National Registration and Accreditation Scheme for the Health Professions

Response from the Medical Practitioners Board of Victoria to the Consultation Paper on:

Proposed arrangements for information sharing and privacy

15 December 2008
The Medical Practitioners Board of Victoria (‘the Board’) is a statutory authority established to protect the community and guide the medical profession.

The Board registers doctors, investigates complaints about doctors, monitors the health of doctors who are ill and may be unfit to practise medicine, and develops guidelines for the profession.

The Board is pleased to be offered an invitation to respond and offer comment on matters covered by the Health Workforce Principal Committee (Practitioner Regulation Subcommittee) paper on “Proposed arrangements for information sharing and privacy” under a National Registration and Accreditation Scheme.

Board members and the senior management staff of the Board have given careful consideration to the consultation paper and below are the Board’s thoughts and responses to the consultation paper.
3 Information to be collected

3.1 Information to be collected for initial registration purposes

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

The Board 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.

The Board supports this proposal subject to the comments marked in bold in the table.

| a) Name and contact details | Full name and all previous names (including date of name change) will need to be provided. Applicants will also need to provide sufficient contact details to enable contact by phone, email, fax or mail. Registrants may opt to receive notification of renewals by email.
|                           | In order to properly identify the individual, home address as well as nominated contact address will be collected. The contact address may be a workplace or another address. There will be requirements to keep contact details up to date.
| b) Date of birth          | In order to properly identify an applicant, date of birth will need to be collected.
| c) Qualifications         | In order to be registered, applicants will need to provide a transcript of qualifications obtained which entitle them to registration, the year obtained and the institution that awarded the qualification. Verification of qualifications may be required from the institution issuing the award.
|                           | In addition, proof of satisfactory completion of a requisite examination or period of supervised practice (including date of completion) will be required, where relevant.
|                           | Provision needs to be made to enable the Board to register applicants who have completed their undergraduate course but not yet graduated (eg. where the graduation ceremony is held some months into the year following completion of the course that will qualify them for registration).
|                           | The Board notes that it may be difficult for some internationally trained graduates, particularly refugees, to provide verification of qualifications.
| **d) Overseas registration details** | If applicants have overseas qualifications and have previously been registered overseas, they will be expected to arrange for the relevant regulatory authority to issue a Certificate of Good Standing (or equivalent) directly to the board or relevant assessment body. A decision will be required as to whether this is required from the initial and most recent country of registration, or from all countries in which the applicant was registered, or for a specific time period.

The Board supports the requirement that a Certificate of Registration Status be obtained from the most recent country of registration.

However, the Board sees benefit in seeking information from all countries in which the applicant was registered (within eg. the last 10 years) to ensure that the applicant has consistently practised safely and any previous problems come to light before the applicant is registered in Australia.

Additional requirements may include a work statement, evidence of competence to practice and of English language proficiency.

The Board supports that the applicant be able to communicate adequately in English. |
| **e) Details of recency of practice and other requirements** | Some boards may require evidence of recency of practice for initial registration for practitioners returning to work or commencing work in Australia. Boards will also have powers to require other information for registration, including evidence of continuing professional development and qualifications for endorsement of registration. |
| **f) Criminal record** | Some State and Territory legislation empowers, but does not require, criminal history checking of applicants. Options for criminal history checking in the national scheme are discussed in the Consultation Paper on Proposed Registration Arrangements issued 19 September 2008. If a decision supporting criminal record checking as a condition of registration is reached, this information will need to be collected and recorded.

The Board comments that for internationally trained graduates, it is often difficult to perform criminal record checking and/or to have confidence in its accuracy.

The Board supports the current Victorian situation whereby:

- an applicant is required to disclose to the Board if he/she has been committed for trial or convicted or found guilty of an indictable offence – see section 4(2)(c) of the Health Professions Registration Act 2005 (Vic);
- a registrant is required to notify the Board within 30 days if he/she is committed for trial or is convicted or found guilty of an indictable offence – see section 34(3) of the Health Professions Registration Act 2005 (Vic).

[For renewal of registration, see paragraph 3.6 below].
g) Professional indemnity insurance

Options for professional indemnity insurance arrangements under the national scheme are discussed in the Consultation Paper on Proposed Registration Arrangements issued on 19 September 2008. Again, if a decision supporting professional indemnity insurance as a condition of registration is reached, this information will need to be collected and recorded.

