



**Australian
Dental
Council**

SUBMISSION

on

**NATIONAL REGISTRATION AND ACCREDITATION SCHEME
FOR THE HEALTH PROFESSIONS**

CONSULTATION PAPER ON

**Issues Supplementary to the Intergovernmental Agreement on a National
Registration and Accreditation Scheme for the health professions to be
included in the first bill**

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Introduction

The Australian Dental Council appreciates the opportunity to comment on issues included in the first Bill to establish a National Registration and Accreditation Scheme for the Health Professions that are supplementary to the Intergovernmental Agreement (IGA).

The Australian Dental Council (ADC) was formed in 1993 and incorporated in 1996. Membership of the ADC comprises the following bodies associated with the standards of education and training and professional practice for dentists, dental specialists, dental and oral health therapists, and dental hygienists in Australia:

- (a) the Dental Boards of the States and Territories of Australia
- (b) the Australasian Council of Dental Schools
- (c) the Australian Dental Association Inc
- (d) the Royal Australasian College of Dental Surgeons
- (e) the Australian Dental and Oral Health Therapists Association
- (f) the Dental Hygienists Association of Australia

In addition, the Dental Council of New Zealand and the Council of Regulatory Authorities for Dental Technicians and Dental Prosthetists Australia and New Zealand Inc (CORA) have Observer status on the ADC Board. The ADC is governed by a Board of Directors comprising nominees of the above member bodies, together with the office bearers and Chairs of standing committees.

The principal functions of the ADC are:

- (a) to advise and make recommendations to Australian State and Territory Dental Boards in relation to:
 - the accreditation of education courses leading to a registrable dental or oral health qualification, conducted by Australian dental schools and other recognised institutions
 - the assessment of the suitability for practice in Australia of persons with overseas dental qualifications, and
 - uniform criteria for recognition of qualifications for registration and standards of practice
- (b) to provide advice on matters concerning the occupational regulation of dentists, including general and specialist registration, and of professions allied to dentistry
- (c) to undertake certification of other education courses that do not lead to a registrable dental or oral health qualification, conducted by Australian dental schools and other appropriate institutions.

The ADC has consulted with the following stakeholder groups in the compilation of this response to the Consultation Paper issued by the Practitioner Regulation Subcommittee of the AHMAC Health Workforce Principal Committee and dated 13 August 2008:

- Australian Commercial Dental Laboratories Association
- Australian Dental and Oral Health Therapists' Association Inc
- Australian Dental Association Inc
- Australian Dental Prosthetists' Association
- Australasian Council of Dental Schools
- Council of Regulating Authorities for Dental Technicians and Dental Prosthetists Australia and New Zealand Inc
- Dental Hygienists' Association of Australia Inc
- State/Territory Dental Boards.

For ease of reference this Submission uses numbering which follows the numbering of the Consultation Paper. Only paragraphs on which comments are made have been reproduced in this Submission (hence the numbering is incomplete). Comments are in ***bold italics*** following the relevant extract from the Consultation Paper.

2. Australian Health Workforce Ministerial Council

2.1 Publication of decisions

Clause 7.5 of the IGA confers a number of decision making responsibilities on the Ministerial Council. All Ministerial Council decisions must be by consensus. However, the IGA is drafted in such a way that it is only clear under Clause 7.5(i) that the Council's power to intervene on budgets and fees must be transparent.

It is proposed that all interventions by the Ministerial Council should be transparent. It is therefore proposed that when the Ministerial Council gives written directions to the National Agency, or any of the professional boards, that the legislation require the written directions to be:

- published by the Ministerial Council on its internet site, and
- included in the National Agency's annual report, which is to be tabled in the Houses of Parliament of all participating jurisdictions.

Submission of the ADC:

The inclusion of such requirements will ensure transparency and is supported. It will also ensure accountability in the use of the power of direction by the Ministerial Council and achieve an appropriate balance with the principle of professional self regulation. Similar provisions are contained in current Queensland registration legislation and have worked effectively in achieving these objectives.

3. Australian Health Workforce Advisory Council

The IGA provides for the creation of the Australian Health Workforce Advisory Council to provide advice to the Ministerial Council on matters relating to the scheme, as established by the legislation. The IGA specifies the length of appointment for members of the Advisory Council is, initially, for three years, with membership and terms of reference reviewed by the Ministerial Council after that time. The Advisory Council will be funded by governments.

