

Submission regarding exposure draft of  
**Health Practitioner Regulation National Law 2009**

This submission is made personally, not on behalf of any organization or group.

In my opinion, section 128 of the draft is poorly worded and will catch a number of common, innocent behaviours.

Consider an American medical doctor attending a conference in Australia. He has no intention of *practicing* in Australia and hence has made no attempt to register. If he wears a name badge which reads “Dr John Smith M.D.” he has used a title and postnominal which imply he is a medical practitioner and has therefore committed a breach of section 128 (b).

If challenged on this he might realize he is in a country with a constitutional guarantee of free speech and wisely say nothing more than “I want a lawyer”. It is more likely however that he would say something like “but I *am* qualified to practice medicine; I’m just not licensed to do so in this country” and add a violation of section 128 (d) to his troubles.

The state should need an extraordinary justification before it applies legal sanction to uttering the truth. Australia’s defamation laws give it a poor record in this regard but this is even worse – here a person faces prosecution for expression which is not untrue, not misleading, and which has not been shown to harm another person in any way. Saying “we are throwing a wide net to make sure we catch all the misdeeds we are aiming at” is not an extraordinary justification; it is sloppy draftmanship.

Major  
Medical student  
University of Queensland