Legal and Social Issues Legislation Committee

Wednesday 12 December 2012

Briefing: National Registration and Accreditation Scheme for Health Practitioners

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Executive Director      Manager, Practitioner Regulation
Strategy and Policy      Strategy and Policy
Department of Health      Department of Health
Purpose of Inquiry - terms of reference

Briefing requested on:

- Purpose of Inquiry
- Background to the establishment of AHPRA
- Departmental assistance with possible areas of investigation

Purpose of Inquiry:

Terms of reference – To inquire into and report on:

- performance of AHPRA
- cost effectiveness
- regulatory efficacy
- ability of national scheme to protect Victorian public.
Purpose of inquiry

Hansard

• Protect public
• Cost of scheme to community
• Advantages and disadvantages, costs and benefits of national arrangements
• Consider improvements that might be made
• Role of standards and guidelines of registration authorities
• Role and difficulties of students
• Language requirements
• Role of professional recognition of more advanced skills
• Role of consumers and whether their views represented
• Competition policy aspects
• Scope and size of bureaucracy
• Doctors and nurses health programs
• Consistency of registration
Background to establishment of AHPRA - Overview

• Terminology
• Brief overview of statutory registration
• Context for reform & international trends in regulation of health professions
• Impetus for reform
• Productivity Commission report & COAG response
• Implementation process
• How NRAS works – legislative mechanism, scope, structure, governance
• The National Law compared with previous Victorian legislation
• Issues
• Resource material
Terminology

- Health Practitioner Regulation National Law Act 2009 – ‘the National Law’
- Health practitioner, health profession
- AHPRA – Australian Health Practitioner Regulation Agency
- NRAS – National Registration and Accreditation Scheme
- Agency Management Committee
- AHWMC – Australian Health Workforce Ministerial Council
- AHWAC – Australian Health Workforce Advisory Council
- IGA – Intergovernmental Agreement
- National Boards, National Registers
- Accreditation function, accreditation authority, accreditation committee, external accreditation entity
- Health complaints entity
- Responsible tribunal
- Endorsement
- Notification, mandatory notification, immediate action
Statutory registration – purpose and functions

- Governance and standard setting
- Registration of practitioners:
  - initial registration
  - renewals
  - maintain publicly accessible register
- Accreditation of training courses
  - accreditation of training courses for registration purposes
  - assessing equivalence of overseas qualifications
  - examining overseas trained practitioners
- Discipline of practitioners – conduct, performance, health
- Prosecution of unregistered persons for offences
Historical context

First occupational licensing laws – 1838 (Tas & NSW)

First specific Victorian licensing law – Medical Act 1862 (Vic)

Objective – protection of turf, secure autonomy & control over work

Secured backing of state for self-regulatory arrangements

Co-option of state power fostered rise of medical dominance

Registration hard fought & medical dominance evident in gate-keeping process for other professions
### Year professions first regulated in Victoria

<table>
<thead>
<tr>
<th>Profession</th>
<th>Year</th>
<th>Notes</th>
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<tbody>
<tr>
<td>Medical practitioners</td>
<td>1838</td>
<td>(NSW leg)</td>
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<tr>
<td>Pharmacists</td>
<td>1876</td>
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<tr>
<td>Dentists</td>
<td>1887</td>
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<tr>
<td>Midwives</td>
<td>1917</td>
<td></td>
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<tr>
<td>Physios (masseurs)</td>
<td>1922</td>
<td></td>
</tr>
<tr>
<td>Nurses</td>
<td>1922</td>
<td></td>
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<tr>
<td>Optometrists (opticians)</td>
<td>1935</td>
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</tr>
<tr>
<td>Dietitians*</td>
<td>1942</td>
<td></td>
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<tr>
<td>Psychologists</td>
<td>1965</td>
<td></td>
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<tr>
<td>Podiatrists</td>
<td>1968</td>
<td></td>
</tr>
<tr>
<td>Dental auxiliaries**</td>
<td>1972</td>
<td></td>
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<tr>
<td>Chiropractors and osteopaths</td>
<td>1978</td>
<td></td>
</tr>
<tr>
<td>Medical radiation practitioners</td>
<td>1987</td>
<td></td>
</tr>
<tr>
<td>Chinese medicine practitioners</td>
<td>2000</td>
<td></td>
</tr>
<tr>
<td>ATSI health practitioners</td>
<td>2012</td>
<td></td>
</tr>
<tr>
<td>Occupational therapists</td>
<td>2012</td>
<td></td>
</tr>
</tbody>
</table>