Currently the Board requires all applicants for registration (except for non-practising registration) to demonstrate professional indemnity insurance cover – see section 13 of the Health Professions Registration Act 2005 (Vic). The Board supports the continuation of this as a pre-condition of registration.

h) Registration details

Once registration is granted, then registration details will be recorded including registration identifier, date of first registration, renewal date, class of registration, division, conditions on registration, specialities and other endorsements.

3.2 Employer details

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.

The Board supports proposal 3.2.1 and favours option 2 to give effect to this arrangement. The Board believes that option 1 would be unworkable in many professions, particularly nursing.

3.3 The unique identifier

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.

The Board supports this proposal.

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.

The Board supports this proposal.

3.4 Identity checking on initial registration
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.

The Board supports best practice in identity checking and favours option 1 to give effect to this arrangement.

3.5 Document checking on initial registration

The Board supports this proposal and also recommends that the bona fides of the primary qualification source for medical practitioners are verified with the Educational Commission for Foreign Medical Graduates in Philadelphia, Pennsylvania USA. The Board currently undertakes this check with every initial application for registration.

3.6 Information to be collected on renewal

The Board supports the approach outlined in the consultation paper.

With regard to information about criminal record, the Board supports the current Victorian situation whereby an applicant for renewal of registration must disclose if they have, in respect of an indictable offence, been committed for trial or been convicted or found guilty.

The Board believes that applicants for renewal should also be required to provide confirmation of participation in continuing professional development.

3.8 Information to be collected for workforce planning purposes

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.

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.

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.

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.

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.

The Board supports proposals 3.8.1, 3.8.2, 3.8.3 and 3.8.5.
The Board supports proposal 3.8.4 but considers that it is important that the registration form expressly states this. The Board also considers that feedback following the provision of this information for workforce planning analysis should be publicly available in a reasonable timeframe.

In relation to the list of 18 proposed mandatory workforce data items, the Board comments that it believes that year of birth should be collected rather than date of birth, and residential postcode should not be collected.

The Board questions why this information is being collected if it is not able to be linked back to a particular person.

4 Publicly available information

4.1 Information on the public register

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).

The Board supports this proposal, however the Board considers that:

- in the case of medical practitioners, it is necessary to have a practice address, not just a postcode – see (c). This may not be necessary for other health professions;
- the registration expiry date should be recorded rather than the renewal date – see (f).

The Board identifies that attachment 1 contains some inaccuracies insofar as Victoria is concerned and corrects these in the attachment.

4.2 De-registered practitioners

There are four options for recording de-registered practitioners.

Option 1: De-registered practitioners could appear on the register with a status of de-registered.

Option 2: De-registered practitioners could be removed from the public register.

Option 3: Practitioners de-registered for conduct reasons could appear on a separate register of de-registered practitioners.

Option 4: Practitioners de-registered for conduct reasons could continue to be shown on the public register with the status of de-registered for conduct reasons.
**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.

The Board supports the proposal with the addition that the names of practitioners de-registered for conduct reasons also appear in a separate list of practitioners who have been de-registered for conduct reasons.

If such a list is currently kept by a board, then information on it which is not more than 10 years old, should be retained on the list. If such a list is not currently published, then boards in the national scheme should publish names of practitioners who have been de-registered for conduct reasons within the last 10 years.

The Board believes that names of practitioners who have ceased to be registered for reasons such as non-renewal, family responsibilities, change of career, travel overseas, death or retirement should not appear on the public register.

**4.3 Recording of conditions on practice**

**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.

The Board supports this proposal subject to believing that restrictions on professional practice imposed as a consequence of health or impairment issues should appear on the register.

**4.4 Online public register**

The Board supports an on-line register with restrictions on how it can be searched. The Board does not support downloading the entire register and considers that the register should only be searched by name or registration identifier ie. not by postcode as this creates the risk of its use for inappropriate purposes.

**4.5 Release of public register 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.

The Board supports this proposal.

**4.6 Public access to the findings of formal proceedings**

**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.

The Board believes that the national scheme legislation should provide that tribunal decisions are published on the website by the agency unless the tribunal has ordered otherwise (in which case a confidential information notice would be published).
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.

The Board does not support publication of Board or committee decisions relating to conduct matters. However, the Board should have discretion to publish certain decisions relating to conduct matters where it is considered that the profession would benefit from the lessons identified in decisions (with safeguards for the de-identification of patient, notifier and witness details).

The Board’s reasons for supporting non-publication are that evidence in these matters won’t have been tested under oath and proceedings are not usually conducted in public.

