



**NATIONAL REGISTRATION AND ACCREDITATION SCHEME
FOR THE HEALTH PROFESSIONS**

CONSULTATION PAPER

Other matters for inclusion in Bill B

23 December 2009

The Medical Practitioners Board of Victoria 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 Medical Practitioners Board of Victoria 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 Accreditation*" 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.

Specific comments on matters raised in the Consultation Paper

3 Delegation powers of national boards

3.1 Background

To ensure timely and responsive decision making, it will be important for the second stage legislation to provide the flexibility for decisions to be taken, at the discretion of a national board, at either the national level (by the board itself or a committee of the board) or at a regional or State or Territory level, and by a range of persons. It is also important that the delegation arrangements provide for sufficient transparency and accountability in decision making including the right of review of delegated decisions.

MPBV Comment

The Medical Practitioners Board of Victoria ('the Board') notes that delegations are (or should be) to a position rather than to an individual. In addition, the Board believes there needs to be caution regarding delegation to a person (occupying a position) as distinct from an appropriately constituted Committee. The Board encourages caution both on the level of decision making and on the accountability delegated to a "non-committee" position (i.e. an individual). Persons occupying these positions must have an appropriate level of expertise, experience, seniority, skill and responsibility to enable them to exercise the delegated power.

3.2 The national scheme environment

MPBV Comment

The Board agrees with section 3.2., noting that the professions that will be part of the initial scheme differ both in the size and complexity of their operations. While care will be needed not to impose a set of requirements which would be unnecessary or inefficient for the smaller professions, in a similar vein, the overall legislation, regulatory powers and the administrative requirements must not be over simplified or reduced to the lowest common denominator such that regulation, accreditation and registration in medicine (and nursing) is rendered ineffective.

3.3 Types of committees

MPBV Comment

The Board supports the content of section 3.3.

3.4 Key decisions

MPBV Comment

The Board supports the content of section 3.4.

3.5 More flexible committee arrangements

The consultation papers on registration arrangements and complaints outline a proposed schema for how the decisions might be made under the national scheme and the extent of delegation powers available to boards (see section 6.2 of registration arrangements consultation paper and section 5.4 of the complaints consultation paper).

MPBV Comment

The Board agreed with the extent of delegation powers available to boards put forward in both of the sections in these papers.

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 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 listed above.

MPBV Comment

The Board supports the delegation of any of the functions of a national board to formally constituted committees of that board. The Board again encourages caution on the level of decision making and accountability delegated to an individual (*“staff or other persons”*). As noted previously, in all such positions, the incumbent must have an appropriate level of expertise, experience, seniority, skill and responsibility to enable them to exercise the delegated power. Care and due diligence must be exhibited at all times. Some health profession Boards will be able to effect this as a matter of course while others will need assistance / input due to their size and previous experience.

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).

MPBV Comment

The Board supports Proposal 3.5.2.

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 last one member being a community member.

MPBV Comment

The Board supports Proposal 3.5.3. In supporting it the Board notes that there needs to be a sufficient number of persons approved for all panels – this has proven to be a challenge in this Board’s experience. Further, the Board urges the ongoing engagement of current Board and Panel members to prevent loss of expertise / corporate knowledge, corporate culture and memory that inform expected standards of a new scheme. Panel members should either be currently practising or have appropriate recency of exposure to the profession and contemporary practices. The legislation relating to panel constitution should not be so restrictive as to preclude the inclusion of a lawyer as a panel member should the matter determine that legal input would be beneficial.

As a safeguard against prejudging matters before a panel, 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.

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.

MPBV Comment

The Board supports Proposal 3.5.4.

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.

MPBV Comment

The Board supports Proposal 3.5.5, although the Board is wary of the term “any directions from Ministerial Council” and suggests ‘appropriate’ or ‘relevant’ directions from Ministerial Council.

3.6 Further safeguards around delegations

If more flexible delegation arrangements are included in the legislation, then it would be desirable for the legislation also to include some checks and balances on the operation of delegated decision making. The next section considers the constraints that should be imposed in relation to the appointments of committees. Other provisions are set out below.

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 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 a 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 operate 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.

MPBV Comment

The Board supports Proposal 3.5.6. As noted in the comment relating to ‘Delegation’ (3.1), delegation should be to “the occupant of a position or positions” not to a “person or persons”.

