MEDICAL BOARD OF AUSTRALIA

update

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Medical Board of Australia

Chair's message

It is now three years since the National Registration and Accreditation Scheme (the National Scheme) began. After the initial confusion and challenges, the National Scheme is generally on course and meeting its legislative objectives in relation to public protection and workforce flexibility and mobility.

One aspect of the scheme that was not fully reconciled at the outset was the management of health complaints, which were dealt with differently in each state. New South Wales opted to continue its model as a co-regulatory jurisdiction, in which the Health Care Complaints Commission (HCCC) investigates and prosecutes disciplinary matters. In the other jurisdictions, the National Boards and Australian Health Practitioner Regulation Agency (AHPRA) deal with public protection and professional standards issues, and the health complaints bodies generally seek to resolve or conciliate complaints. There is a process of joint consideration prescribed in the National Law[1], in which the agencies involved reach agreement on which is the most appropriate body to handle a particular complaint.

Now, the Queensland Minister for Health has introduced legislation to establish Queensland as a co-regulatory jurisdiction with a new Health Ombudsman. This is in response to his view that the current arrangements have not worked effectively to protect the Queensland public. The proposed model is similar to the NSW model, but does not involve establishing separate health professional councils as exist in New South Wales. The Queensland bill – the Health Ombudsman Bill 2013 – proposes that all complaints or notifications, whether voluntary or mandatory, are made to the Queensland Health Ombudsman rather than to AHPRA or the current Health Quality and Complaints Commission (HQCC).

The Health Ombudsman would be responsible for serious matters, including professional misconduct or matters that could provide grounds for suspension or deregistration. The Medical Board and AHPRA would deal with less serious health, performance and conduct matters. The complaints function of the Health Ombudsman in relation to registered health practitioners would be funded through registration fees from Queensland practitioners. This may result in increased registration fees for Queensland practitioners.

Health complaints provide important data about the health care system and about individual practitioners. They are a vital part of a safe system. Each complaint represents, at the very least, something that did not go well for an individual patient and those who care about them. Any complaint, or series of complaints, that points to a serious risk to the public must be handled in a timely and robust way.

The Board is concerned that the changes in Queensland carry the risks of fragmentation of the National Scheme and variation in standards for practitioners in different states. Whatever the arrangements, the system for dealing with serious complaints must be accountable and effective and build public confidence in the integrity of the health system and health professionals. This is a big ask. A national registration scheme, with multiple models for dealing with health complaints, will provide an opportunity to compare and understand what ultimately may best serve the public and ensure high standards of practice and health care delivery.

Dr Joanna Flynn AM
Chair, Medical Board of Australia

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1 The Health Practitioner Regulation National Law, as in force in each state and territory.

International medical graduate (IMG) news

Review of registration pathways for IMGs (competent authority and specialist pathway)

All international medical graduates (IMGs) who apply for limited registration for postgraduate training, supervised practice or limited registration for area of need must meet the requirements of one of three assessment pathways:

- competent authority pathway
- standard pathway, or
- specialist pathway.

In their report, *Lost in the labyrinth*, the House of Representatives Standing Committee on Health and Ageing made recommendations about reducing red tape, duplication and administrative hurdles faced by IMGs. The National Scheme has opened up opportunities to streamline and simplify the assessment and registration of IMGs.

The Board has reviewed the IMG assessment pathways and is proposing changes to the competent authority and specialist pathways. The proposed changes take advantage of the National Scheme and the National Law to streamline processes without compromising standards.

The Board has consulted on the proposed changes. The consultation closed on 31 May 2013 and the Board received 27 submissions. The Board is considering the feedback and will keep the profession and the community informed as it determines the next steps. The Board will publish the submissions on its website.

Three renewals of limited registration – what happens next?

The National Law provides for IMGs who do not qualify for general and/or specialist registration to be granted limited registration.

IMGs granted limited registration can apply for renewal of this registration up to three times. If an IMG has not qualified for general or specialist registration within three renewals, the National Law does not allow any additional renewals of registration. If the IMGs who have had three renewals of registration want to continue to have medical registration, they must make a new application for limited registration.

There are a number of IMGs who have had three renewals of registration while registered in the National Scheme. AHPRA has been communicating with these practitioners in time for them to make the new application for registration.

Each new application for limited registration received will be considered by the Registration Committee of each state and territory board, in light of each individual's circumstances.