* Dietitians deregistered 1993

** Dental technicians deregistered 1999
Context for reform

1980s & 90’s

- Rise of neo-liberalism & consumer movement
  - Change in role of government
  - Drive for cost containment
  - Decline in standing of medical profession

- Disadvantages of occupational licensing well documented
- Beginning efforts to harmonize arrangements across states and territories
- Carter Review 1987-90 established Victorian regulatory model
- Mutual recognition agreement & legislative reforms
- National competition policy agreement & legislative reforms
- Rise of better regulation discourse
International trends

- Changing role of registration boards
- Changing role of the state
- Increasing cost pressures driving workforce reform
- More stringent regulatory assessment processes
- Consolidation & rationalisation of regulatory regimes
- Increased expectations for transparency, accountability & sharing of regulatory decision-making
- Link made between regulation and workforce
- Principle of peer review under challenge
  → Increasing tension between professions and government
- Exploration of alternative regulatory models
Impetus for reform – early 2000s

- Public outcry over regulatory failures
- Continuing measures to increase competition & reduce regulatory burden
- Increasing demands for nationally portable registration
- Increasing difficulties with workforce shortages
- Victorian regulatory review findings 2002-05
  → Health Professions Registration Act 2005 (Vic)
- Dispute with College of Surgeons
  → Productivity Commission reference
Victorian regulatory review 2002-05 – key findings

- Cumbersome and inefficient legislative framework
- Poor separation of powers in disciplinary matters
- Lack of consumer confidence in transparency and fairness
- Inefficiency and duplication in administration
- Workforce inflexibility and poor practitioner/system quality linkages
- Changing population & workforce → changes required to meet future demand
- Link made between workforce regulation and workforce reform
Productivity Commission findings

- Fragmented roles and responsibilities
- Compartmentalisation of workforce policy by profession
- Lack of an integrated ‘cross profession’ approach
- Inflexible and inconsistent regulation
- Lack of collaborative policy efforts
- Inhibition of changes to scopes of practice
- Limited incentives for delegation of tasks
- Perverse funding and payments incentives
- Entrenched workforce behaviours heavily influenced by ‘custom and practice’.
Productivity Commission findings – registration

- Unnecessary barriers to the mobility of practitioners
- Inconsistencies in legislative requirements across states and territories
- Difficulties in ensuring effectiveness, quality assurance and consumer protection
- Perceived failures in the peer review model of regulation
- The challenge of facilitating a flexible, responsive and sustainable health workforce
- Workforce shortages projected to grow
- Over 90 separate profession specific regulatory authorities
- Less fragmented and better co-ordinated system should provide the levers required to:
  - drive reform to scopes of practice and job design while maintaining safety and quality;
  - provide nationally consolidated and coherent frameworks for course accreditation & registration;
  - deliver more coordinated and responsive education and training regime
Productivity Commission recommended:

‘An integrated set of national actions…..to develop a more sustainable and responsive health workforce while maintaining a commitment to high quality and safe health outcomes’

21 recommendations for reform

Two key reforms to regulation and accreditation systems:

- Staged introduction of a single national accreditation regime and agency to provide basis for nationally uniform registration standards for health professions

- Creation of a single national registration board with supporting professional panels, to provide for national registration standards for the health professions.
COAG response to PC report - 2006

