



SUBMISSION TO:
Australian Health Workforce Ministerial Council

**Health Practitioner Regulation National Law
(Bill B)
Exposure Draft (June 2009)**

Prepared by:
SPEECH PATHOLOGY AUSTRALIA

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NATIONAL REGISTRATION AND ACCREDITATION SCHEME FOR THE HEALTH PROFESSIONS

Submission on the exposure draft of the *Health Practitioner Regulation National Law 2009 (Bill B)*

Submitted by Speech Pathology Australia

Introduction

While the Speech Pathology profession has at this time, not been included in the first or second round of implementation of the National Registration and Accreditation Scheme, Speech Pathology Australia remains interested and committed to a National Regulatory scheme for the Health Professions. It is our belief that in time, the National Scheme will apply to the speech pathology profession and we take this opportunity to again reinforce that we strongly believe that it is in the public's interest, with respect to protection from risk and provision of quality health care, to include the speech pathology profession and we seek that this decision be reviewed.

Understanding that this is not the place to make representation on the need for speech pathology to come under the NRAS, we will comment briefly on the draft legislation in a broad sense as it relates to the profession at this time.

Background

Speech Pathology Australia (The Speech Pathology Association of Australia Ltd) is the national peak body for speech pathologists in Australia, representing approximately 4,300 members. A speech pathologist is a university trained specialist, qualified to provide a variety of services to people with communication and swallowing disorders that may be present across the life span. Exponential changes to the practice of speech pathology and the increasing complexity of patient needs has led to common place advanced diagnostic and therapeutic processes, including a range of invasive procedures that pose risks to the public if not appropriately governed and regulated.

Currently the speech pathology profession is registered in only one state, that being Queensland. In the absence of national registration, Speech Pathology Australia has assumed a wide number of governing and 'quasi-regulatory' functions, including establishing a Code of Ethics; setting the profession's entry level standards (Competency Based Occupational Standards), providing accreditation of Australian speech pathology university courses, assessing applicants for skilled migration to Australia; conducting a formal complaints hearing process; and maintenance of recency and currency of practice of practising members of Speech Pathology Australia, including re-entry to the profession. In addition, the Association has established a suite of clinical position papers to guide the profession's practice in a range of advanced and extended areas of practice (ie Tracheostomy Management; Fiberoptic Endoscopic Evaluation of Swallowing).





Comments on the Exposure Draft in relation to Speech Pathology

Definitions (Part 1, Clause 6)

Speech Pathology Australia strongly objects to the use of the definitions in the legislation that makes a direct inference that speech pathology is not a 'profession', but rather an alternative 'health service provider'. Whether the speech pathology profession is included in the National Scheme or not at this time, does not in any way change its position as a well established and recognised health profession. The practice of speech pathology commenced in Australia in the late 1930s and has been a university trained profession for many years, paralleling the training changes of other professions such as physiotherapy and occupational therapy.

While it is understood the purpose of the list of professions is in terms of identifying those in the scheme at this time, the reference to health services, listing speech pathology and other partially and self-regulating professions in this manner implies a lesser professional standard. Indeed the definition of a health service under (i) includes reference to '...and other alternative health carers', suggesting further by inference that speech pathology is 'alternative' health care. If the intention is to ensure the notion that health services include more than only the registered professions, then we appreciate that speech pathology is included, however amendment to the wording is required so that there is no inference that speech pathology and other professions mentioned (ie audiology and dietetics) is any less professional than registered professions. The listing of other professions outside the scheme could be stated as "Partial (or state) regulated and Self-regulating professions such as dietitians, speech pathologists, audiologists and occupational therapists". It is recommended that a comment in relation to 'alternative health carers' be made as a separate point altogether from that of the established and recognised tertiary trained health professions. In this separate point, masseurs, naturapaths etc could be mentioned.

Suggested wording follows:

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health service

- (a) services provided by registered health practitioners
- (b) ...
- (i) services provided by partially (state) registered and self-regulating professions including dietitians, speech pathologists, audiologists, social workers and occupational therapists.
- (insert)
- (k) complementary and alternative health carers such as masseurs, naturapaths, and homeopaths.

