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Practitioner Regulation Subcommittee
Health Workforce Principal Committee
Australian Health Ministers' Advisory Council
National Registration and Accreditation Scheme for the Health Professions
Complaints Arrangements Submission Team

To Whom It May Concern:

Please find a formal written submission by Health Consumers Queensland (HCQ) in relation to the Practitioner Regulation Subcommittee, Health Workforce Principal Committee, Australian Health Ministers; Advisory Council Consultation Paper, *National Registration and Accreditation Scheme For the Health Professions: Proposed arrangements for handling complaints, and dealing with performance, health and conduct matters.*

HCQ comprises a Ministerial Consumer Advisory Committee (the Committee) and Secretariat, supported by the Division of the Director-General, Queensland Health.

HCQ apologises for the delay in forwarding our submission to the Practitioner Regulation Subcommittee. The Secretariat required sign-off for this response by the Committee and then provided a copy of the endorsed response to the Queensland Minister for Health's Office in line with HCQ's terms of reference to provide advice to the Minister on key health policies and initiatives.

This process has now been finalised and able to be forwarded to you. We hope that HCQ's submission can still be incorporated into your overall feedback.

Thank you for the opportunity to provide feedback on this very important initiative. Please contact the Director, HCQ Secretariat on 3234 1141 if you have any queries about HCQ's response.

Yours sincerely

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HEALTH CONSUMERS QUEENSLAND

RESPONSE TO CONSULTATION PAPER:

NATIONAL REGISTRATION AND ACCREDITATION SCHEME FOR THE HEALTH PROFESSIONS:

PROPOSED ARRANGEMENTS FOR HANDLING COMPLAINTS,

AND

DEALING WITH PERFORMANCE, HEALTH AND CONDUCT MATTERS

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ABOUT HEALTH CONSUMERS QUEENSLAND (HCQ)

HCQ was established to contribute to the continued development and reform of health systems and services in Queensland, by providing the Minister for Health with information and advice from a consumer perspective and by supporting and promoting consumer engagement and advocacy. Health Consumer Queensland's (HCQ's) aim is to strengthen the consumer perspective in health services policy, systems and service reform and improvement.

HCQ comprises a Ministerial Consumer Advisory Committee (the Committee) and a Secretariat supported by the Division of the Director-General, Queensland Health.

HCQ's Ministerial Committee was appointed in August of 2008 and is comprised of a mix of health consumers from a broad range of health groupings, Queensland communities and life stages. HCQ specifically includes representation from rural, regional and remote Queensland as well as Aboriginal and / or Torres Strait Islander, and Culturally and Linguistically Diverse communities, people with a disability, and women's health.

ABOUT THIS PAPER

HCQ is providing this written submission in response to the consultation paper, "Proposed arrangements for handling complaints, and dealing with performance, health and conduct matters", developed by the Practitioner Regulation Subcommittee, Health Workforce Principal Committee, Australian Health Minister's Advisory Council (AHMAC). The consultation paper is the second in a series on the implementation of a national accreditation and registration scheme for the health professions, agreed to by the Council of Australian Governments (COAG) in March, 2008.

A copy of the COAG Intergovernmental Agreement (IGA) and the consultation paper can be downloaded from www.nhwt.gov.au/natreg.asp

This paper directly responds to matters raised in the consultation paper.

OPENING STATEMENT

HCQ strongly supports the implementation of a national framework and disciplinary process for the management of complaints and concerns about the competence, health, performance and conduct of health professionals.

HCQ commends State and National Governments for their commitment to legislation that provides an opportunity for the implementation of a more user-friendly, streamlined and robust complaints process. We agree that the national health scheme needs to ensure a high degree of public protection and transparent and accountable policies, practices and services to engender public confidence in the Australian health system.

HCQ believes the implementation of a national complaints/concerns framework offers the best ever opportunity to achieve safe and quality health services in Australia. As such, HCQ would like to see some matters in the consultation paper dealt with more robustly, to ensure a national user-friendly and streamlined complaints/concerns process.

