



The Pharmacy
Guild of Australia

**Response to the Consultation Paper on
Proposed arrangements for information sharing and privacy
for the National Registration and Accreditation Scheme for health professions**

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Proposal No.	Brief Description of Proposal	Proposal	Comment
3.5.1	Declaration of reason for collecting information	All requests for information will indicate the purpose for which it is being collected.	Agreed.
3.5.2	Information to be collected	<p>It is proposed to collect the following information:</p> <ul style="list-style-type: none"> (a) full name and all previous names (including date of name change); (b) date of birth; (c) sufficient contact details to enable contact by phone, email, fax or mail, as well as a home address and a nominated contact address (which could be a workplace); (d) transcript of qualifications (including year obtained and the institution that awarded the qualification); (e) proof of satisfactory completion of a requisite examination and/or period of supervised practice; (f) if from overseas, <ul style="list-style-type: none"> (i) a ‘Certificate of Good Standing’ from the relevant overseas registration body; and possibly (ii) a work statement; (iii) evidence of competence to practice; and (iv) evidence of English language proficiency (g) a criminal check (if this proceeds); (h) evidence of professional indemnity insurance (if required) 	The proposal is generally satisfactory.

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3.5.2	Things recorded in the register	<p>These things will be recorded in the register:</p> <ul style="list-style-type: none"> (a) registration identifier; (b) date of first registration; (c) renewal date; (d) class of registration; (e) division; (f) conditions of registration; (g) specialties; (h) other endorsements 	Agreed.
3.2.1	Employer details	<p>It is proposed that the national scheme legislation will allow the boards to collect employer and other similar details so the employer can be told of when a practitioner's registration status changes or conditions are placed on practice.</p> <p>There are two options to give effect to this arrangement:</p> <p>The first is to require a registrant to list the 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.</p> <p>The second is to allow the Board to require practitioner to provide these details to the board, as necessary.</p>	<p>The Guild supports the second option to allow the Board to require practitioner to provide the details, as necessary.</p> <p>It must be noted that in the case of pharmacy, it would be difficult for the Board to have accurate information at any one point in time due to the transient arrangements in pharmacy workforce. In practical term, this would result in huge administrative burden to the scheme as pharmacists may have multiple employers (eg working at more than one pharmacy) at one particular point in time.</p>

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3.2.2 3.2.3	Unique identifier	<p>It is proposed that each registered health practitioner will have a unique identifier in the new registration system.</p> <p>It is proposed that the National E-Health Transition Authority and Medicare Australia will be able to adopt use and disclose the unique identifier.</p>	<p>The paper suggests that the format for the unique identifier will be developed in consultation with other health information bodies concerned with health practitioner identification and authentication, such as the National E-Health Transition Authority and Medicare Australia.</p> <p>This would appear to be satisfactory. The Guild would support unique identifier which is not linked to place of work (location) because of the nature of pharmacy workforce movements.</p>
3.4.1	Photo ID/100 point identity check	<p>It is proposed that Boards will have the capacity to be able to ask applicants for registration after the commencement of the national scheme on 1 July 2010 to provide identification to prove identity in much the same way that identification is needed to open a bank account.</p> <p>Two options are offered.</p> <p>The first leaves open the option of either making the 100 point check/provision of photographic ID compulsory for all applicants in all professions after 1 July 2010.</p> <p>The second leaves with the Board the question of whether (or when) the need for such identification is necessary.</p>	<p>It is noted that currently only the ACT requires a 100 point check of identity, however, there is no apparent reason why this is necessary.</p> <p>The Guild asks why it is necessary to require people to go through the administrative burden of a 100 point ID check.</p> <p>To the extent that it is necessary, it would appear option 2 is preferred – ie, when a Board thinks it is necessary to have identity proved.</p> <p>The Guild strongly suggests that this identification process be once-only request.</p>

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3.6	Information to be collected on renewal	At the time of renewal of registration, it would be expected that registrants will confirm current details and notify the national board of any changes to details such as name, contact details, employer details, professional indemnity insurance and criminal record, where relevant.	Agreed.
3.7	Information to be collected when investigating complaints/notifications and dealing with performance, health and conduct matters	<p>When the board is investigating matters related to performance, health or conduct it will need powers to collect information, documents and evidence.</p> <p>This may include personal information about practitioners, employers, complainants/notifiers and patients.</p> <p>This information will be protected by the confidentiality provisions in the national scheme legislation and by the privacy regime also reflected in the legislation.</p>	Satisfactory.