Accreditation

The Department of Education, Employment and Workplace Relations has long recognised Speech Pathology Australia's role and contribution as the sole national professional body for speech pathologists. This is confirmed through the formal agreement with the National Office of Overseas Skills Recognition, as an agency of the Department of Education, Employment and Workplace Relations, for Speech Pathology Australia to conduct skills assessment of overseas trained health practitioners intending to apply for migration to Australia under the Australian Government's General Skilled Migration program. Additionally the Association's role in Accreditation of all university speech pathology programs is recognized by the government and universities.





It had been the position of the Association, that if the profession came under the NRAS, we would seek to continue our role in regard to its Accreditation and overseas qualifications assessment functions, acting in the capacity of an external accreditation entity. Despite not coming under NRAS, it is our intention to continue to review our existing Accreditation procedures in the light of the new national scheme and where appropriate mirror specific models and guidelines, despite there not being the requirement to do so under any legislative framework.

However in regard to the draft legislation, we wish to raise specific concern regarding the **'independence'** of Accreditation Standards and decisions.

As referred to under **Clause 10 (4)** the Ministerial Council will have the power to override the accreditation standards recommended by the Professional Board, where it is believed an accreditation standard would "...have a substantive and negative impact on the recruitment or supply of health practitioners to the workforce".

It is further discussed in the "Guide to the Exposure Draft" that Ministerial Council's interference may relate to changes in clinical placement hours or workplace or work practice standards, that may be perceived as having a negative impact on the workforce.

While clearly the Government needs to consider workforce matters at all times, this legislation unnecessarily provides the government the power to overrule professional standards on the basis of workforce shortages. Speech Pathology Australia contends that more of a lesser standard is not appropriate workforce planning at any time. The powers of the Ministerial Council in this regard need to be removed.

As a further step to ensure independence in the setting of accreditation standards, the Association recommends that the Accreditation Committee or External Accreditation entity sets the standards which are then adopted by the Profession's National Board, as against needing its approval. Currently, **Clause 49 (a)** states that accreditation standards which are developed by the Accreditation Body are to be *approved* by the National Board. Speech Pathology Australia suggests that the terms "endorsement of" or "adoption of" be used in recognition of the independence of the accrediting body's decisions regarding development of accreditation standards.

Mandatory Reporting and Criminal Checks

While in principle Speech Pathology Australia supports the intentions of both Mandatory Reporting of reportable conduct and Criminal History Checks, the Association is aware that some specific concerns have been raised by some of the professions under NRAS who will raise these issues in depth. In this instance we are happy to defer to colleagues, namely the submission from the Australian Psychological Society and the Guild Insurance Limited who will outline these concerns with which we concur.

Public Interest Assessor

While the need for independence, equity and fairness in the investigations of complaints is vital, the need for a Public Interest Assessor is unclear and potentially adds an unnecessary layer to the complaints process.

National Boards have a representation of those not from the profession, providing for level of greater impartiality and input from outside the profession.





Where a complaint is received it is incumbent on the relevant National Board to notify the health complaints entity in their jurisdiction, this being an independent body considering the interests of the public.

It is assumed that Investigation Tribunals and complaints panels will include consumer or 'lay person' representatives, again adding a sufficient level of public/consumer interest in investigations and decisions regarding a practitioner's conduct.

It appears that the involvement of the PIA may set up unnecessary conflict with the National Board which has been given the delegated power to investigate complaints pertinent to that profession.

SUMMARY

Many of the proposals in the draft legislation are seen as a step forward in regulating health professions in a consistent and rigorous manner. Speech Pathology Australia particularly supports systems for qualification checking, mandatory CPD, and detailed complaints management processes, including practitioner professional standards and health status assessment. The Association cautions in regard to the layers involved in complaints reporting with respect to the Public Interest Assessor; and in particular requests amendment to the Accreditation clauses to ensure the independence of setting and accrediting educational and training standards. Finally, the definitions section requires revision to remove the present (likely unintended) inference that Speech Pathology is not a 'profession' simply because it is not at this time included in the NRAS.

Again Speech Pathology Australia wishes to confirm its position that the speech pathology profession's inclusion in the National Registration and Accreditation Scheme must be reconsidered. We intend to make further representation on this matter at an appropriate time.

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