Please also refer to the MPBV response to the “Complaints” paper at 4.7 “Immediate Suspension powers” which states: It is important not to specify a time frame on the length of time a practitioner’s registration may be suspended and leave it to the delegate’s discretion. The Board should have the power to review the suspension order at any time. Occasions might arise where the Board may be left in a very difficult situation, for example when there is a serious

allegation of sexual misconduct and either the police are deciding whether or not to charge or the police have charged and the trial is yet to be finalised. To set a time limit potentially exposes the public to risk at the expiration of the time period – it is essential that this is left to the discretion of the Board / committee. Additionally, the practitioner should have the right to request review by the Board at any time of the suspension order.

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

The IGA provides (Clause 1.26 of the attachment) that committee members will be drawn from a process approved by the Ministerial Council. Clause 6.10 of the IGA states *'To further ensure a smooth transition to the scheme, all existing members of jurisdictional boards and supporting hearing panels for the nine professions will, if they agree, be appointed to a list of persons from which national boards may form committees for a period of two years from commencement of the operation of the scheme'*. These transitional provisions will be included in the national legislation.

While the IGA has provided a method for appointment at the commencement of the scheme, consideration now needs to be given as to what type of process the Ministerial Council might approve for the appointment of members of committees and panels not covered by the transition arrangement. Boards will need an efficient mechanism for accessing such persons, sometimes at short notice, particularly for panels.

The process of selection and appointment of members who sit on 'statutory' committees or panels (and how this is reflected in legislation) may be different to the process for other committees that exercise powers under delegation or committees which are advisory only.

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.

MPBV Comment

The Board supports Proposal 4.1.1., with increased flexibility to enable Boards to establish committees for a range of different, non-statutory purposes. These comments apply to advisory, non-statutory committees, which this Board has established and believe add significant value to its operations, and would to the operations of the national boards and to state/ regional committees.

The Board supports the principle of fair and transparent recruitment and selection processes. It supports appointments for up to three year terms, but notes that this requirement needs to enable rolling appointments / membership of committees to promote committee functioning and knowledge / skill retention.

In terms of non-statutory advisory committees, this Board does believe that direct Ministerial Council involvement is necessary.

The MPBV argues strongly that the new regulatory framework (reflected in legislation) needs to enable national Boards or state committees to establish advisory committees. As an example, the MPBV established a Community Consultative Committee (CCC) in 2005 as one of the cornerstones of its community engagement strategy. As far as we are aware, the MPBV is the only health profession registration board in Australia to have established such a committee.

The Board established the CCC to:

- contribute to the Board's understanding of community expectations

- advise the Board and provide comment on policies, guidelines and other publications
- provide advice about strategies and mechanisms for ensuring that the Board is responsive to community expectations about professional standards of practice in medicine and responding to unprofessional conduct, and
- contribute to the development of the Board's community consultation programs, monitoring their implementation, and participating in community forums with the Board.

The Board continues to value the thoughtful and wise contributions made by the CCC. Since its inception, the committee has continued to work effectively and advise the Board on a range of issues that support the Board's core role of protecting the community. During 2008, the work of the CCC has included:

- attached reviewing and advising the Board on a range of publications and proposed policies
- attached developing and implementing a 12-month work plan
- developing an evaluation framework and scoping plan to enable an independent analysis of the CCC's effectiveness and value to the operations of the Board
- working with the Board on issues arising from the medical advertising guidelines consultation, including supporting the need to work with the Department of Human Services and the Health Services Commissioner on the development of information promoting informed consent for consumers of medical services, particularly cosmetic medicine
- advising the Board on a consultation plan to support the development of guidance for cosmetic medicine practitioners
- participating in a joint CCC / Board member forum focused on community expectations of the Board in the areas of registration (supervision issues in remote communities) and professional boundaries
- advising the Medical Advertising Committee about community views in relation to particular emerging issues
- advising the Board on strategies to recruit new members to the CCC and participating in the selection of five new members and
- working with the Board on its approach to the investigation of allegations that may involve sexual misconduct

The Board believes the role of the CCC, together with the values and principles that drove its establishment and continue to underpin its ongoing operations, are entirely consistent with the core principles of the new health regulation system. Transparency, accountability, stakeholder engagement and understanding of the community are all central to the role of the CCC. The MPBV advocates strongly for the relevant legislation to enable health registration boards to establish such advisory committees.

