

**PSYCHOLOGISTS REGISTRATION BOARD OF VICTORIA RESPONSE TO
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**

Section		Comment
1.1 Objects or Purposes	5.3 (b)	Whilst red tape reduction is an appropriate aim for the national project, it is not a usual objective to enshrine in legislation. Also it could be problematic if in the future any amendments could by necessity be perceived to increase red tape.
	5.3(e)	<p>Is not part of (e) in relation to workforce mobility captured in (b) and (c)?</p> <p>Omissions in this section, though noted in the IGA include:</p> <ul style="list-style-type: none"> • Registration of students, where appropriate; • Investigation of complaints and the disciplinary function; • Investigation of the health of practitioners when it effects their ability to practice; • Regulating the advertising of regulated health services; and • A generic “other related matters”.

	5.4(b)	Who determines reasonable? The concern will be that there may be a wide divergence in fees that relate to the size of each health workforce- which always will compare unfavourably between professions. Should it not be that the fees will be based on cost recovery for each of the regulated professions?
3. Australian Health Workforce Advisory Council	Paragraph 1	Could add the clarity that “funded by governments and not from the fees generated by the registrants”.
	Paragraph 2	<p>Does this infer that in the latter situation where the Advisory Council advice is published due to no response from the Ministerial Council, that this advice now becomes the national policy/position on that matter?</p> <p>It needs to be made clear in the legislation who decides policy. A Ministerial Council that makes policy (especially if the policy is tabled in Parliament) has a far different effect than policy that is made by a committee. Where policy is specific to the particular profession it would be sensible for the national board of that profession to decide policy. The Ministerial Council would set the policy framework.</p>
3.1 Decision making procedure	Point 3	From a due process perspective, does this point need to be clarified? As currently written, it would indicate that no meeting needs to be held to hold a resolution. Yet the intent would be that a meeting is held via the methods outlined in point two. The third point would be better articulated as “without face to face meetings but following its agreed standards in relation to quorums and passing of resolutions but using the means of meetings outlined in the point above”- or words to that effect.

3.2 Sitting fees and allowances, and length of appointments		<p>It is suggested that the wording for the term of office should be “up to” three years.</p> <p>It is important to clarify that the intent will be not to reappoint the whole Advisory Council at one time- this creates unacceptable levels of risk in terms of corporate knowledge, skills and continuity. It would be recommended that appointment terms are staggered at the commencement of the Council to allow for a similar situation that exists now in the current boards- that is that approximately only half of a board is due for reappointment at any one time.</p>
3.4 Leave of absence and acting members		<p>Could include where this will be articulated- assuming that leaves of absence and acting arrangements for members are being contemplated.</p>
3.5 Registration and removal		<p>Also subject to current disciplinary proceedings or has had a finding against them by a regulator must be included in this section.</p>
3.8 Reporting requirements		<p>There are two issues within this point. Who will determine “as soon as possible” should there not be a set period of time such as three months? Is the power of direction from the Ministerial Council in line with other similar schemes?</p>
4.1 Corporate structure	Paragraph 2	<p>Are there any contingency plans for the possibility/probability that the States and Territories will not being able to pass the adoption laws immediately?</p>

4.2 Terms of office – length of appointments, sitting fees and allowances		<p>Refer to comments at 3.2.</p> <p>There does not appear to be a section for the Agency Management Committee that addresses removal of members similar to that 3.5.</p>
4.3 Leave of absence and acting members		Refer to comments at 3.4.
4.4 Decision making in management committee		Refer to comments at 3.1.
4.7 Confidentiality provisions	Paragraph 2	What about the State and Commonwealth Privacy and Freedom of Information legislation?
4.8 Ownership of Data		<p>Will this address the transfer of data and maintenance of data from the current Boards?</p> <p>Data collected and acted upon before the scheme comes into effect will be subject to the conditions under which the data was originally collected. It can't just be shared around within a national scheme as if it was collected pursuant to a national scheme.</p>
4.9 Staffing arrangements – capacity to employ, set terms and conditions		<p>Will this enshrine issues such as continuity of service that would normally occur in a transmission of business situation?</p> <p>Is there a process for ensuring that officers employed at the same level are paid similar amounts?</p>

<p>4.10 Financial provisions</p>		<p>What needs to be clearly articulated is whether each regulated profession will have its fees and funds quarantined or whether there will be a cross subsidising between professions. This will have a direct impact on fee levels for each profession.</p> <p>Will each profession have the same fee or a profession specific fee? If profession specific fee, each profession will have to have their own fund? Will each profession then have different standards for each function it must have in place, because some professions will have less money?</p>
<p>4.11 Privacy and powers to disclose information to and request information from other agencies and persons</p>		<p>See comments at 4.8. The legislation can't just ignore State and Territory Privacy acts.</p>
<p>4.12 Reporting requirements for agency</p>		<p>As outlined above, this indicates that there could be a possibility that each National Board will not have an individual annual report. This is of concern to the professions, as publications such as annual reports are the vehicle for regulators to report to the profession, the public and other interested parties about key issues that pertain to that particular profession.</p> <p>The combination of the report of the Agency and the Boards does not reflect the two very different roles that the agencies perform within the structure and as such should not be combined. It also fails to acknowledge that there can be a wide diversity of issues that occur on a yearly basis within each profession, regardless of the commonality of legislation that they operate within.</p>

