



## ***SUBMISSION OF THE HEALTH SERVICES COMMISSIONER, VICTORIA, TO THE NATIONAL REGISTRATION AND ACCREDITATION SCHEME FOR THE HEALTH PROFESSIONS CONSULTATION PAPER: PROPOSED ARRANGEMENTS FOR INFORMATION SHARING AND PRIVACY***

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**DATE: 15 December 2008**

Thank you for the opportunity of commenting on this important national initiative which the Health Services Commissioner (HSC) supports. National registration is an important initiative in promoting harmonisation throughout Australia and promoting a unified set of standards in the public interest. It is an opportunity for genuine cooperative federalism rather than Federal domination.

***Proposal 3.1.1:*** It is proposed that all requests for information will indicate the purposes for which it is being collected.

*HSC supports this proposal.*

***Proposal 3.1.2:*** It is proposed that the national scheme legislation provide for the following key categories of information for the registration of individuals.

*If after due consideration these categories of information are deemed necessary for the registration of individuals the HSC supports this proposal. The certificates of Good Standing would need to be from all countries in which the applicant has been registered.*

***Proposal 3.2.1:*** It is proposed that the national scheme legislation provide the boards with the power to collect employer details and other similar details in order to enable notification by the relevant board to employers when a practitioner's registration status changes or conditions are placed on practice.

There are two options to give effect to this arrangement:

**Option 1:** Require name and address of employer, public health organisations, private hospitals, day procedure centres or nursing homes at which the practitioner is accredited to be recorded on registration and updated on renewal.

**Option 2:** Provide the boards with a power to require the practitioner to provide these details to the board, as necessary.

*HSC considers some of proposed details are unnecessary. Option 1 would be unworkable for many Visiting Medical Officers who work in multiple organisations. Some professions (e.g. podiatry) are not accredited. HSC supports Option 2.*

**Proposal 3.3.1:** It is proposed that the legislation require that each registered health practitioner be allocated a unique identifier in the new registration system.

*HSC supports this proposal if after consultation, appropriate safeguards are built regarding inappropriate data linkage.*

**Proposal 3.3.2:** It is proposed that the national scheme legislation authorise NEHTA and Medicare Australia, to adopt, use and disclose the unique identifier allocated to practitioners in order to enable e-health developments and other information sharing in the public interest. It is further proposed that the legislation governing the operation of NEHTA and Medicare Australia provide appropriate protection for the information provided to these agencies by the national scheme.

*This proposal requires more detail before a recommendation can be made. National Privacy Principle 7 establishes prerequisites that must be satisfied.*

**Proposal 3.4.1:** It is proposed that the national scheme legislation provide a power for boards to require identity checking, through photo identification and a "100 point check" system.

There are three options to give effect to this arrangement:

**Option 1:** All boards to require identity checking on initial registration post 1 July 2010, but not for existing registrants.

**Option 2:** Boards to decide whether identity checking along the lines of Option 1 will be required in their profession.

**Option 3:** Boards to decide whether identity checking along the lines of Option 1 will be required for only some applicants for registration.

*HSC supports Option 1.*

**Proposal 3.8.1:** It is proposed that the national scheme legislation provide for the Ministerial Council to specify from time to time, certain data items that must be collected as part of registration and renewal of registration processes where these data items are needed for workforce planning purposes as long as there is a clear need for the data and it is not too burdensome. Note that provision will also be made for additional data to be collected on a voluntary basis.

*HSC supports this option.*

**Proposal 3.8.2:** It is further proposed that the current voluntary paper-based labour force surveys conducted by current boards on behalf of jurisdictions be discontinued.

*HSC supports this option.*

**Proposal 3.8.3:** It is further proposed that information collected purely for workforce planning purposes will not be made available for board/agency purposes.