However, the Board supports the comments regarding health and performance decisions.

The Board also support the proposal that there be a power to remove decisions from the decision register at the discretion of the relevant Board.

5 The privacy regime

5.1 Legislative options

Option 1: Using an existing privacy law
   (a) Use the private sector provisions of the Privacy Act 1988
   (b) Use the public sector provisions of the Privacy Act 1988
   (c) Use an existing State or Territory law

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.

The Board supports option 1(a).

5.2 Reference or incorporation

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.

The Board supports adopting the Commonwealth Privacy provisions by incorporation.

6 Confidentiality

The Board supports the principle of confidentiality.

7 Information sharing

7.1 Enabling e-health developments
**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 oversee such e-health activities.

The Board supports this proposal subject to appropriate protections.

### 7.2 Research

**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.

The Board supports this proposal subject to compliance with the National Privacy Principles.

### 7.3 Professional Services Review Scheme (PSR Scheme)

**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.

The Board supports this proposal but considers that it is essential that, in addition, if a PSR establishes that the practitioner has engaged in inappropriate conduct, that information be provided to the Board.

### 7.4 Medicare Australia

**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.

The Board supports this proposal and refers to its comments regarding PSR.

### 7.5 Overseas trained practitioners

**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*.

‘Relevant information’ is not defined. It is unclear what information apart from that which is on the public register would be required by DIAC. The Board has concerns about this proposal in its current form and so does not support its adoption without the provision of further information or data.

### 7.6 Health complaint bodies and tribunals

The Board agrees with the comments set out in this section of the consultation paper.

### 7.7 State and Territory government health bodies

**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.

There are two distinct concepts identified in this proposal:

1. Sharing of de-identified information
   - It is not clear what this proposal aims to achieve.
2. Notification of identified practitioners who pose a public health risk
   The Board supports this proposal.

7.8 Notification to Commonwealth, State and Territory health departments

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.

As currently drafted the Board does not support this proposal. More information is required.

7.9 Law enforcement agencies

The Board supports the national scheme legislation having a general power to share information with law enforcement bodies eg. law enforcement agencies.

7.10 Criminal record checking

The Board agrees that if mandatory criminal record checking is agreed, there may be a case for an electronic linkage to check criminal record.

However, the Board considers that the national scheme legislation should provide the power to require criminal history checking of applicants at the discretion of the relevant Boards, while not making checks mandatory for all applicants. The Board also considers that there should be self-declaration obligations imposed on registrants both at annual renewal and during the registration period.

The Board believes that responsibility for criminal history checks should rest primarily with an employer. For self-employed practitioners other legislation adequately addresses this requirement.

7.12 Trans-Tasman Mutual Recognition

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.

The Board supports this proposal.

7.13 Overseas regulatory authorities

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

The Board supports this proposal subject to appropriate assurances being given about how international registration bodies will protect the information.

8 Health records

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.

The Board does not support this proposal.
# PUBLICLY AVAILABLE CONTENT OF CURRENT REGISTERS - MEDICAL

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## MEDICAL REGISTER

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<td>Yes</td>
<td>No unless the personal address is also the address nominated by the medical practitioner for publication</td>
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<td>Yes – for notifications</td>
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**REGISTRATION**