More information about the CCC is published on the Board website at <http://www.medicalboardvic.org.au/content.php?sec=153>. More detail on recruitment to the committee and terms of reference are available from the Board. The Board will also forward separately to NRAS in January 2009 an independent evaluation of the CCC which is currently being conducted.

Committees that make decisions under delegation

With respect to committees established by boards for the purposes of decision making under delegation from the boards, there are three options:

Option 1: The legislation empowers boards to appoint persons to such committees in accordance with a process approved by the Ministerial Council. The Ministerial Council process requires:

- an open and transparent process where nominations are sought publicly from individuals and professional bodies
- minimum membership requirements for any committee delegated decision making, to ensure a balance of registrant and non-registrant members, and
- appointments for periods of up to three years.

Option 2: As for Option 1, except that the Ministerial Council's approved process would include a nominee of the Ministerial Council on selection panels, with that nominee not having a right of veto.

Option 3: The legislation makes provision for any person appointed by a board to a committee delegated key decision making to be drawn from a list of persons approved by the Ministerial Council.

Proposal 4.1.2: The stakeholders are asked to advise of their preferred option for appointments to committees to which board powers are delegated.

MPBV Comment

The Board supports Option 1 of Proposal 4.1.2, although it does not support nominations from groups such as professional bodies *unless* they are obligated to observe the intent of s27 of the National Law Bill (Bill A), which obligates to act in the public interest and not in the interests of particular health practitioners or a body / organisation / union.

Appointment of members who sit on 'statutory' committees

With respect to statutory panels established by boards for the purposes of conducting hearings arising from conduct, performance or health matters, while the legislation would specify procedural matters, there are three options with respect to the appointment process:

Option 1: The legislation empowers boards to appoint persons to such committees in accordance with a process approved by the Ministerial Council. The Ministerial Council process requires:

- an open and transparent process where nominations are sought publicly
- minimum membership requirements for any committee delegated decision making, to ensure a balance of registrant and non-registrant members, and
- appointments for periods of up to three years.

Option 2: As for Option 1, except that the Ministerial Council approved process would include a nominee of the Ministerial Council on selection panels, with that nominee not having a right of veto, and would provide for persons to be appointed to a list. Persons on the list would then be eligible for appointment by a board to sit on a hearing panel arising from a conduct, performance or health matter.

Option 3: The legislation makes provision for any person appointed by a board to a statutory committee or hearing panel to be drawn from a list of persons approved by the Ministerial Council.

Proposal 4.1.3: Stakeholders are requested to advise of their preferred option for appointments to statutory hearing panels.

MPBV Comment

The Board supports Option 1 of Proposal 4.1.3. As noted above, a panel cannot include any person who was a member of the board or committee that took the decision to refer the matter to the panel.

5 Interaction of national scheme with other legislative schemes

5.1 Options

There are six main options for determining suitable arrangements with respect to the interface between the national scheme and each of the legislative schemes listed. These are:

Option 1: One jurisdiction's law applies (for example Queensland or Commonwealth)

Option 2: All applicable State and Territory laws apply

Option 3: No jurisdiction's laws apply (for example the Bill and/or consequential amendments to other legislation specifically remove the scheme from coverage)

Option 4: Tailor made provisions are included within the legislative scheme itself

Option 5: Consequential amendments to another legislative scheme to recognise the national registration scheme (technically different to option 1, but has the same effect), or

Option 6: Interface is dealt with administratively rather than legislatively.

5.2 Criteria

There are a number of criteria that can be used to guide these policy deliberations:

- efficiency of operation – for example, the need to avoid unnecessary duplication of effort and minimise costs to boards of administering the scheme
- transparency of decision making – for example, the same rules should apply, no matter where a consumer, complainant or registrant are located
- accountability of decision makers – for example, the legislation should provide clarity as to who makes decisions under the scheme and what avenues of review are available
- consistency and/or uniformity of application across Australia – for example, wherever possible, given the objective is to establish a national scheme, national laws should apply, rather than multiple State and Territory laws.

MPBV Comment

The Board agrees with these criteria in principle, but cautions that there may be difficulties with implementation.

