland, Medical Council and Nursing and Midwifery Board of Ireland
- What is proposed?
- In any proceedings under the relevant Act,
 - evidence of proceedings in relation to a registrant being prohibited or restricted in providing one or more kind of health or social care in the State or another jurisdiction,
 - or having been convicted in the State or another jurisdiction,can be admissible as evidence of the facts stated in the documents.
- Applies to all proceedings under the relevant legislation including fitness to practise proceedings.

Admissibility of Evidence

- Relevant documents include:
 - Copy of a transcript of all or part of relevant proceedings;
 - Copy of all or any part of a report arising out of proceedings;
 - Statement in writing giving particulars of sanctions that are or continue to be imposed on the registrant;
 - If no sanctions are, or continue to be imposed, a statement in writing to that effect.

Publication

- Which Bodies?
 - Medical Council and Nursing and Midwifery Board
- What is proposed
 - Fitness to Practise Committee may order that some or all of the information regarding a hearing should not be published
 - Information can be disclosed if it does not identify anyone
 - Does not prohibit disclosure pursuant to a court order
 - It is an offence to publish information in contravention of the section

A SUMMARY OF KEY AMENDMENTS AT SANCTION STAGE



Notification of Sanctions

○ Which Bodies?

- Dental Council, CORU, Pharmaceutical Society of Ireland, Medical Council and Nursing and Midwifery Board of Ireland

○ What is proposed?

- Removal of the requirement to notify the Minister for Health of sanctions
- Notification of the minor sanctions of **advice, admonishment and censure** included
- Sanctions imposed by other states- the HSE and the employer shall be notified if it is in **the public interest**
- If the Council/Board believes that the person is registered in another country and that country may not be aware of the sanctions imposed, the Council can notify the relevant body in that country

Publication of Sanctions

○ Which Bodies?

- Dental Council, CORU, Pharmaceutical Society of Ireland, Medical Council and Nursing and Midwifery Board of Ireland

○ What is proposed?

- Provides that all sanctions including the sanctions of advice, admonishment and censure shall be published
- In relation to measures imposed by other countries, these are published if it is in the public interest
- In relation to publication of the transcript, the requirement to consult with the Fitness to Practise Committee is removed

Appeal Against All Sanctions

○ Which Bodies?

- Dental Council, CORU, Pharmaceutical Society of Ireland, Medical Council and Nursing and Midwifery Board of Ireland

○ What is proposed?

- Legislation will include the right of appeal of minor sanctions of advice, admonishment or censure in writing
- Sanctions which are part of an undertaking/consent agreed by the medical practitioner cannot be appealed
- Where there is no appeal by the registrant, the Act provides that such minor sanctions will also require confirmation by the High Court

A SUMMARY OF KEY AMENDMENTS RELATING TO REGISTRATION



Declarations to the regulator

Which Bodies?

- Dental Council, CORU, Pharmaceutical Society of Ireland, Medical Council and Nursing and Midwifery Board of Ireland

What is proposed?

- Health and social care professionals will now be required by statute to declare:
 - Annually details of any proceedings in the State or another jurisdiction which might result in the professional being restricted or prohibited from working in the profession for which they are seeking registration or working in one or more kind of health or social care profession, or if the proceeding could result in a conviction.
 - Must provide the outcome of the proceedings within 3 months of the final determination and the details of any sanctions imposed.

Recognition of Professional Qualifications

- Directive 2005/36/EC
- Implemented by SI No.8/2017 European Union (Recognition of Professional Qualifications) Regulations 2017
- Which Bodies?
 - Dental Council and Medical Council
- What is proposed?
 - Separate qualification recognition from registration
 - This is already provided for in the other health professional regulatory Acts
 - Language and fit and proper person tests will be requirements to be met between recognition of qualifications and registration
 - Medical Council creating a new division of the register for persons requiring to complete an adaptation period under the Directive (“Adapters”)



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¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L0958&from=EN>

² Charter of Fundamental Rights of the European Union

³ Treaty on the Functioning of the European Union

⁴ Article 59

⁵ Treaty on the Functioning of the European Union

⁶ Paragraph 13 of the Preamble

⁷ Article 7(5)



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