

Attention: Practitioner Regulation Subcommittee
By email to nraip@dhs.vic.gov.au

Dear Sir or Madam

Information sharing and privacy submission

Thank you for the opportunity to comment on the consultation paper *Proposed arrangements for information sharing and privacy*, as part of the National Registration and Accreditation Scheme for the Health Professions.

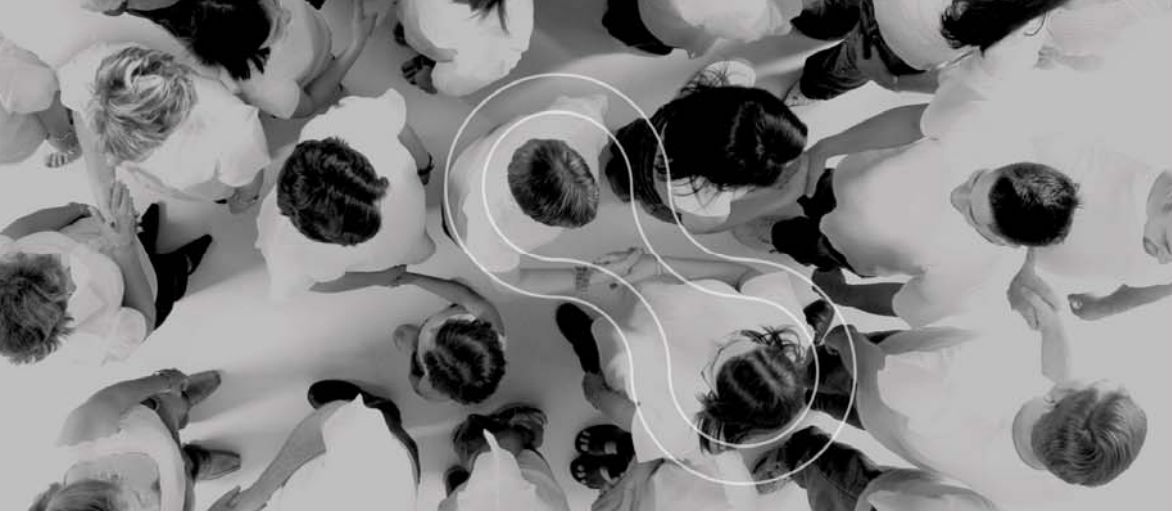
I attach a submission from the Health Quality and Complaints Commission (HQCC), an independent body dedicated to improving the safety and quality of health services in Queensland.

For further information or clarification regarding the HQCC submission, please contact Dr Teresa Lynne A/Director Standards and Quality:
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Yours sincerely



Cheryl Herbert
Chief Executive Officer
15 December 2008



health quality
and complaints
commission

POSITIVE HEALTH ACTION

Response from

Health Quality and Complaints Commission Queensland

to

National Registration and Accreditation Scheme for Health Professions Consultation Paper:

Proposed arrangements for information sharing and privacy

15 December 2008

Introduction

This is a submission from the Health Quality and Complaints Commission (HQCC) in response to the consultation paper *Proposed arrangements for information sharing and privacy* released in preparation for the National Registration and Accreditation Scheme for the Health Professions.

The HQCC is an independent body dedicated to improving the safety and quality of health services in Queensland. Established in July 2006, the HQCC has three key functions – managing complaints, monitoring and promoting quality improvement in health services and sharing information.

The HQCC is supportive of national registration and accreditation, and hopes that public registers of health professionals will protect consumers and enable them to make informed decisions about their health care. The information collected for the register will also allow accurate identification and monitoring of health professionals in the interests of public safety.

However, it is essential that the national scheme allows for information sharing between all boards and agencies involved in a notification. The arrangements currently in place in Queensland facilitate this and are essential to the successful handling of complaints and the efficient conduct of investigations. It is vital to the safety and quality of health care in Australia that information sharing between relevant state/territory and federal agencies is maintained under the scheme.

Specific comments

The HQCC's response to specific proposals included in the consultation paper are listed below; identified by the reference numbers used in the consultation paper. Where proposals are omitted it can be assumed the HQCC has no comment.

