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Introduction

This paper reviews the new national scheme for medical regulation which commenced on 1 July 2010, explaining what it is, how it works, the position of NSW within the scheme, its benefits and how its success might be measured.

Background

In 2006, the [Productivity Commission's report on Australia's health workforce](#) recommended a national approach to accreditation and registration.

The Council of Australian Governments (COAG) announced in July of 2006 that Australia would move to a national registration and accreditation scheme 'to facilitate workforce mobility, improve safety and quality, and reduce red tape, [...] simplify and improve the consistency of current arrangements'.

In March 2008, COAG signed an inter-governmental agreement, setting 1 July 2010 as the implementation date. The scheme started on 1 July this year in all states and territories except WA, which will join in October.

Object

The object of the National Law is to establish national registration and accreditation for the regulation of health practitioners and of students undertaking either programs of study providing a qualification for registration in a health profession or clinical training in a health profession.

Legislative framework

The governing act is the [Health Practitioner Regulation National Law Act of 2009](#), initially introduced into the Queensland Parliament and then adopted in each of the other states and territories.

The passage through each of the parliaments is a significant achievement. There were minor changes to the legislation in the [ACT](#) and [WA](#) and more significant changes in [NSW](#).

Prior to, and since, July 2010

The task of moving from a state- and territory-based system to a national one has been enormous. Before July 2010, eight jurisdictions regulated Australian health practitioners, there were more than 85 health profession boards and 66 Acts of Parliament covering health professions. They are replaced by ten national health profession boards (plus those still operating in WA) with nationally consistent legislation. Australia now has national regulation of health practitioners.

Benefits

The national system provides practitioners with increased mobility. Once registered, those with general registration can practise across Australia. They will no longer need to have separate registration in each state and territory in which they practise. All registered practitioners will be covered by consistent national standards.

The national approach will provide a more streamlined and effective regulatory system with less red tape and with real benefits to be gained from sharing, learning and understanding between the different professions. The national system will provide transparency by providing national on-line registers which show current conditions on practice, other than conditions relating to health.

Three guiding principles

The National Law sets out the guiding principles for the national registration and accreditation scheme:

1. the scheme is to be transparent, accountable, efficient, effective and fair;
2. registration fees are to be reasonable, having regard to the efficient and effective operation of the scheme; and
3. practice restrictions should be imposed only if it is necessary to ensure that health services are provided safely and are of an appropriate quality.

Six objectives

The National Law sets out six objectives for the national registration and accreditation scheme:

1. protecting the public by ensuring that only practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered;
2. facilitating workforce mobility across Australia;
3. facilitating the provision of high quality education and training of practitioners;
4. facilitating rigorous and responsive assessment of overseas-trained practitioners;
5. facilitating access to services by health practitioners in accordance with the public interest; and
6. enabling continuous development of a flexible, responsive and sustainable workforce and to enable innovation in the education of, and service delivery by, health practitioners.

Ten health professions

Ten national boards have been established for:

1. chiropractors;
2. dental care (dentists, dental hygienists, dental prosthetists, dental therapists);
3. medical practitioners;
4. nurses and midwives;
5. optometrists;
6. osteopaths;
7. pharmacists;
8. physiotherapists;
9. podiatrists; and
10. psychologists.

Further health professions

In July 2012, another four boards will be added for Aboriginal and Torres Strait Islander practitioners, Chinese medicine practitioners, medical radiation practitioners, and occupational therapists.

Function of national boards

The functions set out in the National Law include:

- approving national standards, codes and guidelines for the health professions;
- deciding the requirements for registration and to register practitioners who meet those requirements;
- approving accredited programs of study;
- overseeing the assessment of overseas-trained applicants;
- overseeing the receipt and follow up of notifications about health, performance and conduct; and
- with the national agency, AHPRA, maintaining national registers.