• COAG decisions July 2006
• Intergovernmental Agreement signed – March 2008
• Set parameters for scheme
  → Implementation handed to Health Ministers
• Implementation process – Mar 2008 - July 2012
• Legislative model
• Implementation process
• Extensive consultation to develop legislation
Overview of national reform

- NRAS commenced 1 July 2010 (1 October in WA) + 4 2012 professions
- Shift from multiple profession specific state and territory based regulatory regimes to single national regime
- Significant change management process over 2 years:
  - new legislation passed in every jurisdiction, repealed 66 state & territory acts & regulations
  - over 90 boards & 38 separate administrations abolished
  - 14 new national boards established
  - 8 new state and territory offices & National Office
  - transitioned over 600 existing staff
  - new IT system built, data from over 1.5 million registration records transferred over 500,000 registrants transitioned, over 12,000 new registrants grand-parented
  - new national standards established for 14 regulated professions
  - new organisation to bed down
  - new governance arrangements for jurisdictions to support Ministerial Council decision making
Transition issues

- Establishment of AHPRA – bedding down new organisation
- Retention of staff skills & knowledge
- Retention of board members’ skills & knowledge
- Transition of registrants and their data
- Transition of open disciplinary cases
- Accuracy of registrant data
- Partially regulated professions assessment
- Late entry of WA
- Carve outs of NSW
- Accreditation arrangements
- NRAS 2012 professions transition & grand-parenting
Structure of NRAS

Figure 1: The architecture of the National Scheme

- Ministerial Council
  - Advisory Council
  - National Boards
  - Agency Management Committee
  - Accreditation authorities
  - National committees
  - National office
  - State/territory/regional boards
  - State and territory offices

- Advice
- Contract
- Support
Legislative model

- Victorian law
- Adoption of laws model (except for WA)
- Three stage legislative process: Bill A, Bills B & Bills C
- NSW carve outs
- Role of Ministerial Council in legislative change process
- Interfaces:
  - Tailor made provisions in National Law for: statutory interpretation, accountability and reporting
  - Commonwealth laws apply for: privacy, FOI, Ombudsman, IR (in part)
  - State and territory laws apply for: records, drugs & poisons, tribunals, courts, administrative review, etc
NRAS governance arrangements

- Australian Health Workforce Ministerial Council
- AHPRA Agency Management Committee
- National Boards x 14
- State, Territory & Regional Boards of National Boards
- Australian Health Workforce Advisory Council
- Accreditation entities (Councils x 11, Committees x 4)
- Health complaints entities
- State and territory tribunals
- National Health Practitioner Ombudsman & Privacy Commissioner
Professions regulated under NRAS

**July 2010:**
- Chiropractic
- Dental x 4
- Medicine
- Nursing and midwifery
- Optometry
- Osteopathy
- Pharmacy
- Physiotherapy
- Podiatry
- Psychology