Section 2 Overview of information required to operate the scheme

While the HQCC agrees with the concepts outlined in this section, it is suggested that a number of terms and concepts be more fully elucidated. The proposal that the boards will be able to disclose information to other relevant parties is an important one, but the definition of *relevant parties* and the circumstances of this information sharing require more detailed consideration. It is suggested that parties be required to submit a written request to a body which demonstrates their sufficient interest in a matter. Written requests for information can then be assessed on a case-by-case basis. Similarly, the boards' *information sharing protocols* require clarification and should include principles to guide decision-making which focus on the purpose of the request, rather than the entity making it. It is argued that health complaints commissions will frequently have such interest, as notifications regarding individual health professionals are often part of larger systemic issues in health care.

Section 3 Information to be collected

3.1 Information to be collected for initial registration purposes

Proposal 3.1.1

The proposal – to indicate the purpose of the information being collected – is supported in principle. However, it is noted those purposes are not fully detailed in the table.

Proposal 3.1.2

The HQCC agrees with the categories of information to be collected on registration, but recommends the following additions:

- place of birth, to allow criminal history checking
- primary state of practice, to assist with workforce planning and identification of practitioners
- actual qualification, in addition to academic transcripts
- place of first registration
- specialist endorsements.

At clause (d) on overseas registration details, it is recommended that certificates of good standing be required from all countries where a person has practised in the previous ten years.

At clause (f) on criminal records, it will be necessary to ensure the information requested is consistent with the Commonwealth Spent Convictions Scheme under the *Crimes Act 1914*. This scheme allows a person to disregard some criminal convictions after ten years (or five years in the case of juvenile offenders) and provides protection against unauthorised use and disclosure of that information. Proposal (f) is also silent on whether criminal history checking will be performed for overseas applicants, and how this might be achieved. Finally, the issue of whether information relating to criminal records can be *retained* after recording also requires clarification.

At clause (h) on registration details, the term 'registration identifier' appears and seems to be used interchangeably with 'unique identifier' throughout the consultation paper. Assuming they are the same, it is recommended one term is used consistently to avoid confusion.

3.2 Employer details

Proposal 3.2.1

The HQCC considers that collecting employee details as outlined at option 1 will be resource-intensive and difficult to maintain, particularly given the variable and complex employment arrangements of many practitioners. Option 2 – to give boards the power to require employer details as necessary - is supported, provided the boards are consistent and fair in their requests.

3.3 The unique identifier

Proposal 3.3.1

In principle, the HQCC acknowledges that unique identifiers could be an important tool in protecting the public by facilitating accurate identification of health practitioners. This could be particularly useful where unique identification is not achieved by names and dates of births, for example with very common names or where naming conventions create confusion, and also for tracking registrants over time.

However, the use of unique identifiers raises important issues regarding threats to civil liberties. This is a broader issue requiring careful consideration, and it is perhaps outside the scope of the national registration and accreditation scheme.

3.4 Identity checking on initial registration

Proposal 3.4.1

Option 1 is supported, that all boards require identify checking on initial registration, but not for existing registrants. The '100 point check' system is common and is not considered

onerous for new registrants, but will offer another layer of protection for the public. However, it is considered there is insufficient benefit to justify the administrative and financial burden of identity checking for existing registrants.

3.8 Information to be collected for workforce planning purposes

Proposal 3.8.1

The proposal regarding collecting information for workforce planning purposes is supported, provided there is a clear need for the data and it is not overly burdensome for registrants.

Proposal 3.8.3

Proposal 3.8.3 facilitates the flow of information to federal agencies, and states that information regarding workforce planning will not be shared with the boards. It is assumed that workforce planning information will be collected by the boards on registration and renewal so it seems unworkable that boards will not have access to that information. Further, the boards already collect much of the information suggested for workforce planning and it would perhaps be less burdensome for registrants to provide this information once. Finally, boards may also need to consider workforce planning issues from time to time and so could justifiably demonstrate sufficient interest in that information. It is recommended this proposal be reconsidered.