State and Territory boards

The National Boards may also establish state and territory or regional boards. A medical board is already in place in each state and territory. The state and territory boards make decisions about individual practitioners and administer the National Law by delegation from the National Board.

AHPRA

The [Australian Health Practitioner Regulation Agency](#) (AHPRA) is established by the national law. It provides administrative assistance and support to the national boards. It is required to enter a 'Health Profession Agreement' with each national board, setting out the fees to be paid by health practitioners and services AHPRA will provide to the national board to enable each board to carry out its functions under the national law. AHPRA also advises the Australian Health Workforce Ministerial Council about administration of the national scheme.

NSW

NSW is a co-regulatory jurisdiction. NSW decided not to participate in the health, performance and conduct processes covered by the National Law, taking a different approach to the handling of complaints.

In NSW, a State Council is established for each profession. For example, the Act establishes the [Medical Council of NSW](#) to exercise the health, performance and conduct functions under the Act.

State Councils are supported by the [Health Professional Councils Authority](#). State Councils in NSW liaise with the [Health Care Complaints Commission](#) on complaints about health practitioners.

For NSW, this means that, while registration is national and handled by the Medical Board of Australia with AHPRA, complaints about health, performance or conduct are dealt with under NSW-specific provisions in the National Law which are similar to those that were in the [Medical Practice Act \(NSW\)](#). A key feature of the NSW approach is that the Health Care Complaints Commission retains its role as an independent investigator and prosecutor of complaints. For medical practitioners in NSW the complaint system will, therefore, remain much the same as it was before July 2010.

Key features of the National Law

- Key features of the new National Law include:
- criminal history and identity checks;
- a requirement for mandatory continuing professional development;
- a requirement that practitioners hold mandatory professional indemnity insurance;
- processes for the handling of notifications (NSW excepted), and mandatory notification requirements;
- a single national registration fee for each profession;
- provisions relating to student registration; and
- independent accreditation functions.

Mandatory notification

The National Law's requirements for mandatory notifications apply, with some exemptions, to practitioners and employers. Mandatory notification applies to a health practitioner who, in the course of practising their profession, forms a reasonable belief that another practitioner has behaved in a way that constitutes notifiable conduct.

Notifiable conduct

Notifiable conduct is defined as meaning that a practitioner has:

- practised while intoxicated by drugs or alcohol,
- engaged in sexual misconduct,
- placed the public at risk of substantial harm through a physical or mental impairment affecting practice, or
- placed the public at risk of harm through a substantial departure from accepted medical practice.

The Medical Board of Australia has issued guidelines on mandatory notification to assist practitioners to understand their obligations.

What does the national scheme provide?

The new national scheme provides:

- for national registration of health practitioners with the payment of one registration fee;
- that practitioners with general registration may practise anywhere in the country;
- a nationally consistent approach to regulation, with nationally consistent standards, policies and procedures (the current national standards are available from the Board's website);
- a national register available on-line, listing current conditions on registration;
- a national body which can relate to other national bodies; and
- real opportunities for constructive engagement between health professions and opportunities to learn from and with each other.

How will we know if the scheme is a success?

The new national scheme brings about many changes. It is an exciting time for professional regulation. As we move forward, we need to ask ourselves how we will know whether or not we have been successful. What do we want to measure, monitor or compare? Of course, the changes with the national scheme do not occur in a vacuum and challenges are associated with trying to measure its effects over time.

Variability or uniformity?

One important issue will be careful consideration of the degree of variability that is desirable or tolerable within the scheme. The aim is to ensure a truly national scheme. The differences in NSW will provide valuable opportunities to compare, contrast and learn from different regulatory models.

The future

Finally, what do we hope for the future? The main goals are to ensure that the national board is:

- a fair, independent and effective regulator;
- a respected source of advice and guidance;
- responsive, adaptive and accountable;
- financially sound with reasonable registration fees; and
- importantly, that we establish a framework that will maintain the trust of key stakeholders.