HCQ acknowledges the commitment of the Health Ministers to consult with consumers, consumer representatives, community organizations, professionals, registration boards and educational providers, before developing legislation and a scheme where the safety of the public is paramount; high quality health care will be protected and advanced; processes will be transparent; and governments will be accountable.

HCQ will continue to engage with the process, providing the consumer perspective on the issues that affect Queensland health consumers.

GENERAL COMMENTS AND OVERVIEW

HCQ commends COAG and the State Ministers for taking the important and necessary step in implementing a national approach to accreditation and registration of health care practitioners and the Health Consumers Queensland Response to National Registration and Accreditation Scheme for the Health Professions: Consultation Paper: Proposed arrangements for handling complaints, and dealing with performance, health and conduct matters

Queensland Government and the Minister for Health for taking a leadership role in the implementation of the scheme.

HCQ endorses reforms that increase patient (consumer) safety and the quality and effectiveness of health care. HCQ strongly supports the priority placed on these principles by the IGA. HCQ sees a nationally standardized and centralized approach to the handling of breaches of legislation and complaints or concerns about health professionals' performance, conduct and health matters and the mechanisms as an important and necessary reform.

According to the *Australian Charter of Healthcare Rights*, patients and other people who use the Australian health system have a right to receive safe and high quality care, to comment on their care and have their concerns addressed.¹

To inform this submission, HCQ uses the term 'consumer' to identify a patient or end user of health services. Further, HCQ acknowledges the Queensland Health definition of consumers, as:

*Consumers are people who use, or are potential users, of health services including their family and carers. Consumers may participate as individuals, groups, organizations of consumers, consumer representatives or communities.*²

HCQ believes that a centralized and standardized framework will increase the likelihood that 'unsatisfactory professional conduct', 'unsatisfactory professional performance' and 'professional misconduct' comprising negligent, unsafe, unethical or incompetent practice; poor or unnecessary treatment; or improper administration of medical records and patient access will be identified from one jurisdiction to the next.

Health consumers have reported that the current system is confusing and frustrating. Confusion exists around the correct body to refer a complaint/concern onto (e.g. to a registrant's professional board, the Health Complaints Commissions or the organization delivering the service). Frustration occurs when a consumer refers a complaint/concern to an incorrect body, then is not consulted when it is or is not referred on and the overall process is lengthy, disempowering and does not meet their basic expectations.

As such, HCQ strongly supports the implementation of a streamlined complaints / concerns management system, with the following changes/additions to those processes identified in the paper:

- More clarity about the roles and functions of the national and state tribunals and the guidelines to ensure a consistent approach towards implementation (e.g. Who decides? Who will constitute membership?).
- The use of user-friendly terminology when referring to complaints and concerns. The terms 'notification' and 'notifier' proposed in the consultation paper are not identifiable as a complaint or concern by the Australian community at large and health consumers as part of this community.
- The implementation of a user-friendly communication strategy, which includes:
 - A 'one-stop shop' where health consumers can make their complaint or raise a concern or obtain information and advice as to whether their specific matter is best dealt with via a complaints/concerns process.
 - A national, public awareness and education campaign to inform health consumers about the complaint/concerns process and how they can obtain further information.
 - A toll-free phone number for the 'one-stop shop'.
 - A publicly available flowchart, that clearly details the pathway/s for consumers to follow around particular complaints/concerns.

¹ Australian Commission on Safety and Quality in Healthcare. (2008). *Australian Charter of Healthcare Rights*. Retrieved on 12 November 2008 from: www.safetyandquality.gov.au.

² Queensland Health. (2003). *Queensland Health position statement: Consumer and community participation: To promote community engagement in health*. Brisbane: Author.

- A publicized website which has the flowchart, toll free number and related information.
- Information brochures available in health service outlets (e.g. hospitals, medical practices and dental clinics).

