EXPLANATORY STATEMENT

STATUTORY RULES 1983 NO.106

HEALTH INSURANCE ACT 1973

HEALTH INSURANCE REGULATIONS (AMENDMENT)

Issued by Authority of the Minister for Health

Section 133 of the Health Insurance Act 1973 ('the Act') provides that the Governor-General may make regulations prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Sub-section 130(1) of the Act provides that a person shall not, directly or indirectly, except in the performance of his duties, or in the exercise of his powers or functions, under the Act, and while he is, or after he ceases to be, an officer, make a record of, divulge or communicate to any person, any information with respect to the affairs of another person acquired by him in the performance of his duties, or in the exercise of his powers or functions, under the Act. An "officer" is, by virtue of sub-section 130(14) of the Act, a person performing duties, or exercising powers or functions, under, or in relation to, the Act.

Explanatory Statement to F1996B02794

By virtue of paragraph 130(3)(b) of the Act, the Permanent Head may divulge information to which sub-section 130(1) of the Act relates, notwithstanding the provisions of that sub-section, to any prescribed authority or person. Sub-section 130(4) of the Act, however, prohibits information so divulged from being further divulged by the recipient authority or person, and by any person or employee under the control of that person or authority.

Regulation 9B of the Health Insurance Regulations ('the Regulations') provides that each of the authorities specified in Schedule 3 to the Regulations is a prescribed authority for the purposes of paragraph 130(3)(b) of the Act. The authorities specified in Schedule 3 are the authorities established in each State or Territory responsible for the registration or licensing of medical practitioners. One of these authorities is the New South Wales Medical Board, established under the Medical Practitioners Act, 1938 of New South Wales ('the State Act').

In addition to the New South Wales Medical Board, there are separately constituted under the State Act an investigating committee, a disciplinary tribunal and the

Explanatory Statement to F1996B02794

Medical Practitioners Charges Committee. The New South Wales Medical Board is prevented by sub-section 130(4) of the Act from further divulging information received under paragraph 130(3)(b) of the Act to members of these separately constituted bodies. This information would normally relate to abuses in connection with the payment of medical benefits under the Act. Such information is available to members of bodies with similar functions in other States or Territories which are not so separately constituted from the authority prescribed for the purposes of paragraph 130(3)(b). The statutory rules remove this anomaly by amending Regulation 9B of the Regulations to prescribe, as persons prescribed for the purposes of paragraph 130(3)(b), members of the investigation committee, the disciplinary tribunal, and the Medical Practitioners Charges Committee constituted under the State Act.

The draft statutory rules came into operation on the date of their notification in the Commonwealth of Australia Gazette.

S.R. 60/83