Practitioner audit

All registered practitioners are required to comply with a range of registration standards that have been developed by the Board that registers them. The registration standards are published on the Board's website at www.medicalboard.gov.au under 'registration standards'.

AHPRA has undertaken two pilots to audit practitioners for compliance with the registration standards. The registration standards that are being audited are:

- continuing professional development
- professional indemnity insurance, and
- recency of practice.

AHPRA is also auditing compliance with requirements in the National Law for practitioners to provide information about their criminal history.

A report for phase one of the audit pilot is available on the AHPRA website at www.ahpra.gov.au. The report describes AHPRA's approach to auditing practitioner compliance with the National Boards' registration standards and provides valuable information for the development of practitioner audits in the National Scheme.

Using the findings from the first phase of the audit pilot, practitioners from the pharmacy, chiropractic and optometry professions were selected at random to be audited for compliance with their Board's registration standards and the provisions in the National Law to disclose criminal history. A small number of nurses and midwives were also selected at random for compliance with the Nursing and Midwifery Board of Australia's registration standards for recency of practice and continuing professional development. This was phase two of the pilot.

During the pilots, AHPRA and the relevant National Boards worked with key stakeholders to make sure participants would be able to get the necessary evidence to give to the audit team. Outcomes of the second phase of the audit pilot will inform the next steps for further developing and refining an audit framework and its subsequent rollout across all National Boards.

The report on phase two of the audit pilot will be published on the AHPRA website.

Audit for medical practitioners will start later in 2013. AHPRA and the Board will work with stakeholders and will provide further information about the audit.

From the coroner

The Victorian State Coroner referred to the Board a finding after an inquest and made a recommendation that:

> *medical practitioners should be reminded of their responsibility to understand their own personal legal obligations to report deaths that are reportable to the coroner.*

The coroner had conducted an inquest into a death after which a registered medical practitioner had completed a death certificate. The Registrar of Births, Deaths and Marriages reviewed the death certificate and referred it to the Coroners Court of Victoria for further investigation as a reportable death.

In brief, the deceased had a long history of drug abuse and psychiatric illness. He suffered a heroin overdose and was managed in an intensive care unit. Evidence was produced that the deceased's clinical status deteriorated while in ICU with worsening hypotension and acute renal shut-down. He went into cardio-respiratory arrest and died.

The practitioner who completed the death certificate did not report the death to the coroner and stated that in his opinion, the causes of death were:

1a. cerebellar tonsillar herniation

1b. cerebral oedema

1c. hypoxic brain injury

1d. respiratory arrest, heroin overdose.

After the coroner investigated the death, the death certificate was modified to state that the cause of death was heroin overdose.

One of the benefits of the National Scheme is that important lessons can be communicated to all registered medical practitioners, regardless of where they live or practise.

What constitutes a 'reportable death' varies by jurisdiction. Although the following list is not exhaustive, in general, a death must be reported to a coroner when:

- the person died unexpectedly and the cause of death is unknown
- the person died in a violent or unnatural manner
- the person died during or as a result of an anaesthetic
- the person was 'held in care' or in custody immediately before they died
- a doctor has been unable to sign a death certificate giving the cause of death, or
- the identity of the person who has died is not known.[2]

2 Sourced from www.ncis.org.au/web_pages/the_coronial_process.htm

Medical practitioners should understand their own legal obligations to report deaths that are reportable. Further information about specific jurisdictions can be sourced from the links at the website of the National Coronial Information System at www.ncis.org.au.

AHPRA publishes case summaries of cases referred by coroners to the National Boards on its website at www.ahpra.gov.au. AHPRA names the deceased person, publishes the coroner's recommendations and provides a link to the full findings on the relevant coroner's website.

National Internship Framework

On successful completion of an approved intern year, Australian and New Zealand medical graduates can apply for general registration with the Board.

The Board has an approved registration standard for granting general registration to Australian and New Zealand medical graduates on completion of internship. This will be implemented for interns starting the intern year in 2014. The standard can be found under *Registration standards* on the Board's website.

The Board has asked the Australian Medical Council (AMC) to do a range of work related to the intern year as part of a new national framework. This includes:

- global outcome statements for the intern year
- national standards for intern training, and
- draft guidelines for rotations during the intern year.

There will also be a national process for regularly assessing the progress of each intern as the basis of sign-off at the end of the year.