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3.8.1 3.8.2 3.8.3	Workforce planning statistics	<p>The legislation will permit the collection of 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.’</p> <p>Current voluntary paper-based labour force surveys conducted by current boards on behalf of jurisdictions will be discontinued.</p>	<p>The requirement to compel provision of workforce data is contained in the IGA. However, this could cause a compliance burden on someone running a busy business such as a pharmacy.</p> <p>It is noted that where a legislative proposal is likely to involve a medium compliance cost for business is to be contained in a federal law, the Office of Best Practice Regulation would require a compliance cost analysis to be performed¹.</p> <p>The Ministerial Council should only request the collection of statistics where it is satisfied there is: (a) a net public interest in collecting the data; and (b) that a compliance cost analysis has been performed, assessing the cost of the imposition will have on someone such as a pharmacist.</p> <p>It is suggested that information collected for workforce planning purposes should be made available to the relevant organisations.</p>

¹ Australian Government *Best Practice Regulation Handbook* (August 2007) p.25

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4.1	Information on the public register	<p>This is the information to be contained on the public register:</p> <ul style="list-style-type: none"> (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). 	Satisfactory.
4.2.1	De-registered practitioners	<p>There is an issue as to what information should be recorded on the public register about de-registered practitioners.</p> <p>Four options are proposed:</p> <p>The first option is for de-registered practitioners could appear on the register with a status of de-registered.</p> <p>The second option proposes the removal of de-registered practitioners from the public register.</p> <p>The third option proposes practitioners de-registered for conduct reasons could appear on a separate register of de-registered practitioners.</p> <p>The fourth option proposes practitioners de-registered for conduct reasons could continue to be shown on the register.</p>	<p>At present, the Boards decide whether a condition on registration, or a warning, appears in the register, based on the severity and egregiousness of the offence.</p> <p>A similar policy should apply to the national scheme on a case-by-case basis, i.e., allow for de-registered practitioners to appear on the register with a status of de-registered (option 1), however not automatically, rather, at the discretion of the Board.</p>

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4.3.1	Recording of conditions on practice	<p>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.</p> <p>However, if specific restrictions on professional practice apply, they would appear on the register.</p>	<p>The paper proposes that 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 Guild is of the view that if the health condition or a disability does not impact on the public and if the person is deemed to be competent to practise, then the subject of health condition should not be indicated or applied.</p> <p>On balance, the proposal appears to be satisfactory; however the terms of the legislation will need to be carefully considered.</p>
4.4 4.5.1	On line public register/release of public register information	<p>There will be some attempts to control the manner by which a person can use the on-line register. For example, it would not be possible to download the entire register to prevent duplication for inappropriate purposes, such as marketing.</p> <p>The register could, however, be searched by specific fields such as name, registration identifier or postcode. There will be no fee payable for search of the online public register.</p> <p>People will be able to seek access to the public register from the Agency, for a fee. It would be expected that applicants indicate the purpose for which they are seeking information.</p> <p>Information would not be released for commercial purposes. It is proposed that the agency will refuse to provide a copy of the register to any person unless it is in the public interest.</p>	<p>The Guild needs to be assured that the rights to privacy of the practitioners are protected.</p>

Proposal No.	Brief Description of Proposal	Proposal	Comment
5.1.1 5.2.1	Overarching privacy legislation	<p>There is currently a number of different laws that regulate the manner by which health information is managed by practitioners holding such information.</p> <p>The legislation proposes four options:</p> <p>The first option is using the private sector provisions of the Commonwealth <i>Privacy Act</i>.</p> <p>The second is using the public sector provisions of the Commonwealth <i>Privacy Act</i>.</p> <p>The third option is using the privacy laws of a particular State.</p> <p>The fourth option is to design a specific law for the health registration scheme.</p>	<p>The proposal is that the National Privacy Principles (NPPs) contained in the Privacy Act designed for the private sector will be employed by the national registration scheme, rather than the information privacy principles (IPPs) designed for the public sector.</p> <p>Recommendation 18-1 of the Australian Law Reform Commission's review into privacy law and practice recommends that the NPPs and IPPs be combined to form Unified Privacy Principles. (UPPs).</p> <p>It is presumed that should the Australian Government agree with the proposal to adopt the UPPs, they will be adopted by the national health regulation scheme and that they will be incorporated by reference into the legislation. This needs to be made clear.</p> <p>It is also noted that recommendations 3-1 and 3-2 of the ALRC Report is for the Commonwealth <i>Privacy Act</i> to override State and Territory laws specifically dealing with the handling of personal information by organisations.</p> <p>That means that all State level privacy legislation (including that dealing with health information) will no longer exist.</p>