Section 4 Publicly available information

4.1 Information on the public register

Proposal 4.1.1

The HQCC supports the public register in the interest of public protection but makes the following recommendations. In clause (c), the issue of publishing postcode of contact address and name of postcode area could pose a significant threat to the personal security of registrants. It is recommended this be replaced by primary state or territory of practice, and then give registrants the option to have their postcode or address published. Place of first registration, qualification and the institution where qualifications were obtained could also be of use to the public, as could the registrant's ability to speak a language other than English.

4.2 De-registered practitioners

Proposal 4.2.1

It is assumed that option 1 refers to the *public* register. If so, then this option is supported as de-registered practitioners need to be carefully identified as such. As stated, it is important that the difference between de-registered and unregistered practitioners is made clear to consumers, rather than ambiguously removing such individuals from the register. It is also in the interests of public protection to search only one database for each profession, rather than maintain a separate one for de-registered practitioners. It is also recommended the register be retrospective and show practitioners who have been deregistered in the last ten years.

4.3 Recording of conditions on practice

Proposal 4.3.1

The proposals regarding the recording of information about registrants' health or impairment issues are supported.

4.4 Online public register

The use of the terms 'register' and 'public register' throughout the consultation paper is confusing. If they are different, it is recommended that another term, such as 'full register', be used to clearly distinguish the two.

4.5 Release of public register information

Proposal 4.5.1

The proposals regarding the release of public register information are supported.

4.6 Public access to the findings of formal proceedings

Proposal 4.6.1

The proposal – to provide for the publication of tribunal decisions relating to registrants where it is in the public interest – is supported. However, guidelines will be required regarding what constitutes the 'public interest'.

Proposal 4.6.2

Option 2 – that boards may order that certain decisions are confidential – is supported. While it may be implicit, the proposal needs to reflect that all third parties will be de-identified and not just the patient or client.

Section 5 The privacy regime

5.1 Legislative options

Proposal 5.1.1

The proposal – to use the private sector provisions of the *Privacy Act 1988* – is supported.

Section 7 Information sharing

While section 7 identifies many of the bodies with which information might be shared, the consultation paper is silent on information sharing with professional colleges and associations. These bodies will need to be informed in the event of practitioner de-registration, but could also play a role in early remedial action when the first signs of health, conduct or performance issues are identified.

7.2 Research

Proposal 7.2.1

The proposal – regarding release of de-identified information for research and statistical purposes – is supported.

7.3 Professional Services Review Scheme (PSR Scheme)

Proposal 7.3.1

The proposals – regarding release of information under the Professional Services Review Scheme – are supported in principle. As noted, further consultation will be required to clearly establish the circumstances in which information will be forwarded.

7.4 Medicare Australia

Proposal 7.4.1

The proposal – to allow for release of information to Medicare Australia in certain circumstances – is supported, but again mutual information sharing with the boards needs to be explored.

7.5 Overseas trained practitioners

Proposal 7.5.1

The proposal – regarding disclosure of information to the Department of Immigration and Citizenship (DIAC) for purposes under the *Migration Act 1958* – is supported.

7.6 Health complaint bodies and tribunals

The arrangements for information sharing with health complaints bodies are not well-formulated in the consultation paper, likely because decisions regarding complaints handling have not yet been finalised. It is therefore difficult to comment on whether the arrangements will be suitable until they are more fully elucidated. However, as outlined in the submission on complaints handling, the HQCC is concerned that the role of health complaints commissions is misunderstood as solely for ‘complaints conciliation or mediation’ which undervalues the commissions’ other important functions. The HQCC has no other specific comment other than to reiterate that the current system of complaints handling and information sharing between agencies in Queensland has been functioning successfully for over two years. The HQCC supports arrangements that will maintain and protect this system.

7.7 State and territory government health bodies

Proposal 7.7.1

The proposal – regarding sharing information with relevant state and territory government bodies to protect the public – is supported.

7.8 Notification to Commonwealth, State and Territory health departments

Proposal 7.8.1

The proposal – regarding sharing information with relevant state and territory health departments – is supported.

7.13 Overseas regulatory authorities

The proposal – regarding sharing information with international registration boards – is supported.