3.5 Resignation and removal

It is proposed that the legislation make provision for members of the Advisory Council to resign their appointments by written notice to the Chair of the Ministerial Council. It is further proposed that the Chair of the Ministerial Council, acting with the authority of the Ministerial Council, have power to terminate the appointment of an Advisory Council member, but only on the grounds specified in the legislation. This could include grounds such as bankruptcy and engaging in paid employment that conflicts, or could conflict, with the performance of duties.

Submission of the ADC:

This proposal is supported. Provision should also be made for the Ministerial Council to terminate the appointment of an Advisory Council member who is a registered health practitioner whose registration is cancelled by the relevant Board under the disciplinary processes. Similarly, power to suspend membership should also be included if such a member is being investigated for, or has been charged with, serious professional misconduct under the disciplinary processes. As well, the Ministerial Council should be required to publish selection criteria for appointment to the Advisory Council and any changes to those criteria.

3.7 Coverage for legal liability – indemnities and immunities

It is proposed that the legislation make provision for any immunities for members of the Advisory Council, as is necessary and appropriate to the exercise of their advisory role.

Submission of the ADC:

This proposal is supported, with the addition at the end of the words ‘acting in good faith’.

3.8 Reporting requirements

It is proposed that the legislation will require the Advisory Council to submit to the Ministerial Council an annual report with respect to its role, as soon as possible after 30 June each year after the first year of operation, and for the Ministerial Council to have capacity to make directions concerning the matters to be reported.

Submission of the ADC:

This proposal is supported.

4. National Agency

The IGA provides for the establishment of the National Agency to administer the scheme and to be governed by an agency management committee. The agency will:

- provide support to boards and their committees
- maintain the national registers
- be required to agree fees profession by profession with the boards, and
- set business rules for the development of professional standards (not professional content, which is to be set by the national boards).

4.2 Terms of office – length of appointments, sitting fees and allowances

Consistent with membership of the Advisory Council, it is proposed that the legislation specify that the length of appointment of members of the Agency Management Committee be for a period of three years.

Submission of the ADC

It is the view of the ADC that three years is insufficient to ensure the development of skills of members and balance this against appropriate regeneration of membership with the retention of corporate knowledge. It is proposed that the length of appointment be four years with a maximum of three consecutive terms, that a policy commitment be made to appropriate regeneration in membership over time and that timing of appointments be staggered to assist with continuity of corporate knowledge.

4.4 Decision making in management committee

The committee will have powers to:

- regulate its own proceedings, subject to directions from the Ministerial Council
- conduct meetings via contemporary and electronic means of communications, and
- discuss matters and make advisory resolutions without formal meetings.

Submission of the ADC

This proposal is supported, with the addition of a further dot point:

- ***make decisions in the interests of the public free from direction by the Ministerial Council.***

4.6 Coverage for legal liability – indemnities and immunities

It is proposed that the legislation's indemnity provisions provide protection from personal liability for a person assisting the National Agency in the performance of its functions (including Agency Management Committee and staff), provided the person has acted honestly and reasonably.

Submission of the ADC

This proposal is supported.

4.9 Staffing arrangements – capacity to employ, set terms and conditions

It is proposed that the legislation make provision for the National Agency to be empowered to directly engage its own staff and decide the terms and conditions of employment, subject to any relevant industrial instrument. This will among other things enable flexibility for the agency having regard to the previous employment arrangements of staff transferring from existing boards into the new agency.

Submission of the ADC

This proposal is supported. In addition, the ADC proposes that the same provision should be made for National Boards.

4.10 Financial provisions

Agency funds

It is proposed that the legislation make provision for the Agency Management Committee to have financial powers, including the ability to:

- keep a fund under the name of the National Agency, into which all fees, fines and penalties paid or recovered by the Agency under the Act must be paid
- pay any other money received by it into the fund, including income from the investments of the fund administered by the Agency Management Committee, and
- pay the expenses incurred by the Agency in the administration of the Act.

Fee setting powers

- It is proposed that the legislation clarify that the agreement on fees between the agency and each board may include the provision for fee refunds, waivers or reductions, and the imposition of late or restoration fees.

Submission of the ADC

The ADC submits that the principle of 'funding follows function' should apply and that the National Boards should be empowered to negotiate their budget with the Agency Management Committee and should have control over their budget, and be able to contract with the Agency for administrative services in the management of their budget. Within this agreement the Boards should have the power to engage their own staff to service Boards directly.

Adequate funding of Boards, including committees established to enable the delivery of a board's functions in relation to course of study accreditation and assessment of overseas trained practitioners, is essential in order to maintain continued functioning. At present, funds from universities, professional organisations and per capita levies from registrants, resource the process of course accreditation, with significant contribution of pro bono work from the profession. Whilst examination fees support assessment of overseas trained practitioners, there is still a significant amount of pro bono work. Functioning arrangements for Boards must not

jeopardise this contribution from the profession, and funding levels must be adequate to ensure continued quality in delivery of a board's functions.