**July 2012:**
- ATSI health practice
- Chinese medicine
- Medical radiation x 3
- Occupational therapy

* Paramedics under assessment
NRAS – some metrics

Registrant numbers by registration type and state as at 30 November 2012

<table>
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<tr>
<th>Registration Type</th>
<th>ACT</th>
<th>NSW</th>
<th>NT</th>
<th>QLD</th>
<th>SA</th>
<th>TAS</th>
<th>VIC</th>
<th>WA</th>
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<td>17</td>
<td>1</td>
<td>1</td>
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<td>Chinese Medicine Practitioner</td>
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<td>1,593</td>
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<td>765</td>
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<td>705</td>
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<td>46</td>
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<td>Dental Practitioner</td>
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<td>3,778</td>
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<td>336</td>
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<td>Medical Practitioner</td>
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<td>953</td>
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<td>44</td>
<td>370</td>
<td>350</td>
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<td>83</td>
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<td>Osteopath</td>
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<td>154</td>
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<td>Pharmacist</td>
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<td>Physiotherapist</td>
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<td>4,408</td>
<td>1,941</td>
<td>400</td>
<td>5,923</td>
<td>2,955</td>
<td>671</td>
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<td>Podiatrist</td>
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<td>14</td>
<td>643</td>
<td>365</td>
<td>93</td>
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<td>385</td>
<td>24</td>
<td>3,727</td>
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<tr>
<td>Psychologist</td>
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<td>10,137</td>
<td>219</td>
<td>5,278</td>
<td>1,475</td>
<td>526</td>
<td>8,086</td>
<td>3,133</td>
<td>301</td>
<td>29,941</td>
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<td>Total</td>
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<td>168,667</td>
<td>6,159</td>
<td>110,403</td>
<td>48,398</td>
<td>12,878</td>
<td>150,616</td>
<td>59,866</td>
<td>10,201</td>
<td>577,249</td>
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</table>
Certificate of Registration

This is to certify that

Dr John Michael Citizen
Registration Number: MED00001234677

is a registered

Medical Practitioner

with General Registration

Speciality: Paediatrics and child health - Paediatric cardiology

Notations

Yes

Conditions

Nil

Undertakings

Nil

For the period 01/10/2010 to 30/09/2011

The information on this certificate was accurate at the time of printing.
For the latest information on this registration, please check the online register at:
www médecin.com.au

Annexure

additional registration details

Dr John Citizen
Registration Number: MED00001234677

Medical Practitioner

Notations


Conditions


Nil

Undertakings

Nil

For the period 01/10/2010 to 30/09/2011

The information on this certificate was accurate at the time of printing.
For the latest information on this registration, please check the online register at:
www médecin.com.au

Date printed: 00/10/2010

Department of Health
Complaints handling and disciplinary regime

Key features:

• Immediate action powers
• Mandatory notifications – practitioners and employers
• Relationship with Health Complaints Entities (Vic HSC)
• Flexibility in pathways:
  – Performance matters
  – Health matters
  – Conduct matters
• Tribunal hearings – original and review jurisdictions
• Ensuring accountability, transparency and procedural fairness
• Offences
Comparison of NRAS with previous Vic arrangements

- National Law largely modelled on Vic HPR Act with same range of powers & functions
- Different drafting style
- Changes to registration categories, specialist registration, endorsement powers
- Strengthened public protection measures:
  - Criminal history checking
  - Mandatory reporting
  - Student registration
  - English language requirements
  - Checking registration status
  - Stronger enforcement powers
- Chairing of National Boards – practitioners only
- Changes to ministerial powers
- Changes to pharmacy regulation
Issues

- Accreditation arrangements
- Arrangements for ATSI health practitioners
- Continuing competence/revalidation powers
- State and territory boards of National Boards
- Role of community members
- Dealing with jurisdictional disputes between professions
- Governance arrangements to support Ministerial Council
Issues – cont’d

- Interface with drugs and poisons legislation
- Role of Australian Health Workforce Advisory Council
- Mandatory provision of data for workforce planning purposes
- Prohibition order powers of tribunals
- Interface with HCEs & ADR processes
- Right of review for notifiers
- Offences re deregistered practitioners who breach prohibition orders

• Department of Human Services Victoria (2003) *Discussion paper: Regulation of the Health Professions in Australia*.


• COAG (2008) *Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions*.

• AHMAC (2009) Regulatory Impact Statement for the decision to implement the Health Practitioner Regulation National Law.

• National Registration and Accreditation Implementation Team (NRAIP) consultation documents (2008-09), see www.ahwo.gov.au/natreg.asp

• Commonwealth Parliament (2011) Senate Finance and Public Administration References Committee Inquiry into the administration of health practitioner registration by AHPRA.


• Centre for Health Service Economics & Organisation (UK) (2012) *Cost-efficiency review of the health professional regulators. Report No. 4*

• Professional Standards Authority (UK) (2012) *Review of the cost effectiveness and efficiency of the health professional regulators*