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<th>Yes, type of registration</th>
<th>Yes, general, conditional, area of need, etc</th>
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<p>| Registers, Divisions | Register for each profession regulated | S43 Registers; Register for each profession regulated except Roll of Nurses (s44) | Registers for each profession regulated as practitioner or student | Not mentioned | Yes, general, specialty, etc | Student, general and specialist | Medical only | Medical only |</p>
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<td>Conditions on registration</td>
<td>Any conditions</td>
<td>Any under this Act</td>
<td>Any current condition imposed on the practitioner’s registration, with the exception of any condition imposed as a result of an agreement with the Board about ill health or impairment or an investigation or hearing into the practitioner’s ill health or impairment unless the Board is of the opinion that it is in the interests of patients of the practitioner or the public to know the details of the condition</td>
<td>Any conditions on any class of registration or any other order</td>
<td>Any conditions on any class of registration and duration – details of health conditions not public</td>
<td>Any condition of registration or limitation to the right to provide treatment</td>
<td>Yes and any modification to them</td>
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<p>| Suspensions | Yes, dates commencing and finishing | Yes, see below | Separate list of suspended practitioners to be maintained | Not mentioned | Not mentioned | Yes, reason, date and duration of suspensions | Yes, including removal from register and restoration | Details of any exercise of power |</p>
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<td>Any conditions imposed on registration or any other order</td>
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<td>Yes, details of any exercise of power by board or State administrative tribunal</td>
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<td>Yes, principal academic qualifications and training completed for registration, including the name of the institution that awarded the qualification or provided the training and the year the qualification was awarded</td>
<td>May correct entry in register relating to same under s26</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>All qualifications held recognised by board</td>
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<td><strong>Additional qualifications</strong></td>
<td>Not mentioned</td>
<td>Not mentioned</td>
<td>Not mentioned, though the Board does have power to note on the register any qualification it considers relevant to the provision of medical services in addition to those required for registration</td>
<td>Not mentioned</td>
<td>Not mentioned</td>
<td>Not mentioned</td>
<td>Yes</td>
<td>All qualifications</td>
</tr>
<tr>
<td><strong>Authorisations and endorsements</strong></td>
<td>Not mentioned</td>
<td>Authorisations and changes</td>
<td>Current endorsements of registration</td>
<td>Not mentioned</td>
<td>Specialties only</td>
<td>Specialties only</td>
<td>Specialties only</td>
<td>Specialties only</td>
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<tr>
<td><strong>Other (foreign) registrations</strong></td>
<td>Provide certificate of standing</td>
<td>Information not recorded on registry</td>
<td>Information not recorded on register</td>
<td>Not mentioned</td>
<td>Information not recorded on registry</td>
<td>Act defines unprofessional conduct to include that outside SA but information not on register</td>
<td>Information not recorded on registry</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Other disciplinary processes</strong></td>
<td>Details of any refusal to register or cancellation or impositions of conditions under ‘foreign’ laws recorded</td>
<td>S28 only makes it possible to refuse or cancel registration for addiction or conviction by boards or courts elsewhere</td>
<td>Not recorded on the register</td>
<td>Any conditions imposed on registration or any other order</td>
<td>S45 only makes it possible to refuse or cancel registration for addiction or conviction by boards or courts elsewhere</td>
<td>Mandatory reporting of unprofessional conduct means boards made aware of disciplinary processes outside SA</td>
<td>S29 only makes it possible to refuse or cancel registration for addiction or conviction by Council or courts elsewhere</td>
<td>Yes</td>
</tr>
<tr>
<td>State / Territory</td>
<td>ACT</td>
<td>NT</td>
<td>VIC</td>
<td>NSW</td>
<td>QLD</td>
<td>SA</td>
<td>TAS</td>
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<td><strong>Criminal record</strong></td>
<td>Not mentioned</td>
<td>See s28 above</td>
<td>Not recorded on the register</td>
<td>Not mentioned</td>
<td>Disclosure may be required by board</td>
<td>Act defines unprofessional conduct to include offence punishable by one year or more</td>
<td>See s29 above</td>
<td>S42 – board may request consent to perform check but information not on register</td>
</tr>
<tr>
<td><strong>Excluded information</strong></td>
<td>Private address and other information not required under s152 protected</td>
<td>Private address and health related conditions protected</td>
<td>Personal address unless the personal address is also the address nominated by the medical practitioner for publication. Any condition imposed as a result of an agreement with the Board about ill health or impairment or an investigation or hearing into the practitioner’s ill health or impairment unless the Board is of the opinion that it is in the interests of patients of the practitioner or the public to know the details of the condition</td>
<td>Any conditions relating solely or principally to physical or mental capacity to practice</td>
<td>Details of conditions imposed for physical or mental capacity; private address</td>
<td>Conditions and disqualifications once spent should be removed from de-registered register</td>
<td>Private address protected</td>
<td>Not specified</td>
</tr>
<tr>
<td>State / Territory</td>
<td>ACT</td>
<td>NT</td>
<td>VIC</td>
<td>NSW</td>
<td>QLD</td>
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<td><strong>De-registered register</strong></td>
<td>No</td>
<td>No</td>
<td>Yes, a separate part of the register records particulars of any medical practitioner whose registration is currently cancelled or suspended</td>
<td>No</td>
<td>No</td>
<td>Yes – information removed if reinstated</td>
<td>No</td>
<td>None</td>
</tr>
<tr>
<td><strong>Profession-specific requirements</strong></td>
<td>See Schedule 2</td>
<td>See Schedule 1 for boards and members</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>Medical Council regulates medicine</td>
<td>None</td>
</tr>
</tbody>
</table>