HCQ is aware that the Queensland Government is currently working towards legislation supporting mandatory reporting. As such, HCQ is keen to ensure this is mirrored in the national registration and accreditation scheme for the health professionals to protect the rights and interests of Australian health consumers.

HCQ strongly supports the adoption of a national, mandatory reporting framework that promotes ongoing performance and conduct improvement and good health management by health professionals as a pro-active and positive step in ensuring quality, safe and effective health outcomes for consumers. Such a system needs to include the provision of specific support and protection for those raising a matter as well as affording natural justice and support to the subject of the complaint/concern.

Additionally, HCQ strongly supports a non-punitive, rehabilitative approach to performance, health and conduct management. HCQ supports the Queensland Health model, which emphasizes clinicians' existing strengths rather than deficits, and the focus on structured support through personalized, professional development and review plans for individual circumstances. The Queensland Health model encompasses the Clinician Performance Support Service (CLiPSS). This service was framed around the New South Wales' approach, with covers both public and private health service provision. CLiPSS was designed to improve patient safety by managing concerns about Queensland Health clinician's performance, using holistic assessment procedures, including a personal health assessment and peer assessment of daily on-the-job performance.

In conclusion, HCQ would suggest that future consultation papers need to be more consumer-friendly in their language, length and content. The current consultation paper, comprising 59 pages with attachments, was very onerous to read and was not clearly set out or written in plain English.

SPECIFIC COMMENTS / RECOMMENDATIONS

1. BACKGROUND

Comment – 1.2 Overview of the implementation of the national scheme

HCQ supports the commitment made by state/territory and Commonwealth Health Ministers to the participation of stakeholders, including health consumers, in the implementation of the new scheme. HCQ looks forward to taking part and encouraging consumer awareness, monitoring and participation in consultation and implementation of the scheme.

HCQ strongly supports the position of the Ministers, that in the implementation of the scheme, the safety of the public is paramount, high quality health care must be protected and advanced, governments should be accountable, and processes transparent.

RECOMMENDATION

HCQ strongly recommends that structures and mechanisms exist at all levels of the scheme for consumer representation.

Comment – Principles

HCQ believes any principles need to be mindful of the multicultural nature of Australian society and the diversity of Indigenous, cultural and language groups, which utilize the services of health professionals in urban, rural, regional and remote communities in Australia.

RECOMMENDATION

HCQ recommends that the Principles are extended to include reference to multicultural and Indigenous communities engaging with health professionals.

Comment - Proposal 1.5.1 c.

HCQ would prefer that the proposed framework specifically sets out guidelines and criteria for the process of balancing the rights and interests of consumers with those of health practitioners. The purpose of the words 'balance' and 'interests' is unclear because consumers and practitioners have distinct interests. This would need to be further enumerated. Looking at 'balance', both the consumer and practitioner have a right to personal autonomy and self-determination, which can lead to conflicting perspectives on service delivery and patient safety.

Comment - 2. Proposed terminology

In the case of membership of a panel constituted to hear and determine a performance, health or conduct matter, or membership of any performance, health or conduct management committee, HCQ is keen to ensure that at least one member of the panel is culturally and socially competent and sensitive to the registrant's perspective. HCQ recognizes the resource implications of this request, but suggests that a registrant from a culturally and linguistically diverse or Indigenous background, or persons from socially disadvantaged backgrounds have the right to be heard and understood in a manner responsive to their particular situation. HCQ also believes the panel should comprise at least one legal officer, two health consumers and members from other health disciplines.

RECOMMENDATION

Change the proposed definitions to reflect a culturally and socially competent and sensitive perspective.

2. PROPOSED TERMINOLOGY

Comment – Proposal 2.1.1

HCQ feels the proposed terms, 'notification' and 'notifier' are inconsistent with public thinking and generalized understanding in the Australian community. If used, the terms could further disempower health consumers and undervalue their alleged negative experience. HCQ believes a notification or report is not deemed a complaint or a concern, within the broader community, about the performance, health or conduct of a health professional.

