

**Australian Dental Association  
SA Branch Incorporated (ADASA)**

**Submission to the Practitioner Regulation Subcommittee  
On the consultation paper entitled -**

**“Proposed Arrangements for handling complaints  
and dealing with performance, health and conduct matters.”**

The Australian Dental Association, SA Branch Inc. is pleased to have the opportunity to comment on the consultation paper “Proposed Arrangements for handling complaints and dealing with performance, health and conduct matters.”

ADASA has over 1000 members and represents around 90% of dentists practising in South Australia.

The Association runs a comprehensive complaints management service both for the benefit of its members and for the public. ADASA employs Community Relations Officers who operate through a series of written protocols to provide counselling, mediation and conciliation services to dentists and their patients. The ADASA complaints management program was developed in consultation with the Health and Community Services Complaints Commissioner, the Dental Board of SA and the major professional indemnity insurer of dentists in South Australia, Guild Insurance Ltd.

The Association is pleased to put forward the following specific comments for your consideration:

**COMMENTS**

**1.1 Scope of paper**

The second dot point at the top of the page lists three streams –performance (competence), health and conduct – however the paragraph below the dot points list competence, health and performance but omits “conduct”.

The second set of dot points under 1.1 describes the key factors in the new scheme that the system needs to do. It would seem a clear omission is:

- Protect the practitioner against unfair claims.

This matter is addressed under 3.2 – “Receipt of Notification (includes a complaint)” in the last dot point on page 11.

Perhaps this dot point on page 11 should be promoted to the top of the list because a finding that the notification is frivolous etc. would negate the need for the other dot points to be addressed.

#### 1.4 The Intergovernmental Agreement

Under 1.25 paragraphs (b), (c), (d), and (e) are missing.

The third dot point at the bottom of page 6 refers to State or Territory Tribunals that are separate from Boards and will hear serious misconduct matters. ADASA contends that there should be strong representation of professional practitioners on such tribunals as an understanding of context and clinical matters is crucial in such hearings.

#### 2.1.1 Notification

This term is acceptable for use in legislation but it should be noted that some confusion might arise because the term is also used in the context of professional indemnity insurance policies.

#### 2.1.3 Notifications assessment committee

This Association believes that “complaints” matters should stay within each jurisdiction and therefore there will be multiple notifications committees.

#### 2.1.15 ADASA prefers the alternative option “is not a fit and proper person” because this term encompasses more than defects of character.

#### 3.1 Background

The last paragraph under “background” on page 10 should include a reference to protection of the practitioner under circumstances of an unfair notification.

#### 3.2 Key Features of the Proposed System

Conduct management, Health management, Board hearings, Tribunal hearings and Monitoring agreements and conditions should all be State based for effectiveness and simplicity of process.

The three key strands of performance, health and conduct involve very different concepts and ADASA does not believe that they can be dealt with satisfactorily by one body.

Preliminary assessment of notification.

ADASA believes such assessments should occur within the State jurisdiction.

The dot points setting out what a committee would determine from a preliminary assessment of a complaint that has not yet been investigated, is extremely ambitious.

#### Performance management

It needs to be very clear in the context of this document that performance will be assessed prior to setting up a management plan. The wording in this section is unclear and appears to mix the two processes.

#### 4.4 Mandatory reporting

There is a wide range of support disciplinary mechanisms established through professional associations and other bodies not to mention the various roles that health practitioners play within such activities. Option 1b “All registrants” would create chaos in existing systems and is therefore strongly opposed.

#### 4.5 Protection for notifiers and registrants

Proposal 4.5.1 – This proposal could be quite unfair to health practitioners in the case of repeat notifiers of frivolous complaints and this does happen.

#### 4.7 Immediate suspension powers

Proposal 4.7.1 – ADASA prefers the 3<sup>rd</sup> option “specify no term at all and leave it to the board’s discretion”.

#### 6.2 Performance management

An important matter here is the composition of the performance management committee which does not appear to have been addressed. For the sake of fairness and relevant advice to the committee about a particular profession, at least one member of the profession should be on any such committee.

#### Attachment 1

The draft definitions appear to be more onerous than has previously been the case. This could lead to inappropriate findings against practitioners in some cases.

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Date: 18 November 2008