*If the board/agency can demonstrate a need for this information and have assisted in collecting the data, then they should be able to access the information.*

**Proposal 3.8.4:** It is proposed that the national scheme legislation provide for the Ministerial Council to require that specified, de-identified information is provided to the Council and any of its committees for workforce planning analysis.

*De-identified workforce planning data should pose no privacy concerns and is supported by the HSC.*

**Proposal 3.8.5:** It is proposed that the national scheme legislation requires that de-identified information relevant to workforce planning is made publicly available in a timely manner and by suitable means.

*De-identified workforce planning data should pose no privacy concerns and is supported by the HSC.*

**Proposal 4.1.1:** It is proposed that the national scheme legislation specify that the following categories of information in relation to each registrant are available on the public register:

- (a) Current name
- (b) Sex
- (c) Postcode of contact address and name of postcode area
- (d) Registration identifier
- (e) Date of first registration
- (f) Renewal date
- (g) Class of registration (where relevant)
- (h) Division (where relevant)
- (i) Conditions on practice (where relevant)
- (j) Date of suspension and date suspension is to end (where relevant)
- (k) Endorsed specialities (where relevant), and
- (l) Other endorsements (where relevant).

*Details which may identify where a provider lives could pose a risk to the practitioner and their families. Postcode details are particularly problematic in small towns where there may only be one or two providers. HSC would delete 4.1.1(c).*

**Proposal 4.2.1:** It is proposed that the national scheme legislation provide that Option 4 be adopted and that the names of practitioners de-registered for conduct reasons appear on the public register with an indication that they have been de-registered for conduct reasons.

*HSC supports this.*

**Proposal 4.3.1:** If conditions on practice relate to practitioner health or impairment issues, it is proposed that the national scheme legislation provide that the public register record that a health condition applies, with no further details appearing on the register. However, if specific restrictions on professional practice apply, they would appear on the register.

The agency could release information about health conditions in particular circumstances if it was judged to be in the public interest but the test would be a high one.

*HSC supports the first part of this option however believes the second part of the proposal needs to further consider in what circumstances and to whom would the information be released. Would consent be obtained from the Practitioner? Who would make the decision to release the information?*

**Proposal 4.5.1:** It is proposed that there be a general power in the national scheme legislation to allow any person to obtain a copy of, or an extract from, the register on payment of the fee determined by the agency. It is proposed that the agency would have a power to refuse to provide a copy of the register to any person unless satisfied that it is in the public interest to do so.

*By definition the term 'public register' indicates the public can obtain information from that register. Is it proposed individuals will not be able to do this via the Internet or other means? Or is this proposal only for large information searches? In principle, the HSC supports this proposal.*

**Proposal 4.6.1:** It is proposed that the national scheme legislation provide for the publication of tribunal decisions relating to registrants where it is in the public interest to do so.

*HSC supports this option.*

**Proposal 4.6.2:** There is a public interest in making board or committee decisions in relation to conduct matters public. It is proposed that decisions be published on the register of decisions on the agency's website.

There are two options to give effect to this arrangement:

**Option 1:** All conduct decisions of boards or committees are published (with patient details de-identified).

**Option 2:** Boards may order that certain decisions are confidential and order that the decision register contain a confidential information notice.

*HSC supports the general principle that conduct decisions be published however Boards should have flexibility to withhold certain decisions. Therefore HSC supports Option 2.*

**Proposal 5.1.1:** It is proposed that the national scheme legislation use the private sector provisions of the *Privacy Act 1988* as the basis for the privacy arrangements in the national scheme.

*HSC supports this option provided appropriate monitoring of progress with the ALRC recommendations is taken into consideration and any changes to the Privacy Act are included in the national scheme legislation. This should also take into account any possible changes in complaints management between the Federal Privacy Commissioner and State and Territory regulators.*

**Proposal 5.2.1:** It is proposed that the existing Commonwealth private sector privacy regime and National Privacy Principles are incorporated by reference into the national scheme legislation.

