



**SUBMISSION OF THE NORTHERN TERRITORY
HEALTH AND COMMUNITY SERVICES
COMPLAINTS COMMISSION**

**Exposure draft of the Health Practitioner
Regulation National Law 2009 (Bill B)**

17 July 2009

1. INTRODUCTION

The Health and Community Services Complaints Commission (HCSCC) supports the establishment of a national registration and accreditation scheme for health professionals and welcomes the opportunity to comment on the complaints handling arrangements proposed in the *Health Practitioner Regulation National Law (Bill B)*.

Part 8 of Bill B '*Complaints, performance, health and conduct*' provides a mechanism for dealing with individuals who act in a manner inconsistent with the standards and expectations of their profession.

The HCSCC is an independent statutory body that receives consumer health complaints and conducts investigations into broader health service quality and systemic issues.

The HCSCC affords consumers an opportunity to resolve complaints directly with the healthcare provider or through our conciliation processes. By each of these functions the HCSCC collects crucial data that may indicate trends or patterns of practice, both at the individual practitioner and systemic levels. This information informs recommendations for quality improvement and whether a Board referral is warranted.

The current legislative scheme in the Northern Territory provides for mutual notification of all consumer complaints by the HCSCC and the Practitioner Registration Boards. Complaints are managed by consultation and agreement between the Boards and the HCSCC.

2. THE PROCESS OUTLINED IN BILL B

Part 8 Complaints, performance, health and conduct

Under Bill B complaints about registrants are to be made to the National Agency which will then transfer the matter to the relevant National Board. The National Board will then inform itself about whether the complaint concerns a ground mentioned in s155 and whether a local Health Complaints Commission (HCC) also has jurisdiction. A copy of the complaint, together with any relevant information, must then be provided to the HCC and the Public Interest Assessor (PIA) or Independent Assessor (IA). The PIA or IA will oversee the Board's decision for action.

The HCSCC is also required to provide copies of all consumer complaints about registrants to the relevant Boards. Both organisations will, in many cases, have jurisdiction to assess or take action upon the same complaint. The HCSCC sees Bill B as deficient because it does not provide a mechanism for the HCSCC and the National Boards to consult and decide which complaints will be assessed and by which organisation. There appears to be

no provision to consult about whether it is a matter that the HCSCC or Board is going to accept or to keep each other informed about the actions each is taking. This is contrary to the scheme as presented at the public forums by the Implementation Project Team (See Attachment A).

There seems to be the potential for four separate examinations of a single complaint. This will inevitably lead to delays, unnecessary duplication and confusion for providers and consumers. Other consequences include uncertainty in avenues of review and the potential for consumers to receive different outcomes for the HCSCC and a Board.

It would be unhelpful for the HCSCC and the Boards to automatically provide each other with copies of complaints and supporting information in every case. The draft complaint scheme will complicate matters for consumers and will increase costs substantially for the HCSCC and the Boards. The HCSCC estimates that in the Northern Territory it will double the Commission's workload. The HCSCC of the Northern Territory supports the proposed solution suggested by the Queensland Health Quality and Complaints Commission, namely:

Proposed solution

Complaints sections 165 and 166

Sections 165 and 166 be combined into one process.

1. *The National Boards must 'immediately' or, at most, within 14 days refer all consumer complaints to the local HCC.*
2. *The local HCC will be the PIA for the relevant participating jurisdictions, or the HCCs to be appointed as the State IA for the respective participating jurisdictions. (In the former case, it will be necessary to make consequential amendments to the PIA currently being limited to a 'person' employed by the National Agency.)*
3. *The Board must discuss its proposed assessment action with the HCC with a view to reaching agreement about the steps each intends to take on the matter – including referral to the HCC. If agreement cannot be reached, the HCC position (as the PIA/IA) will prevail.*

The HQCC submits that the decisions for action will include the matters currently listed in section 165(4) but should be expanded to include the ability to refer a matter to the HCC or other entity which has appropriate functions or powers to deal with the matter. This should include relevant State and Commonwealth agencies and employers.

The HQCC submits it is unnecessary to list an order of seriousness. A collaborative approach is preferred, with the HCC having a final power of veto in the unusual event agreement cannot be reached.

We further submit it is unnecessary to stipulate that only one action is appropriate for each complaint. It might, for example, be appropriate for a Board to conduct an investigation at the end of which a conciliation can be facilitated by an HCC. This flexibility should be reflected in the scheme.

4. *If the HCC receives a complaint that involves a registrant of a National Board it will first consult that National Board before the matter is formally referred.*
5. *if the HCC accepts a matter for assessment or other process, the Board will not take any further action until the HCC process is complete and vice versa, unless otherwise agreed. This will avoid the potential for duplication and inconsistency in the decisions reached and will increase the amount information available to other agency at the time of a later referral.*
6. *Include a provision to enable the National Boards and HCCs to reject a complaint on the basis it has been adequately dealt with by another entity, including an HCC or disciplinary tribunal (this implies a consultation process).*

ENDORSEMENT OF SUBMISSION BY OTHER HEALTH COMPLAINT COMMISSIONERS

I have had the benefit of reading the submission by the Tasmanian HCC and endorse the aspects raised by the submission.

The HCSCC also supports the submissions made by the Queensland HCC with respect to the following provisions in Bill B:

- Time frames for notifying complaints are best established.
- Information exchange on a continuing basis is highly desirable and its absence detrimental, especially for consumers.
- Section 6 “health complaints entity”. The Northern Territory HCSCC, like Queensland, is not a “disciplinary body”.
- Protection from reprisals is supported.
- Comments by the Queensland HCC on Sections 243, 167 and 171 are supported.
- Queensland submission on oral complaints (S.153 of Bill B) is not supported as proposed. Receipt of oral complaints ought to be

permitted, especially in the Northern Territory where there are high levels of language and literacy diversity and standards. To distinguish "enquiries" from complaints it would be better to define "complaint" to avoid the potential overload as submitted by Queensland HCC.

A handwritten signature in black ink, appearing to read 'C. Richards', written in a cursive style.

CAROLYN RICHARDS
Commissioner
Health and Community Services Complaints Commission

17 July 2009

Overview of scheme