Table 1 below lists each legislative area for which policy decisions are required and the proposed treatment of each with reference to the six options set out above.

TABLE 1: State and Territory laws that will interface with the national registration scheme

Interface	Proposed approach
<i>Freedom of information</i>	<p>In order to ensure transparency and accountability in the operation of the national scheme, it is considered desirable that it be subject to a single freedom of information regime rather than multiple regimes, and that there be clarity for any person making an FOI application as to which legislative scheme applies.</p> <p>The National Law Bill gives effect to Option 1, that is, the Queensland <i>Freedom of Information Act</i> applies during the establishment phase of the scheme. However, in framing the second stage legislation, it is possible that either the Commonwealth or the Queensland FOI legislation might apply.</p> <p>Proposal 5.2.1: With respect to freedom of information, it is proposed that the Commonwealth <i>Freedom of Information Act</i> apply (Option 1).</p> <p>MPBV Comment</p> <p>The Board supports Option 1 for Proposal 5.2.1</p>

Interface	Proposed approach
<p>Privacy & confidentiality</p>	<p>With respect to confidentiality and lawful disclosure provisions, the National Law Bill gives effect to Option 4 (tailor made provisions). It is expected that the second stage legislation will contain similar provisions imposing obligations on those administering the scheme (such as board members, committee members and staff) to keep confidential any information they obtain in the course of carrying out their responsibilities.</p> <p>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 be included in the second stage legislation (Option 4).</p> <p>MPBV Comment</p> <p>The Board supports Option 4 for Proposal 5.2.2.</p> <p>With respect to privacy law, the question of which privacy regime should apply to the national scheme has been addressed in a separate consultation paper titled ‘Privacy and Information Sharing’ with various options proposed. The Australian Law Reform Commission’s report on Australian Privacy Law and Practice has found Australia’s privacy laws to be multilayered, fragmented and inconsistent, causing complexity, significant compliance burdens and costs, as well as impeding projects in the public interest.</p> <p>Changes are expected in privacy regimes as a result of the report. Flexibility to adjust to future changes can be included in the national legislation.</p> <p>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).</p> <p>MPBV Comment</p> <p>The Board supports Option 1 for Proposal 5.2.3.</p>

Interface	Proposed approach
<p><i>Ombudsman legislation</i></p>	<p>All States and Territories and the Commonwealth have enacted ombudsman legislation (see Attachment 5 in complaints consultation paper for summary of laws).</p> <p>The National Law Bill gives effect to Option 1, that is, the Queensland <i>Ombudsman Act</i> applies. However, further work is underway to analyse the implications of Option 1 (one jurisdiction's law applies) and Option 2 (all applicable State and Territory laws apply) with respect to the full operation of the scheme, in order to determine a preferred position to put to Ministers. Given the need for consistency across Australia, the Commonwealth <i>Ombudsman Act 1976</i> is preferred..</p> <p>Proposal 5.2.4: With respect to ombudsman legislation, it is proposed that the <i>Commonwealth Ombudsman Act 1976</i> apply (Option 1).</p> <p>MPBV Comment</p> <p>The Board supports Option 1 for Proposal 5.2.4 consistent with the position the Board put forward in the consultation paper relating to complaints (see 9.8).</p>
<p><i>Financial accountability legislation</i></p>	<p>The National Law Bill gives effect to Option 4 (tailor made provisions). This approach is considered to provide the necessary financial, auditing and reporting accountabilities. It is possible for additional provisions to be included in the second stage legislation to ensure a suitable financial accountability framework to support the full operation of the scheme, for example, to provide clarity as to the investment powers of the national agency.</p> <p>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).</p> <p>MPBV Comment</p> <p>The Board supports Option 4 for Proposal 5.2.5 but believes that any legislation relating to financial accountability needs to be very comprehensive and based on best practice principles and contemporary governance processes.</p>