A feature of the new national framework is that the accrediting bodies for intern places will also undergo periodic review by the AMC. The AMC already accredits medical schools and medical specialist colleges.

The Board and the AMC have recently published a newsletter that summarises the completed and future work on this project. The newsletter is published under the *News* section of the Board's website.

Accreditation

An important objective of the National Law is to facilitate the provision of high-quality education and training of health practitioners. The accreditation function is the primary way of achieving this. The National Law defines the respective roles of the Board and its appointed accreditation authority, the AMC, in the accreditation of medical schools and medical specialist colleges.

In 2012, the Board conducted a review of the accreditation arrangements. Following a review that

included wide-ranging public consultation, the Board decided to continue this assignment with the AMC for a period of five years from 1 July 2013.

The AMC will continue to operate within the Quality Framework for the Accreditation Function agreed between the National Boards and the accreditation authorities in the National Scheme. The annual agreement between AHPRA, on behalf of the Board, and the AMC will establish the program of work and funding each year.

Doctors' health

Managing the impaired practitioner

One of the ways in which the Board protects the public is through the assessment and management of practitioners who are or may be impaired. The National Law defines impairment as:

> *a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect the person's capacity to practise the profession*.

The Board has defined its regulatory role and responsibilities in assessing and managing impaired medical practitioners under the National Law. The Board's primary role is to assess the risk that the practitioner's impairment poses to the public and take appropriate action to manage that risk. The Board does not have a role in providing therapy, treatment or pastoral care.

The approach of the Boards and AHPRA is to work with impaired practitioners in ways that are respectful and non-punitive; aiming to enable practitioners to remain working provided they can do so safely.

If a Board believes that a practitioner should be monitored because their impairment poses a risk to the public, that monitoring will be undertaken by AHPRA and the Board.

The work to define the role of the Board in relation to impairment paves the way to defining the role of external health programs that the Board has announced it will fund into the future.

Funding of health programs for doctors

In 2012, the Board consulted with stakeholders about whether the Board should be funding external health programs for medical practitioners and if so, to what level and what services should be provided.

There was general support for the Board to fund health services for medical practitioners, but no agreement on what services should be funded. There was a widespread view that any program should be funded from within the Board's current registration fee, rather than requiring a specific fee increase. The feedback from the consultation is published on the Board's website under *News>Past consultations*.

The Board has decided that it will fund a health program or programs for doctors from the 2013/14 financial year. It is now undertaking further work on what model of external health services it will fund into the future.

The Board does not foresee the need to increase registration fees for this purpose.

We anticipate that the external health program/s will complement the core role of the Board and AHPRA, which is to manage practitioners with an impairment that may place the public at risk. The external health program/s will not have a regulatory role, but rather, will focus on supporting and promoting doctors' health.

The Board is committed to establishing a health program for doctors that is useful for the profession and accessible fairly to doctors in Australia, wherever they live.

The Board is now progressing this work, including by defining the principles that should underpin external health programs (such as fairness and equitable access) and will keep the profession informed about progress in the months ahead.

Notifications: new guides for practitioners and the community

In June 2013, AHPRA and the National Boards published new guides for health practitioners and the community about how notifications are managed in the National Registration and Accreditation Scheme. The guide for practitioners and a series of fact sheets explain to practitioners what happens when AHPRA receives a notification on behalf of a National Board. The information complements the direct correspondence that individuals receive if a notification is made about them.

AHPRA has also developed a guide for the community about making a complaint (or notification) about a health practitioner. This guide, titled *Do you have a concern about a health practitioner? A guide for people raising a concern*, will be an early focus for feedback from the newly established Community Reference Group for AHPRA and the National Boards.

Both guides, and the accompanying fact sheets, are published in PDF on the AHPRA and National Boards' websites in a revised section on complaints and notifications, and can be downloaded and printed.

AHPRA collaborated with the professional associations for practitioners registered in the National Scheme to develop the guide for practitioners, including the Australian Medical Association (AMA). The guide clearly explains what happens after a concern has been raised about a health practitioner, who decides what happens,

how we work with health complaints entities and what practitioners can expect from our processes.

Most of the 580,000 practitioners registered in the National Scheme are highly skilled and deeply committed to providing safe care, and it can be very confronting for them to be the subject of a notification.