4.12 Reporting requirements for agency

It is proposed that the legislation will also require the National Agency to prepare an annual report each financial year, submitted to the Ministerial Council, to be tabled in the Houses of Parliament for each jurisdiction. The annual report of the Agency may be consolidated with reports from the National Boards.

Submission of the ADC

This proposal is supported with the additional reporting requirement that even with consolidated accounts there should be separate identification of the accounts for each Board and each profession. Within dentistry, reporting should identify accounts for each of the constituent professions.

5. National Boards

The IGA provides for the creation of profession specific national boards. Members of the relevant profession will form the majority of each board. For each profession, the boards:

- will oversee development of standards for registration and accreditation
- will oversee registration and accreditation functions, including individual registration and accreditation decisions (***see comment under 5.2 below***)
- will decide on committees needed to perform these functions
- may delegate powers to State and Territory committees, and
- can provide policy advice to Ministers.

The hearing of serious disciplinary matters will be undertaken by entities external to the scheme which are individually identified in each jurisdiction.

The legislation will make provision for the establishment of ten national boards, one for each of the professions (or groups of professions) listed in Table 1 of the IGA, with the addition of the podiatry profession.

5.1 Names of boards

It is proposed that the ten National Boards be established with the following titles:

Australian Chiropractors Board
Australian Dental Care Practitioners Board
Australian Nurses and Midwives Board
Australian Medical Practitioners Board
Australian Optometrists Board
Australian Osteopaths Board
Australian Pharmacists Board
Australian Physiotherapists Board
Australian Podiatrists Board
Australian Psychologists Board

Submission of the ADC

The proposed naming of the Board as 'Australian Dental Care Practitioners Board' is not supported. Instead it is submitted that the name of the Board be 'Australian Dental Practitioners Board'. This title is consistent with the current nomenclature for jurisdictional Boards and is acceptable to all of the professional groups proposed to be included in this Board, including the

potential inclusion of dental technicians. The word 'Care' is not included in the name of the Board for any of the other health professions. While the term 'Dental Care Professional' is used by the General Dental Council in the UK, it does not include dentists and so is not an inclusive term that is appropriate for the title of the National Board that will include all of the professional groups involved in the delivery of dental treatment and care in Australia.

5.2 Decision making procedure

The legislation will specify that the National Boards will have powers to:

- regulate their own proceedings, subject to directions from the Ministerial Council
- conduct meetings via contemporary and electronic means of communications, and
- make resolutions without formal meetings.

Submission of the ADC

The ADC is concerned that the legislation should clarify potential inconsistencies between the first dot point under 5.2:

regulate their own proceedings, subject to directions from the Ministerial Council (emphasis added)

the second dot point under 5 above:

will oversee registration and accreditation functions, including individual registration and accreditation decisions (emphasis added)

and the provisions of the IGA (Appendix):

1.25 The role of the boards will be to:

- (a) establish local and national committees as required to enable the delivery of a board's functions in relation to ... course of study accreditation and assessment of overseas trained practitioners...;
- (b) approve a list of accredited courses of study that meet the qualifications required for general registration;
- (c) oversee the assessment of the knowledge and clinical skills of overseas trained practitioners whose basic qualifications are not recognised in the list of approved courses of study and determine the suitability of an applicant's knowledge and clinical skills for registration in Australia;

The ADC submits that it is essential that the language and provisions of the legislation remove any ambiguity and specify that accreditation decisions (for assessment of individual overseas trained practitioners or accreditation of individual courses of study) cannot be subject to direction from the Ministerial Council or from the Board.

Professional accreditation processes must be independent, fair, objective and robust to protect the public, have credibility with the profession and for international recognition. Under the terms of the IGA the Board is charged with overseeing these processes but establishes committees (or appropriate bodies) to deliver the accreditation functions. Accreditation includes the setting and maintenance of standards and an evaluation of whether individual education and training programs are adhering to those standards. The IGA implies that the Boards will not develop these standards but will ensure this development occurs (see 5.11 below).

It is proposed in the IGA that accreditation functions be assigned to existing accreditation bodies for a three year transition period. In all of the health professions involved in the NRAS accreditation against these standards is undertaken by assessment teams. Accreditation standards require that members of assessment teams, boards and their decisions are not influenced by stakeholders, whether registration committees or boards, workforce considerations and others with conflicts of interest. The legislation must ensure this independence is maintained by specifying that pursuant to clause 1.25(b) of the Appendix to the IGA the Board receives the decision on the accreditation status of a particular professional

education program that the accrediting body has reached without outside influence from the profession, the registration bodies and/or other interested parties, including the Ministerial Council. Similar provision should apply to the assessment of individual health practitioners (including overseas applicants).

