

**AUSTRALIAN AND NEW ZEALAND
COUNCIL OF PODIATRY REGISTRATION BOARDS**

ANZCPRB

18 December 2008

Attention: Practitioner Regulation Sub-Committee

e-mail: nraip@dhs.vic.gov.au

**Consultation Paper
Other matters for inclusion in Bill B**

The Australian and New Zealand Council of Podiatry Registration Boards wishes to make the following comments.

3. Delegation of powers to national boards

3.5 More flexible committee arrangements

Proposal 3.5.1

It is proposed that, the second stage legislation provide a broad delegation power (as in Clause 46 of the National Law Bill), that would allow a national board to delegate any of its functions, including all of the key decisions listed above, to committees of the board or to staff or to other persons, other than the power of delegation. Under such an arrangement, a board would have the discretion to determine the constraints or boundaries placed on any delegation, as well as the number and make up of any committees it requires in order to make key decisions list above.

Supported

Proposal 3.5.2

It is proposed that the only statutory committees in the new scheme would be panels convened for the purposes of hearing individual matters (health, performance, or conduct).

Supported

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Proposal 3.5.3

It is proposed that the legislation require a minimum of three members on a panel for the purposes of statutory decision-making with at least 50 per cent and no more than two thirds of the members being registrants from the profession concerned and at least one member being a community member.

Supported

Proposal 3.5.4

It is proposed that the legislation provide that a panel should not include any person who was a member of the board or committee that took the decision to refer the matter to the panel.

Supported

Proposal 3.5.5

It is proposed that where a board establishes any committee other than a statutory committee or panel that the composition is not prescribed in legislation but rather is a matter for the board to determine in line with any directions from Ministerial Council.

Supported

3.6 Further safeguards around delegations

Proposal 3.6.1

It is proposed that the legislation provide for safeguards relating to the delegation of board powers as follows:

- *A delegation must be in writing and specify the person or persons to whom the delegation is made, the decision or decisions that may be taken under delegation, and the period to which the delegation relates, as well as any conditions the board has attached to the exercise of the decision making under delegation, and include the ability to rescind a delegation;*
- *A right of review for a person whose interests are affected by a decision made under delegation similar to the rights of review against decisions of the board itself (with powers for the board to delegate the conduct of such review);*
- *A statutory limit on the length of time a practitioner's registration may be suspended without review by the board (or delegate of the board);*
- *A right of review for key registration and panel hearing decisions, as outlined in section 10 of the complaints consultation paper, to the relevant State or Territory tribunal for decision;*

- *General and specific provisions with respect to conflicts of interest that require a person to exclude themselves from decision-making in the event of a conflict, including, for example, where a small number of practitioners operated in a single geographical area; and*
- *General provisions with respect to procedural fairness, such as separation of powers between original decision making and review of decisions.*

Supported

4. Appointments to board (non-statutory) committees or statutory panels

Proposal 4.1.1

With respect to advisory committees, it is proposed that the legislation, while providing powers for boards to establish such committees, would be silent on the process through which a board might select members of its advisory committees. This would afford a board maximum flexibility to determine their terms of appointment.

Supported

Proposal 4.1.2

The stakeholders are asked to advise of their preferred option for appointments to committees to which the board powers are delegated.

We support option 1 – with option 3 as the second choice.

Proposal 4.1.2

Stakeholders are requested to advise of their preferred option for appointments to statutory hearing panels.

We support option 1 – with option 3 as the second choice.

Where appropriate expertise is not available in the nominations received through the public process there needs to be a process for expediting appointments to panels.

5. Interaction of national scheme with other legislative schemes.

5.2 Criteria

Proposal 5.2.1

*With respect to freedom of information, it is proposed that the Commonwealth Freedom of Information Act apply (**Option 1**).*

Supported

Proposal 5.2.2

*With respect to confidentiality and lawful disclosure, it is proposed that tailor made provisions along the lines of Clause 53 of the National Law Bill to be included in the second stage legislation (**Option 4**).*

Supported

Proposal 5.2.3

*With respect to the application of a privacy regime, it is proposed that the existing Commonwealth private sector privacy regime and the National Privacy Principles apply, and are incorporated by reference into the national scheme legislation (**Option 1**).*

Supported

Proposal 5.2.4

*With respect to ombudsman legislation, it is proposed that the Commonwealth Ombudsman Act 1976 apply (**Option 1**).*

Supported

Proposal 5.2.5

*With respect to financial accountability, it is proposed that tailor made provisions be included in the second stage legislation (**Option 4**).*

Supported

Proposal 5.2.6

*With respect to the employment arrangements and accountability of staff and board members under the scheme, it is proposed that tailor made provisions be included in the second stage legislation (**Option 4**).*

Supported

Proposal 5.2.7

*With respect to statutory interpretation, it is proposed that tailor made provisions be included in the second stage legislation (**Option 4**).*

Supported

Proposal 5.2.8

*With respect to warrant powers, it is proposed that the national scheme legislation require application for a warrant to be made via existing State and Territory legislation (**Option 2**).*

Supported

Proposal 5.2.9

*With respect to working with children legislation, it is proposed that existing State and Territory legislation, where it exists, continues to apply (**Option 2**).*

Supported

Proposal 5.2.10

*With respect to special events legislation, it is proposed that existing State and Territory legislation, where it exists, continues to apply (**Option 2**).*

Supported

6. Trans-Tasman Mutual Recognition and the national scheme

Proposal 6.1

It is proposed that the national scheme legislation and any consequential amendments be framed in a way that allows for the Trans-Tasman Mutual Recognition Principle, and preserves the linkages between Australia and New Zealand regulatory authorities and supports joint standard settings and accreditation.

Supported

Peter Martin
ANZCPRB Secretariat

On behalf of:

Podiatry Board of South Australia
New South Wales Podiatrists Registration Board
Podiatrists Registration Board of Victoria
Tasmanian Podiatrists Board
ACT Podiatrists Board
Podiatrists Board of Western Australia
Podiatrists Board of Queensland