The Board believes it is important that practitioners about whom concerns have been raised have clear information, so they can focus on the issues they need to consider about their professional practice and not be confused about the regulatory process. Registered practitioners have a responsibility to provide an explanation to the regulator when concerns have been raised, and the Board wants them to be able to do so from an informed position.

Panel decisions published

Our commitment to transparency and accountability continues, with an expansion of the information published about legal issues and hearing decisions.

AHPRA has now published a list of panel hearings conducted since July 2010. Summaries have been provided through links from the website when there is educational and clinical value. Practitioners' names are not published, consistent with the requirements of the National Law.

Published hearing decisions from adjudication bodies (other than panels) relating to complaints and notifications made about health practitioners or students in the Australian health practitioner law library on the *Austlii* website.

Some summaries of tribunal decisions are also provided, to help share information and guide practitioners. These can be found under *Legislation and publications>court and tribunal decisions* on the AHPRA website.

AHPRA is also publishing a series of legal practice notes to support the consistent understanding and application of the National Law by National Boards and AHPRA staff. These are available on the AHPRA website, also under the *Legislation and publications* tab.

Community Reference Group established

A Community Reference Group (CRG) to work with AHPRA and the National Boards has now been established. This is the first time a national group of this kind, with a focus on health practitioner regulation, has been established in Australia. It complements the Professions Reference Group, made up of representatives of the professional associations for the professions in the National Scheme.

Seven members from the community, who are not health practitioners, have been appointed to the group, which will be chaired by Mr Paul Laris, a community member on the Medical Board of Australia and the South Australian Board of the Medical Board of Australia.

The Community Reference Group will have a number of roles, including providing feedback, information and advice on strategies for building better knowledge in the community about health practitioner regulation, but also advising AHPRA and the National Boards on how to better understand, and most importantly, meet, community needs.

The Board believes that the Community Reference Group is an important step to increasing community input into health practitioner regulation. It will work with the 14 National Boards and AHPRA and advise them how we can build community awareness, understanding and support for Australia's regulatory scheme for health practitioners.

Chair, Mr Paul Laris, said while there were already community members on all National Boards, this new advisory group would give another voice to the wider community.

A communiqué from meetings of the Community Reference Group will be published on a dedicated CRG page on the AHPRA website. A list of members of the CRG is published in a media statement.

The Medical Board of Australia: who we are

The members of the first Medical Board of Australia were initially appointed in 2009 for a period of three years. In 2012, the inaugural Board members' terms of appointment expired and following a public call for applications, the Australian Health Workforce Ministerial Council appointed members to the Board. The current members of the Board are:

- Dr Joanna Flynn AM, Chair, practitioner member from Victoria
- Professor Belinda Bennett, community member from New South Wales
- Dr Stephen Bradshaw, practitioner member from the Australian Capital Territory
- Ms Prudence Ford, community member from Western Australia

- Dr Fiona Joske, practitioner member from Tasmania
- Dr Charles Kilburn, practitioner member from the Northern Territory
- Mr Paul Laris, community member from South Australia
- Mr Robert Little, community member from the Australian Capital Territory
- Dr Rakesh Mohindra, practitioner member from South Australia
- Associate Professor Peter Procopis AM, practitioner member from New South Wales, and
- Adjunct Professor Peter Wallace OAM, practitioner member from Western Australia.

Dr Mary Cohn, the former practitioner member from Queensland, announced her resignation from the Medical Board of Australia in April 2013.

For further information on each of these members and the current membership of the state and territory boards of the Medical Board of Australia, refer to the *About* section on the Board's website.

Preparation for registration renewal

Medical practitioners with general, specialist and non-practising registration are due to renew their registration by 30 September each year. AHPRA will forward registration renewal information to medical practitioners before this date.

In preparation for this, please check your contact details lodged with AHPRA through the *Your Account* tab on the top right of the AHPRA website. Email accounts should be set to receive communications from AHPRA and the Board to avoid misdirection to an account junk box.

To check your contact details, go to the *Your Account* link above, use your unique contact number (User ID) and follow the prompts. Your User ID is not your registration number. If you do not have your User ID, complete an online enquiry form, selecting 'User ID' as the category of enquiry or by calling 1300 419 495.

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Contact the Medical Board of Australia and AHPRA on 1300 419 495 or submit an online enquiry form through the website at www.medicalboard.gov.au. You can also mail the Medical Board of Australia, GPO Box 9958 Melbourne VIC 3001