

In reply please quote C42: DR

10 September 2008

Attention : Practitioner Regulation Sub-Committee
nraip@dhs.gov.vic.au

Submission : National Registration and Accreditation Scheme for Health Practitioners

Thank you for providing the Council on Chiropractic Education Australasia Inc (CCEA) with the opportunity to present a submission in relation to the provided Consultation Paper. The CCEA understands the importance of a National Registration and Accreditation Scheme and would like to put forward the following in relation to the questions contained within the Consultation Paper.

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The CCEA's responses to the Consultation Paper Questions are contained on the following pages.

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Yours sincerely



Philip Donato, Chairperson CCEA

Australian Health Workforce Ministerial Council

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2.1 Publication of decisions

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- 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.

The CCEA understands and concurs with the need for transparency at all levels within the Scheme to ensure confidence in the processes and therefore agrees with the two points above.

It is also suggested that there needs to be stated delivery timeframes, but recognizing relevant auditing and ASIC timetables could also apply.

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.

The CCEA agrees that the legislation makes provision for resignation or removal of appointments from the Advisory Council if a member:

1. is affected by bankruptcy action, including being declared bankrupt or compounded with creditors; or
2. is, or has been, convicted of an indictable offence; or
3. is, or has been, convicted of an offence against any of the National Scheme’s legislation.

Relevant pecuniary and non-pecuniary conflicts of interest may not need to be mandatory grounds for removal – appropriate provisions for declaration and non-participation could be made, as is often the case in many organisations.

It is also suggested the role of the Advisory Council requires greater specificity to assist in identifying potential conflicts of interest .

3.6 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.

The CCEA agrees that the legislation makes provision for Advisory Council member immunities.

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.

The CCEA again agrees with this principle however strongly suggests that a definitive timeframe, not a self-determined “as soon as possible” statement be included. Similarly, there must be an adherence to auditing and ASIC requirements.

It is suggested that the “matters to be reported” be selective and pertinent to assist in streamlining the reporting.

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.

The CCEA agrees with the initial three year term however also recommends a pre-determined “staggering” of appointments to assist with continuity and the potential loss of intellectual property. CCEA would also like to see that provision be made for re-appointment to assist in retaining expertise etc.

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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.

The CCEA agrees with this proposal.

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.

The CCEA agrees with the above proposal and is extremely grateful to staff of Chiropractors Registration Boards around Australia for the support and assistance they have provided over the years. We would strongly encourage that these staff be highly considered for newly created positions and that their previous employment arrangements be retained.

- It is requested that the Agency determine and make provision for transition issues in relation to required transition staff. This becomes especially important in relation to ongoing complaints/hearings.

- Boards need to have a role and agreement in relation to staff recruitment for their particular Board;
- Transition arrangements should also consider continuity of superannuation entitlements etc.

4.10 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.

a. Agency Funds

The CCEA, while understanding the need for the Agency Management Committee to keep a fund under the name of the National Agency, is of the opinion that it would need to be very clearly identified within the legislation as to the distribution of such funds to ensure that smaller professions' needs are not financially restrained by the provision of funds to larger professions.

As an accreditation agency CCEA would need to maintain financial autonomy to fulfil its functions under a "Service Agreement". To fulfil its international obligations, CCEA needs to be an independent legal entity and is accountable to ASIC requirements. CCEA would welcome the opportunity to assist you in appreciation of these requirements.

For appropriate transparency, accountability and ability to deliver an Annual Report at National Board level, it is CCEA's strong recommendation that profession-specific registration funds be held and reported at profession-specific Board level.

Similarly, any monies and assets which are transferred from the current Boards are to be held (if transferred from State) by the profession-specific Board to be administered by the Agency as instructed by the Board.

b. Setting Fees

The CCEA agrees that issues such as fee refunds, waivers, reductions, late fees and restoration fees need to be included in the legislation and trusts that a mapping of all current fees in these areas, as well as registration fees, will be taken into consideration prior to being gazetted.

It would be expected that in determination of the Agency component towards fee setting, a “percentage-based model of workload per profession” be utilized.

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.

The CCEA agrees with this proposal.

In addition, mechanisms should be in place to ensure that the Agency does not incur unnecessary costs or expansion. It is essential that the Agency undergo a full independent operational audit/assessment every three years.

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
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- Australian Podiatrists Board
- Australian Psychologists Board

The CCEA prefers Chiropractors Board of Australia.

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.

The CCEA agrees with this proposal and trusts that a statement concerning possible re-appointment would be included. Following the initial 3 year appointments, CCEA would recommend that there be a staggered future arrangement to maintain continuity and intellectual property.,

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.

The CCEA agrees with this proposal and recommends points similar to those made under 3.5.

5.7 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.

The CCEA agrees with this proposal.

5.8 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.

The CCEA agrees with this proposal.

5.10 Arrangements for Ministerial Council to review composition of boards

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.

The CCEA agrees with this proposal. A recommendation with respect to the composition of the Board should be the inclusion of an academic member and accreditation body member of the relevant profession. Boards often require legal input and this could be in the form of a consumer representative with legal expertise or appropriate legal staff member to be present at Board meetings.

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.

The CCEA is a bi-national agency with representation from all Australian and New Zealand Chiropractors Registration Boards and Chiropractors Professional Associations, plus Institutional and community representatives. The CCEA is a member of the CCEI (Councils on Chiropractic Education International) which requires member agencies to maintain legal independence as well as to develop accreditation standards and processes acceptable to CCEI.

Accreditation granted by a CCEI member agency earns international program equivalency enabling greater international mobility/portability of graduates from accredited programs/institutions wishing to practice in overseas jurisdictions.

The CCEA is currently responsible for program accreditation in Australia, New Zealand and the Asian region. It becomes important that the Accreditation Standards and processes remain independent and separate to the National Board while still maintaining an active and cohesive relationship with the National Board.

The proposal in 5.11 above states; “that the accreditation standards will be developed by ANY accreditation body or committee assigned by Ministerial Council”.

The IGA (1.34) indicates that the Ministerial Council will assign accreditation functions to existing accreditation bodies. 1.36 indicates; “within three years, in consultation with the relevant accreditation body and the profession, the relevant Board will review this assignation and the future arrangements and make a recommendation to the Ministerial Council”. 1.37 Ongoing decisions about whether external bodies should continue to perform accreditation functions will be taken up by the Ministerial Council following consultation with the Board.

The use of the term ANY is not entirely accurate in reference to the IGA. It is appropriate that accreditation bodies be profession-specific.

OTHER ISSUES

We understand that the IGA provides a broad framework and is not designed to provide all the detail. A variety of questions remain unanswered, e.g.

1. Managing existing assets of State jurisdictions.
2. Do the National Boards have any legal status?
3. Do the National Boards have any financial freedom?
4. Details of the Local jurisdiction committee e.g.:-
 - a) size, structure,
 - b) What local powers will these committees have?
 - c) What comparison e.g. similarities & differences exist between the current State Boards and the new Local committees in relation to structure, function and role?
5. Will the new National Boards have any input into the selection of the Consumer representatives or will they be solely Ministerial Council selected appointments? How will consumer representatives be sourced?
6. How is it intended to incorporate workforce factors in the future into the Scheme?

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