5.3 Sitting fees and allowances, and length of appointment

It is proposed that the legislation provide that sitting fees and allowances for members of the Boards will be determined by the Ministerial Council. It is proposed that the legislation specify that the length of appointment be for a period of three years.

Submission of the ADC

It is the view of the ADC that three years is insufficient to ensure the development of skills of members and balance this against appropriate regeneration of membership with the retention of corporate knowledge. It is proposed that the length of appointment be for four years with a maximum of three consecutive terms, that a policy commitment be made to appropriate regeneration in membership over time and that timing of appointments be staggered to assist with continuity of corporate knowledge.

5.6 Resignation and removal

It is proposed that the legislation make provision for members of the National Boards to resign their appointments by written notice to the Chair of the Ministerial Council.

It is further proposed that the Chair of the Ministerial Council, acting with the authority of the Ministerial Council, have power to terminate the appointment of a Board member, but only on the grounds specified in the legislation. This could include grounds such as bankruptcy and engaging in paid employment that conflicts, or could conflict, with the performance of duties.

It is further proposed that the legislation make provision for members of the National Boards to cease to be members if they are absent without notice to the Chair, for three consecutive meetings.

Submission of the ADC

This proposal is supported. Provision should also be made for the Ministerial Council to terminate the appointment of a Board member who is a registered health practitioner whose registration is cancelled by the relevant Board under the disciplinary processes. Similarly, power to suspend membership should be included for circumstances where such a Board member is being investigated for, or has been charged with, serious professional misconduct under the disciplinary processes. As well, the grounds for termination should include conviction of an indictable offence.

5.4 Coverage for legal liability - indemnities and immunities

As for National Agency it is proposed that the legislation's indemnity provisions provide protection from personal liability for Board members and persons acting on their behalf in the performance of functions conferred on them by the Act provided the person has acted honestly and reasonably.

Submission of the ADC

This proposal is supported.

5.5 Reporting requirements

It is proposed that the legislation require the National Boards to prepare a contribution on their functions and operations for the Agency-coordinated annual report on the scheme.

Submission of the ADC

This proposal is supported.

5.10 Arrangements for Ministerial Council to review composition of boards

The IGA provides for the size and composition of each board to be decided by the Ministerial Council, following consultation with the relevant profession.

It is proposed that the legislation clarify that the initial decision by the Ministerial Council on the size and composition of boards at the beginning of the new scheme can be reviewed by the Ministerial Council as is necessary from time to time, and in consultation with the relevant profession.

Submission of the ADC

This proposal is supported.

5.11 Responsibility for developing accreditation standards (accreditation committee or bodies)

In relation to the development of accreditation standards, the IGA implies that the National Boards will not develop the standards, but will ensure that this development occurs. It is proposed that the legislation clarify this point by stating that the accreditation standards will be developed by any accreditation body or committee assigned by Ministerial Council to perform the accreditation functions.

Submission of the ADC

The intention of this proposal is supported, but the ADC questions if it requires a legislative basis.

Clause 1.25(b) of the Appendix to the IGA provides that each National Board is responsible as part of its role to manage the development of accreditation standards for approval by the Ministerial Council and that 'comply with the objects of the legislation, any policy directions of the Ministerial Council and the framework and requirements for standards developed by the agency management committee'. In addition, clause 1.34 clarifies that as a transitional measure current accrediting bodies will be appointed to continue to function subject to the requirement that within the first 12 months of the new scheme they meet standards and criteria set by the national agency which include criteria for the operation of the accreditation function.

Recently, members of the Forum of Australian Health Professions Councils developed a statement on standards for professional accreditation processes. This document 'Standards for Professional Accreditation Processes' has now been endorsed by Professions Australia and the national health professions councils who constitute the Forum, which include the Australian Dental Council. The accreditation processes of the ADC conform with these standards and meet their requirements for independence, fairness, objectivity and robustness.

Accreditation includes the setting and maintenance of standards for the particular profession, and an evaluation of whether individual education and training programs are adhering to those standards. The initial setting and revision of standards typically involves extensive consultations

between the various stakeholders, and is most appropriately undertaken by the relevant profession. It is emphasised that in the interests of public safety accreditation against these standards by assessment teams and the decisions reached must be independent of direction from registration committees or boards, workforce considerations and others with potential conflicts of interest, including the Ministerial Council.