HCQ acknowledges that consumers and their representatives and health practitioners may raise concerns about an individual registered practitioner, while not wanting to proceed with a formal complaint. In other instances, a party or parties will lodge a formal complaint based on their clear perception of a negative experience, with the expectation this complaint will be addressed and/or remedied.

RECOMMENDATION

HCQ strongly recommends the alternative options of 'complaint' when a party or parties makes a formal complaint and 'concern' when a party or parties is raising an issue about the health practitioner's health, conduct or performance.

Comment – 2.1.9 Health assessment

A more holistic approach to assessing the health of a practitioner would ensure that all issues were covered (e.g. mental health issues are often combined with substance abuse). The term 'health assessment' is preferred because it is holistic and less presumptive than 'impaired assessment'.

Comment – 2.1.10 Health panel

HCQ prefers the term 'health assessment panel' to be consistent with 2.1.9.

Comment – 2.1.15 Not of good character

HCQ prefers the term, 'not a fit and proper person' rather than the term 'character defect', as the term can be seen as subjective and difficult to define.

Comment – 2.1.18 Unsatisfactory professional conduct

HCQ prefers the term, 'unprofessional conduct' rather than the term, 'unsatisfactory professional conduct', which is subjective, difficult to define and open to misinterpretation.

RECOMMENDATION

Change the proposed terminology to reflect the above four comments.

3. OVERVIEW OF PROPOSED SYSTEM

Comment – 3.2 Key features of proposed system

HCQ strongly supports a standardized complaints management system and the need for a more coordinated and consumer-friendly approach to addressing health complaints and concerns at the national, state and local level.

We commend the implementation of a system that not only focuses on complaints and concerns, but also provides a proactive national approach to the management of health professionals' performance, health and conduct.

HCQ raises the need for a transparent and accountable process around the streams through which matters may be addressed, to ensure ongoing public confidence in the new scheme.

Consumers have raised geographical diversity, distance and workforce capability in Australia, as issues which may unintentionally influence professional objectivity in determining processes.

Where human resource constraints exist, there is potential to drop professional practice standards to meet service demand and to 'turn a blind eye' to inefficient practices.

Preliminary assessment of complaint/concern

In relation to the final dot point, HCQ believes the words and phrases 'frivolous', 'vexatious', 'lacking in substance' and 'does not warrant investigation' need to be objectively defined with established criteria for each complaint or concern to be assessed against. Additionally, HCQ suggests the entity, which would be responsible for deciding whether no further action be taken based on any or all those terms, needs to be clearly defined, including whether this responsibility rests with the national board or a committee of the board in a State or Territory.

Performance management

HCQ strongly suggests the wording in *Performance management* and *Health management*, relating to a board's preliminary assessment where there is evidence of unsatisfactory performance or physical or mental impairment or substance misuse affecting the registrant's capacity to practice, the only option for the board is to refer the matter to a performance or health management committee. 'May refer' is inadequate in any instances where there is potential risk of harm to health consumers or the public.

Additionally, any performance management processes need to include sufficient professional support for health professionals, especially those located in rural, regional and remote areas of Australia. HCQ acknowledges the invaluable role internationally trained health professionals play in rural, regional and remote settings and stresses the need for effective professional and cultural support for these professionals as part of implementing an effective Australia-wide performance management system. The support should also encompass workload and stress management issues for health professionals.

4. NOTIFICATIONS

Comment – Proposal 4.1.1

HCQ agrees with this proposal, for legislation to enable any person or organization to make a complaint/concern to a board, where they suspect a practitioner is not acting competently or professionally or is unfit to practise. Currently consumers and their family members, carers, friends and informal advocates who have concerns about the capability, conduct or capacity of their health practitioner, experience difficulty in having their complaint/concern taken seriously or they are ill-informed about the complaints process or lack experience and confidence in making a complaint.