Interface	Proposed approach
<p>Public sector administration legislation</p>	<p>The National Law Bill gives effect to Option 4 (tailor made provisions). This approach allows staff to be employed directly by the national agency, under relevant awards, rather than as Queensland public servants.</p> <p>This approach appears to provide the necessary independence and flexibility for the national scheme and is proposed to be carried forward in the second stage of legislation.</p> <p>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).</p> <p>MPBV Comment</p> <p>The Board supports Option 4 for Proposal 5.2.6 as it will enshrine a uniform approach toward employment conditions for Board staff on a national basis. However, caution should be taken that specific employment arrangements are not included in Bill B as this could potentially restrict the ability of staff and the employing body to negotiate specific terms as part of the Greenfields Collective Agreement. Also, employment should occur under the Federal IR system and not a State based system (i.e. operation of Federal based Awards and the provision for a National Collective Agreement). Additionally any legislation relating to employment arrangements needs to be comprehensive, based on best practice principles and contemporary governance processes.</p>
<p>Statutory interpretation legislation</p>	<p>The National Law Bill gives effect to Option 4 (tailor made provisions). The approach taken is to apply the interpretation provisions in Schedule 2 of the <i>Consumer Credit Code</i>, set out in the <i>Consumer Credit (Queensland) Act 1994</i>, to the National Law as if the provisions were a part of the National Law.</p> <p>Tailor made provisions are considered to provide the necessary clarity, certainty and consistency of interpretation of the legislation across jurisdictions (rather than multiple Acts interpretation regimes applying). It is proposed that tailor made provisions be included in a Schedule attached to the National Law in the second stage legislation, rather than adopted by reference from the Consumer Credit Code.</p> <p>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).</p> <p>MPBV Comment</p> <p>The Board supports Option 4 for Proposal 5.2.7. but believes that statutory interpretation legislation needs to be comprehensive and based on current commonwealth legislation.</p>

Interface	Proposed approach
<p><i>Warrant powers</i></p>	<p>The consultation paper on complaints proposes Option 2 (all State and Territory laws apply). This would mean that when a national board requires a warrant to enter and search premises, it would make application to the relevant State or Territory Magistrates Court (or equivalent).</p> <p>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).</p> <p>MPBV Comment</p> <p>The Board supports Option 2 for Proposal 5.2.8.</p>
<p><i>Working with children checks legislation</i></p>	<p>It is proposed that Option 2 (all State and Territory laws apply).</p> <p>Protocols will be required between the national agency and State and Territory agencies that administer the working with children checks, to deal with how the agencies interact with respect to applications for checks, when matters affecting eligibility status come to the attention of either party, and the obligations on parties to inform each other.</p> <p>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).</p> <p>MPBV Comment</p> <p>The Board supports Option 2 for Proposal 5.2.9 and suggests that a national approach should at least be a stated goal for the near future. The Board also notes the introduction of new ‘Aged Care’ checks in certain states.</p>

Interface	Proposed approach
<p>Special events legislation</p>	<p>It is proposed that Option 2 (all State and Territory laws apply).</p> <p>Special events legislation will no longer need to apply to practitioners from interstate (since they will be nationally registered). However, jurisdictions may still wish to have capacity to streamline arrangements through which practitioners from overseas visiting for large events are conferred with various authorities and/or exempted from committing holding out and other offences. Consequential amendments in Bills C may be required. Protocols may also be required between those State and Territory government departments responsible for administering special events legislation, and the national boards.</p> <p>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).</p> <p>MPBV Comment The Board supports <u>Option 4</u> for Proposal 5.2.10 in order to ensure consistency, as Option 2 would potentially mean much greater variability if travel was contemplated to several states – as would be the case in a national tour / Head of State tour.</p>

6 Trans-Tasman Mutual Recognition and the national scheme

It is important that the national scheme is implemented in a way that implements the Trans-Tasman Mutual Recognition Principle with respect to the regulated health professions, that is, that a practitioner registered in an equivalent occupation in New Zealand is automatically eligible for registration in that occupation in Australia and vice versa. It is intended that existing linkages, for example, between national accreditation bodies and the equivalent registering authorities in New Zealand be maintained and strengthened, and that existing joint standard setting and assessment processes continue.

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 Australian and New Zealand regulatory authorities and supports joint standard setting and accreditation.

MPBV Comment

The Board supports Proposal 6.1 noting that medical practitioners are excluded from the current Trans-Tasman Mutual Recognition Principle.

MPBV Comment re Attachment 1

The Board notes that the setting out of Section 133. *Delegation Health Professions Registration Act 2005* in the table attached to the Consultation Paper was not correct. The setting out has been corrected in this response.

