

# Disciplinary Matters – Health Practitioners



## Applications for disciplinary action – Health Practitioners

SACAT hears disciplinary matters about health practitioners under the *Health Practitioners Regulation National Law (South Australia)* (the National Law). Under the National Law, SACAT can receive applications for disciplinary action about the following health professions:

- Aboriginal and Torres Strait Islander Health
- Chinese medicine
- Chiropractic
- Dental
- Medical
- Medical Radiation Practice
- Midwifery
- Nursing
- Occupational Therapy
- Optometry
- Osteopathy
- Paramedicine
- Pharmacy
- Physiotherapy
- Podiatry
- Psychology

Each health profession is governed by a national board (for example, the Medical Board of Australia or the Paramedicine Board of Australia).

## Who can bring disciplinary proceedings against a health practitioner?

Disciplinary action is brought in the public interest to maintain the standards of the relevant health profession, to deter inappropriate conduct and to protect the public.

Only the relevant national board may initiate formal disciplinary proceedings concerning a health practitioner. For example, proceedings against a dentist may only be instituted by the Dental Board of Australia. A national board **must** refer a matter to SACAT for hearing and determination if the board reasonably believes that the practitioner has behaved in a way that constitutes professional misconduct.

A member of the public may not directly bring proceedings before SACAT with respect to discipline of a health practitioner under the National Law.

However, any person may make a notification to the relevant national board about the conduct, competence, fitness or impairment of a registered, or formerly registered, health practitioner. The national boards are supported by the Australian Health Practitioner Regulation Agency and have dedicated resources to investigate notifications and initiate disciplinary action where appropriate.



## What action may be taken by a national board?

A national board may in some circumstances take immediate action to protect the public and safeguard the public interest whilst a matter is being investigated or assessed. This may include suspension of registration or the imposition of conditions on practice. In such cases, the practitioner is entitled to seek a review by SACAT of the suspension or conditions imposed.

A national board, or a performance or health panel established by a national board, may also determine less serious disciplinary matters, and may impose cautions, reprimands or conditions of practice. A health panel may suspend a practitioner on grounds of impairment. In such cases, the practitioner may be entitled to seek a review by SACAT of the findings and sanction imposed. Find out more about SACAT's [review jurisdiction about decisions relating to health practitioners](#).

Serious disciplinary matters concerning professional misconduct cannot be determined by the national board and must be referred to SACAT for hearing and determination.

## What is involved in a disciplinary matter?

Applications for disciplinary action are adversarial proceedings and require the participation of both the national board (the applicant) and the health practitioner (the respondent) to put forward their version of the facts and applicable law before the Tribunal. The parties may need to call witnesses (including expert witnesses) and provide documents to prove or defend the allegations.

The national board has an obligation to prove the allegations against the health practitioner. This is known as the “onus of proof”. The allegations

must be proved by the board on the balance of probabilities.

## Do I need to be legally represented?

Parties do not need to be legally represented in SACAT. However, in disciplinary matters against health practitioners, the national board is legally represented. Also, the proceedings can be complex and the potential consequences for the health practitioner may be significant. It can be helpful to seek legal advice before defending disciplinary proceedings. Find out more about legal representation at SACAT on our webpage, [Preparing for a hearing](#).

## Can costs be awarded against a party?

Yes, because the proceedings are adversarial and one or the other party may be legally represented. At the end of the proceedings, depending on the outcome, the Tribunal may order one party to pay the other party's legal and other costs related to the proceedings.

## Process for disciplinary matters

When a matter is referred to SACAT by the relevant national board, the board will file a document, known as the “referral”, which describes what is alleged against the health practitioner and why it is said to amount to professional misconduct. SACAT will provide a copy of this document, and any documents provided in support, to the health practitioner.

Within 21 days of receiving a copy of the referral, the health practitioner must provide a response to the allegations. This is a document that sets out what is admitted and what is in dispute. If the practitioner intends to seek legal advice or to be represented in the proceedings, it may be helpful



that that such advice is sought at an early stage before the response is filed.

SACAT will schedule a directions hearing shortly after the referral is received. The first directions hearing will usually be held four to six weeks after the referral is filed.

At or after the first directions hearing, the Tribunal may decide that a further directions hearing is needed, refer the matter to a conference, or may decide that the matter is ready to go to a full hearing, where the matter will be heard and determined.

### What SACAT can do in disciplinary matters against health practitioners

After hearing a matter, the Tribunal may find that the allegations have not been proved. Alternatively, it may make a finding of:

- unsatisfactory professional performance;
- unprofessional conduct;
- professional misconduct;
- impairment; or
- that the practitioner's registration was improperly obtained.

As a result, SACAT may impose **one or more** of the following disciplinary sanctions:

- caution or reprimand the practitioner;
- impose conditions on the practitioner's registration;
- impose a fine not exceeding \$30,000;
- suspend registration for a specified period.
- cancel registration;
- disqualify the practitioner from applying for registration for a specified period;

- prohibit the practitioner from providing any health service, either permanently or for a specified period.

### What SACAT cannot do in disciplinary matters against health practitioners

As a result of disciplinary action taken at the Tribunal, SACAT **cannot**:

- make an order for compensation;
- resolve a dispute between a practitioner and patient or client;
- impose any sanction not stated above.

Any fine that is imposed by the Tribunal is payable to the relevant national board.

Persons seeking compensation from a health practitioner should seek their own legal advice.

### Contact the Tribunal

If you would like to speak to a staff member about the disciplinary jurisdiction of the Tribunal, please telephone SACAT on 1800 723 767

(select option 4, then option 7)

*This Fact Sheet does not constitute legal advice and does not relate to the circumstances of any individual matter. If you wish to have legal advice you should seek that independently.*