			<p>It is noted that Recommendation 60-1 proposes that health information should be regulated under the general provisions of the UPPs, supported by a specific set of regulations, made under the <i>Privacy Act 1988</i> proposed to be called the <i>Privacy (Health Information) Regulations</i>.</p> <p>Therefore, the Guild would prefer the option 2, but note that should the Australian Government adopt the ALRC recommendation, the <i>Privacy Act</i> will ‘cover the field’ over this area of the law.</p> <p>The National Law establishing the health registration scheme would not need to incorporate (either by incorporation or reference) statutory privacy principles.</p> <p>Therefore, the incorporation by reference of the Commonwealth Australian <i>Privacy Act</i> should be regarded as only being an interim measure.</p> <p>The Guild also notes that if State level legislation recognises a role for the Privacy Commissioner in dealing with privacy complaints (a concomitant of adopting commonwealth privacy legislation recognised by the discussion paper), State and federal legislation will have to ensure that the constitutional steps are taken to ensure that a Commonwealth public servant can perform functions that are conferred under what is (nominally) State legislation.</p>
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7.1.1	Using unique identifiers	The unique identifiers will not be able to be used for other purpose by other bodies, apart from 'e-health' activities.	Agreed. The Guild supports the use of unique identifier; however, this must not be linked to the place of practice.
7.1.2	Use of information for research purposes	De-identified information from the registration system to be available to government agencies and to appropriate classes of other people for research and statistical purposes.	So long as the information is de-identified, this is satisfactory.
7.3.1 7.3.2	Release of information to the Professional Services Review Scheme and Medicare Australia	It is proposed the national legislation will deal with the circumstances in which information collected under the national registration scheme will be given to the PSRS and Medicare.	There is no indication of the circumstances of when information can be released. Further information is needed.
7.5.1	Providing information to the Immigration Department	So as to facilitate (principally) checking on visa condition compliance, it is proposed to allow the exchange of information with the Immigration Department.	Agreed.
7.6	Providing information to health complaint bodies and tribunals	Legislation will permit information exchanges with these bodies.	Agreed.
	State and Territory government health bodies	It is proposed to allow: (a) de-identified information with these bodies for 'specified' purposes; and (b) the notification of identified practitioners who pose a public health risk.	Agreed.

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7.8.1	Further notifications to health departments	It is proposed to 'bring to the attention' of relevant health departments circumstances where there is consistently poor practice (eg poor conduct of diagnostic tests) that may present a potential risk to other patients beyond the cases under investigation.	The Guild will need to see the terms of the proposed legislation before coming to a final position on this issue.
7.9	Law enforcement bodies	It is proposed the national law to 'provide a general power to share information with law enforcement bodies'.	<p>Given NPP 2.1(i) (page 31 of the Privacy paper), which permits an entity to (in general terms) disclose information for the purposes of law enforcement, why would it be necessary for there to be a 'general power to share information with law enforcement bodies'?</p> <p>More specifically, what is meant by the phrase that it is proposed to create a 'general power to share information with law enforcement bodies'?</p> <p>Therefore, given the structure of privacy legislation, there appears no reason to have a specific provision permitting law enforcement agencies to 'share' legislation held by the Agency and the Boards.</p>

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7.10	Criminal record checking	If mandatory criminal checking is agreed, there may be a case for an 'electronic linkage' to check criminal record.	The discussion paper contains insufficient information to make a comment on this matter.
7.12.1 7.13.1	Trans-Tasman mutual recognition Overseas regulatory authorities	It is proposed to share information with New Zealand registration authorities.	Agreed.
8.1	National Board as the repository of health records of last resort	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.	This appears to be satisfactory. However, full implication of privacy and legal positions should be further investigated when a practitioner has defaulted on their obligations.

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9.1	Transitional issues	<p>In order to establish the national scheme, it will be necessary to establish the new national database of registered practitioners.</p> <p>Existing boards will need to release to the national boards and the agency both public register and other information under the national scheme legislation.</p> <p>However, until such time as legislation is passed in a State or Territory to adopt the national law, the existing boards will not be able to share their identified registration data with the new boards and agency.</p> <p>In the meantime, it is proposed to appoint contractors for data cleansing who will work with existing boards to clean and prepare data for transfer ahead of the passage of national scheme legislation in the relevant State or Territory.</p>	Agreed.