ATTACHMENT 1: Delegation powers in State and Territory and New Zealand registration legislation

Jurisdiction	Delegation provisions in State and Territory and New Zealand registration legislation
ACT Health Professions Regulations 2004	<p>Section 45. Delegation by board A health profession board may delegate a function to:</p> <ul style="list-style-type: none"> (a) a board member; or (b) the board's executive officer; or (c) a committee of the board; or (d) anyone else the board considers appropriate. <p><i>Note:</i> For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4 – provides, amongst other things, that delegation must be in writing, power to delegate may not be delegated, delegation may be made to two or more persons, appointer may exercise delegated power, etc.</p>
NSW Medical Practice Act 1992	<p>Section 136. Delegation by board and Registrar</p> <ul style="list-style-type: none"> (1) The board may delegate to a person the exercise of any of its functions, other than this power of delegation. (2) The Registrar may delegate to a person the exercise of: <ul style="list-style-type: none"> (a) any of the functions of the Registrar under this Act, other than this power of delegation, or (b) any functions delegated to the Registrar by the board, unless the board otherwise provides in its instrument of delegation to the Registrar. (3) In this section, a reference to a person includes a reference to a group of persons, including a committee established under section 133.
NT Health Practitioners Act 2004	<p>Section 13. Delegation</p> <ul style="list-style-type: none"> (1) A board may delegate to a person, member, committee or the Registrar of the board any of its powers and functions under this Act, other than this power of delegation. (2) A power or function delegated under this section, when exercised or performed by the delegate, is taken to have been exercised or performed by the board. (3) A delegation under this section: <ul style="list-style-type: none"> (a) must be in writing; and (b) does not prevent the exercise of a power or the performance of a function by the board.
Qld Medical Practitioners Registration Act 2001	<p>Section 14. Delegation by board</p> <ul style="list-style-type: none"> (1) The board may delegate its powers under this Act to: <ul style="list-style-type: none"> (a) a member; or (b) a committee of the board consisting of appropriately qualified persons, one of whom must be a member; or (c) the executive officer; or (d) with the agreement of the executive officer--an appropriately qualified member of the office's staff. (2) However, the board may not delegate its power under this Act: <ul style="list-style-type: none"> (a) to decide to refuse to register an applicant for registration; or (b) to decide to refuse to renew a renewable registration; or (c) to decide to refuse to restore a renewable registration; or (d) to decide to cancel a registration; or

Jurisdiction	Delegation provisions in State and Territory and New Zealand registration legislation
	<p>(e) to decide to remove conditions on a registration; or</p> <p>(f) to enter into a service agreement.</p> <p>(3) Despite subsection (2) (e), the board may delegate its power under this Act to decide to remove internship conditions.</p> <p>(4) In this section - appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.</p> <p><i>Example of standing for a member of the office's staff - the staff member's classification level in the office</i></p>
<p>SA <i>Medical Practice Act 2004</i></p>	<p>Section 15. Delegations</p> <p>(1) The board may delegate any of its functions or powers under this Act other than:</p> <p>(a) this power of delegation; and</p> <p>(b) the power to hear and determine proceedings under Part 5.</p> <p>(2) A delegation:</p> <p>(a) may be made:</p> <p>(i) to a member of the board, the Registrar or an employee of the board; or</p> <p>(ii) to a committee established by the board; and</p> <p>(b) may be made subject to conditions and limitations specified in the instrument of delegation; and</p> <p>(c) is revocable at will and does not derogate from the power of the board to act in a matter.</p>
<p>Tas <i>Medical Practitioners Registration Act 1996</i></p>	<p>Section 10. Delegation</p> <p>(1) The Council may delegate any of its functions or powers, other than this power of delegation, to a member of the Council, the Registrar or a committee.</p> <p>(2) The Registrar may, with the Council's approval, delegate any of the Registrar's functions or powers to another employee of the Council.</p>
<p>Vic <i>Health Professions Registration Act 2005</i></p>	<p>Section 133. Delegation</p> <p>(1) A responsible board may, in writing, delegate to-</p> <p>(a) a member of the responsible board; or</p> <p>(b) the registrar or another person employed by the board under section 132; or</p> <p>(ba) a person engaged by the board to provide services to the board –</p> <p>its powers and functions under this Act, other than:</p> <p>(c) the power to refuse to grant or refuse to renew registration or endorsement of registration; or</p> <p>(d) the power to impose or to amend, vary or revoke conditions on registration or endorsement of registration; or</p> <p>(e) the power to refuse to approve an application under Part 6 or revoke an approval under Part 6; or</p> <p>(f) the power to impose conditions on an approval under Part 6; or</p> <p>(g) the power to conduct any hearing or to make any determination under Part 3; or</p> <p>(h) this power to delegate.</p> <p>(2) A responsible board may, in writing, delegate to the members of an investigations committee established by the board under Schedule 2 any of its powers and functions under Part 3 relating to investigations of health</p>