*See comment for proposal 5.1.1.*

**Proposal 7.1.1:** It is proposed that the national scheme legislation prevents the adoption of the scheme's health practitioner identifier for other purposes by other bodies. The legislation would also need to exempt the adoption and use of the identifier for e-health purposes subject to legislation providing appropriate protections being in place to oversight such e-health activities.

*HSC supports this option; it is consistent with current privacy legislation.*

**Proposal 7.2.1:** It is proposed that the national scheme legislation provide for de-identified information from the registration system to be available to government agencies and to appropriate classes of other persons for research and statistical purposes.

*HSC supports this option provided the information is truly de-identified and cannot be data linked back to allow identification of the individual.*

**Proposal 7.3.1:** It is proposed that the national scheme legislation governing the release of information by the agency and the boards will set out the circumstances when material will be forwarded to the PSR.

*HSC supports this option; good Privacy policy needs to be transparent and open so it is essential individuals are aware of how information about them is to be used.*

**Proposal 7.4.1:** It is proposed that the national scheme legislation governing the release of information by the agency and the boards enables the release of information to Medicare Australia and specifies the purposes for which the information is to be released.

*HSC supports this option; good Privacy policy needs to be transparent and open so it is essential individuals are aware of how information about them is to be used.*

**Proposal 7.5.1:** It is proposed that the privacy framework to apply to the agency authorise the disclosure of relevant information to the DIAC for purposes under the *Migration Act 1958*.

*HSC supports this option*

**Proposal 7.7.1:** It is proposed that the national scheme legislation enable the sharing of de-identified information with State and Territory government bodies for specified purposes and the notification of identified practitioners who pose a public health risk.

*The sharing of de-identified information with State and Territory government bodies should not happen as a matter of course but after due consideration is given to why the information is necessary and what it will be used for.*

*If a practitioner is posing a serious threat to public health, safety or welfare then the HSC supports the notification of these practitioners.*

**Proposal 7.8.1:** It is proposed that the national scheme legislation provide that whenever a board identifies that the health of a patient who is not directly involved in a case under investigation may have been adversely affected by a practitioner, the board must notify the relevant State or Territory health department so that remedial action can be taken.

*HSC supports this.*

**Proposal 7.12.1:** It is proposed that the national scheme legislation make appropriate provisions to cover the sharing of information with New Zealand registration authorities consistent with the TTMRA.

*HSC supports this option on the basis that the TTMRA currently provides for the sharing of information between the two countries so this legislation overrides the Privacy legislation. The assumption being that the sharing of information currently exists between the two countries.*

**Proposal 7.13.1:** It is proposed that the national scheme legislation give boards powers to exchange information with international registration bodies.

*It appears the relationship with the overseas registration boards are covered by agreements and not legislation therefore any sharing of information needs to take into account the Privacy Principle relating to transborder data flow.*

**Proposal 8.1:** It is proposed that the national scheme legislation make the boards the repository of last resort with the power to take possession of patient health records when a practitioner has defaulted on their obligations.

*HSC does not support this option. It is far too onerous a task for the Boards, and the responsibility should rest with the practitioner. HSC has had discussions with key stakeholders such as the Australian Medical Association and the Royal Australian College of General Practitioners and the outcome was that more education and support for practitioners is required.*

*When health professionals retire from practice they should be required to inform their registration board of what they have done with their records. While health professionals in Victoria are required under the Health Records Act 2001 to notify patients of closure of practice, they only have to notify current patients/clients. This is not always satisfactory because:*

- 1. not all practitioners comply;*
- 2. those patients who did not receive the letter because they were not current patients and want to access their records or have their records transferred, do not know where to write to; and*
- 3. some patients who did receive the letter want to access their records a year or two after the practitioner has retired and may not be able to find their letter.*

*To have the information on a central register maintained by a registration board seems an appropriate way to deal with the problems. This would be less onerous for the boards than the option of them being the storage repository of all records.*