

Reconsideration of Decisions Policy

Relevance to Health Practitioners Compliance Assurance Act (Act)

1. The purpose of the Act is to protect the health and safety of the public by providing mechanisms to ensure that pharmacists¹ are competent and fit to practise.

Policy Statement

2. The Pharmacy Council (Council) has a duty under the Act to protect the health and safety of the public.
3. The Council, or its delegates, makes decisions in respect of Council's obligations under the Act. Decisions of delegates are regarded as decisions of Council.
4. Certain decisions made by Council, or its formally appointed delegates, may be appealed or reviewed in accordance with the processes set out in the Act. The Act provides for:
 - 4.1 **review** of decisions made by a formally appointed delegate of Council; the review is conducted by Council
 - 4.2 **appeal** to a District Court against specified decisions of Council.
5. Council may make other decisions that could have a significant effect on an individual's or entity's reputation, or ability to conduct their business. This policy and the associated *Reconsideration of a decision* process describe how Council will consider requests for reconsideration of its decisions.

Rationale

6. Council's processes embody the principles of fairness, transparency and natural justice.
7. Management of challenges to Council decisions is more efficient and consistent if processes are known in advance.

¹ Intern Pharmacist, Pharmacist or Pharmacist Prescriber

Implementation

For decisions described in the Act

8. The Act outlines processes that must be followed for review or appeal of particular decisions that are made by Council or its appointed delegate.

- 8.1 **Review** – Schedule 3, clause 18 of the Act applies when a person who is adversely affected by a decision made under delegation, requests a review of that decision by Council. Schedule 3, clause 17 describes functions under the Act that may be delegated.

A request for review will not be progressed if an appeal of the decision has been brought.

- 8.2 **Appeal** –Section 106 to section 113 of the Act, applies when an appeal is brought against a decision or direction of Council to:

- 8.2.1 decline to register the person as a health practitioner with Council
- 8.2.2 decline to authorise a change to the existing scope of practice of the person
- 8.2.3 decline to issue a practising certificate to the person
- 8.2.4 suspend the practising certificate or registration of a person
- 8.2.5 cancel a person's registration with Council
- 8.2.6 include conditions in the person's scope of practice or proposed scope of practice, or
- 8.2.7 vary any conditions in the person's scope of practice.

Other decisions

9. This policy describes how a person or entity may request reconsideration of other Council decisions.
10. The process document *Reconsideration of a Decision* outlines the process to apply for, and undertake, a reconsideration.
11. Processes employ principles that are embodied in the Act and align with the Council's values.

12. Processes include an appropriate opportunity for the applicant to make a submission in support of their request.
 - 12.1 Decisions for which reconsideration may be sought under this policy and associated process may include, but are not limited to:
 - 12.1.1 accreditation decisions for New Zealand pharmacy education programmes and prospective pharmacy education programmes
 - 12.1.2 eligibility to undertake a Pharmacy Council assessment
 - 12.1.3 other decisions that have the potential to have a significant impact on personal or entity reputation, or ability to conduct business, or a person's progress towards registration.
 - 12.2 Types of decisions that are **excluded** from this policy include, but are not limited to:
 - 12.2.1 decisions that are applicable across the profession in New Zealand rather than specifically applicable to an individual or entity, e.g. decisions relating to prescribed qualifications, the recertification framework, policy, registration requirements and other standards and requirements
 - 12.2.2 decisions of a strategic and management nature, internal to the Council, including decisions made in respect of contractual arrangements with Council service providers
 - 12.2.3 results (pass/fail) of a Council summative assessment - for further information in respect of applying for consideration of an adverse event affecting examination or assessment performance, refer to the Council's Examination and Assessment Adverse Event policy and process.
 - 12.3 Special application may be made in writing to Council to request reconsideration of a decision that is not normally considered under this policy. Reconsideration will be at the discretion of the Council.

Date effective

13. 22 June 2016