Jurisdiction	Delegation provisions in State and Territory and New Zealand registration legislation
	practitioners or registered students.
<p>WA <i>Medical Practitioners Act 2008</i></p>	<p>Section 13. Delegation by board</p> <p>(1) The board may delegate any power or duty of the board under another provision of this Act, other than those referred to in the Table to this subsection, to —</p> <p>(a) a member of the board; or</p> <p>(b) a committee; or</p> <p>(c) a member of a committee.</p> <p>Medical Practitioners Act 2008 Part 2 Medical Board and committees Division 3 Relationship of board with Minister s. 14 page 10 No. 22 of 2008 As at 27 May 2008 Extract from www.slp.wa.gov.au, see that website for further information</p> <p>Table</p> <p>s. 30 s. 38 s. 86 s. 99 s. 31 s. 39 s. 87 s. 103 s. 33 s. 46 s. 97 s. 109 s. 34 s. 47 s. 98</p> <p>(2) The delegation must be in writing executed by the board.</p> <p>(3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.</p> <p>(4) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.</p> <p>(5) Nothing in this section limits the ability of the board to perform a function through the registrar or any other member of staff or an agent.</p> <p>Note: The effect of this section and the table provisions is to prevent the board from delegating the following:</p> <ul style="list-style-type: none"> • general registration • conditional registration for internship or supervised clinical practice • conditional registration for general practice in remote and rural WA • special purpose conditional registration • registration of specialists • recommend to Governor prescribing of specialties • refusal of renewal of registration • actions following recommendations from complaints assessment committee • interim orders suspending registration or prohibiting activity, a • actions following receipt of medical examination report or report of impairment review committee • receipt of reports from various committees & actions following, including referral to tribunal • registration of previously disqualified person
<p>New Zealand</p>	<p>Section 17. Delegation by authorities</p> <p>(1) Each authority may from time to time, by written notice, delegate any of its functions, duties, or powers (other than any power under section 69 or section 71) to a committee appointed under clause 16 or to its Registrar.</p> <p>(2) A delegation under this clause may be subject to any conditions stated in the delegation.</p>

Jurisdiction	Delegation provisions in State and Territory and New Zealand registration legislation
	<p>(3) The Registrar of an authority may not under a delegation under this clause:</p> <ul style="list-style-type: none"> (a) exercise a power of decision in respect of any matter that the Registrar is required to submit or refer to the authority; or (b) review a decision made by the Registrar or by a Deputy Registrar; or (c) order or direct the Registrar or a Deputy Registrar to take any action. <p>(4) Unless otherwise provided by this clause or in the delegation, a delegate may perform or exercise a function, duty, or power of the authority delegated to the delegate under this clause in the same manner and with the same effect as if the delegate were the authority, but may not further delegate the function, duty, or power.</p> <p>(5) Any delegation under this clause may be revoked at any time, and the delegation of a function, duty, or power does not prevent the authority from exercising the function, duty, or power itself.</p> <p>(6) Every delegate purporting to act under a delegation under this clause is, until the contrary is proved, presumed to be acting in accordance with the terms of the delegation.</p> <p>Section 18. Review of decisions of delegate</p> <p>(1) A person who is adversely affected by a decision made by a person under a delegation given under clause 17 may, within 20 working days after the communication of the decision to the person, by application in writing to the authority concerned, request the authority to review the delegate's decision, and, on any such application the authority must, as soon as practicable, review the delegate's decision, and must either confirm or revoke that decision.</p> <p>(2) A person may not apply under subclause (1) for a review of a decision if the person has brought an appeal against the decision.</p> <p>(3) An application under subclause (1) for a review of a decision lapses if the applicant brings an appeal against the decision.</p>