4.13 Relationship to other bodies such as Auditor-General and Ombudsman		What will be the role of the Health Services Commissioners and Ombudsman? What about the Crime and Misconduct Commissions some States have?
5. National Boards	Disciplinary matters	<p>Need to ensure that the responsibility for the current “lower level” disciplinary matters and health investigations is clearly articulated in this document.</p> <p>How will the scheme ensure that the external entities apply the law consistently, have similar procedures and make similar decisions in relation to the same professional misconduct? Also each external entity will be bound by the interpretation of the law of their Supreme Court. These may well be different between States and Territories.</p>
	Composition of each national board	<p>Whilst the response to this topic will be addressed via another forum, it should be noted that there appears to no legal member included in this proposed structure. It appears that the strategy is to have lawyers count as community members, the concern being that combining legal and community members is flawed as a legal member differs from a community member.</p>

	1.24 (a)	Given some members are community members and that there are other functions of the Boards, inclusive of disciplinary functions, surely a statement such as this discounts the wide variety of skills and knowledge other than registration and accreditation that practitioners bring to boards. Types of other skills outside accreditation and registration that will be needed from National Board members are; complaint handling, finance, corporate governance, human resources, strategic planning, budgeting.
	1.24 (b)	There is a danger that a person nominated by a professional body will represent the views of that body rather than acting in the best interest of the registration scheme. All positions should be advertised so that members of the profession can have confidence that the best people have been appointed.
	1.24 (c)	All suitably qualified persons should be interviewed before a recommendation is made to the Ministerial Council. This would be an open and transparent process that would result in the professions having confidence that Board members have been appointed on merit.
	1.24 (e)	But can belong to a professional body- how will “represent” be defined?

5.1 Names of boards		<p>The use of Australian as a generic initial word in the title of each of the Boards is not supported. The name of the profession must be the commencing word i.e. Psychologists Board of Australia. This view is proposed for the following reasons:</p> <ul style="list-style-type: none"> • The experience of the Boards is that the public and profession use the profession's name as the unique identifier when searching for and identifying the Boards; • The use of Australian first could be confused as a government agency as opposed to a statutory authority; and • Most of the professional/ industrial groups use Australia as an initial word e.g. the ANF, the APS, the AMA so these titles could create confusion between a regulator and the professional or industrial groups.
5.2 Decision making procedure		See previous comments at 3.1.
5.3 Sitting fees and allowances, and length of appointment		<p>See previous comments at 3.2.</p> <p>Why can't fees be based on the rulings of the Commonwealth Remuneration Tribunal?</p>
5.4 Confidentiality provisions		<p>What about the FOI Acts, the Human Rights Acts and the Privacy Acts (and Privacy Commissioners). Have you considered the implications when appeals are made to the various 'external entities' in the different States and Territories in relation to these issues and any subsequent appeals to the Supreme Courts/Federal Court?</p>

5.5 Leave of absence and acting members		See comments at 3.4- consistency in approaches to all of these matters should be considered.
5.6 Resignation and removal		See comments at 3.5.
5.8 Reporting requirements		See comments at 4.12 around the importance of National Boards to maintain ability to report independently of each other on each profession
5.10 Arrangements for Ministerial Council to review composition of boards		What would be the trigger for this review? Can it be initiated at the request of the Boards? Does consultation mean agreement with the proposed outcome? Should there be some minimum non negotiables (such as included in the IGA) such as a member of the profession must always be the Chair?

<p>5.11 Responsibility for developing accreditation standards (accreditation committee or bodies)</p>		<p>This is an important area that must be clarified. The IGA states that the role of Boards is to manage the development of standards including registration, accreditation etc which are then approved by the Ministerial Council. It would be our view that the National Board should develop the standards, in consultation with the accreditation body or committee which is assigned to perform the accreditation function.</p> <p>Accreditation standard setting should be the role of the regulator not the body assigned to perform the function. The National Board would be the final arbiter in this matter consistent with its role of approving a list of accredited courses of study to meet the qualifications required for general registration.</p> <p>This will be further addressed in other submissions.</p>
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NATIONAL HEALTH PRACTITIONER REGISTRATION AND ACCREDITATION

**INFORMATION SHEET 1: AUGUST 2008
OUTLINE OF THE NEW SCHEME AGREED BY COAG**

<p>The National Boards</p>	<p>Point 1</p>	<p>The Boards should decide these standards because they have the expertise, the knowledge and experience of how the profession operates. The Boards must set the standards if the scheme is to be effective. The Ministerial Council can set the parameters for the standards.</p>
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