With this proposed national system, consumers and their significant others should have a central point of contact where they can raise their complaints/concerns and be aware that there is a nationally recognized process for resolution of their complaints or concerns and that they have protections in law. From this central point, they should be provided with assistance to complete a formal complaint form that will have appropriate outcomes.

RECOMMENDATION

HCQ agrees with Proposal 4.1.1.

Comment - Proposal 4.2.2 In what form may a notification be made

HCQ acknowledges that many health consumers may have difficulty in putting a complaint/concern in writing, because of low literacy skills, poor educational achievement, vision impairment, physical impairment, linguistic diversity, emotional stress or lack of self-confidence. The proposal appears to support the role of an 'assistant', 'advocate' or 'interpreter' to work with them to notify the responsible board about their concerns. HCQ strongly supports the responsible board's providing reasonable assistance to the person. Additionally, HCQ supports a 'one-stop shop' and a communication strategy, which includes a toll-free number and a support person who would be able to provide culturally, emotionally and socially sensitive assistance without cost to the person making the complaint. (e.g. cost of person to assist; travel; access issues; social support). HCQ strongly suggests that the process needs to be empowering for a health consumer as 'expert' in his/her situation.

RECOMMENDATION

HCQ supports Proposal 4.2.2 on the condition that the person making the complaint is not disadvantaged by the process and has all reasonable assistance to voice his/her complaint/concern.

HCQ recommends that the words, “or any other person under stress or distressed by the complaint” is added to the proposal’s explanation.

Comment – 4.4 Mandatory reporting obligations

HCQ believes that the current requirements and arrangements for mandatory reporting by practitioners and others is inconsistent across the jurisdictions and should encompass all questionable professional competence, conduct and fitness to practice matters and breaches of professional standards where a patient is at risk or likely to be at risk as a result of the practitioner's actions. The Queensland Parliament is currently debating mandatory reporting in health-related matters.

Health practitioners are often best placed to observe and recognize episodes of poor professional practice where a colleague commits unprofessional conduct or is unable to practise safely. HCQ would prefer the provision of specific protection for people making complaints, to ensure they are able to maintain their professional reputation and job status as well as affording natural justice and support to the subject of the complaint/concern.

Given COAG's commitment through the IGA to public safety, HCQ supports a robust and mandatory framework for mandatory reporting of any concerning professional competence, conduct or fitness to practice issues. HCQ understands the complex resource and administrative considerations involved, however asserts that a mandatory reporting framework is a valuable strategy in improving professional competence, health and conduct matters.

Therefore, HCQ supports Option 1b: All registrants – extended obligations, where the legislation would include provisions that require, from any of the regulated health professions, a registered health practitioner to notify the responsible board of a registrant whom they reasonably believe is placing the public at risk in their practice due to a physical or mental impairment or health condition or by practicing while intoxicated by drugs or alcohol or by practicing in a manner that constitutes a gross or flagrant departure from accepted professional standards or by engaging in sexual misconduct in connection with their practice.

HCQ also supports Option 2b: Employers – extended obligations, where the legislation would include provisions that require an employer to notify the responsible board of a registrant whose conduct may constitute unsatisfactory professional conduct or professional misconduct. HCQ believes the same requirements for reporting should be placed on students and their supervisors who often have exceptionally clear and current viewpoints on evidence-based practice. Building a culture of reporting within Australia's tertiary institutions will reduce the risk to consumers and increase the quality and safety of their health care and treatment.

In regards Option 2b, HCQ is concerned that registrants would only be expected to report 'major' departures from professional standards. Once again, this statement can be subjectively interpreted, unless very clear definitions and guidelines are provided.

RECOMMENDATION

Reporting of instances of professional misconduct and/or incompetence and/or unfitness to practice must be made mandatory and with extended obligations as defined in Options 1b and 2b. There needs to be more clarity around what constitutes a 'major' departure from professional standards.

Comment – 4.5.1 Protection for notifiers and registrants

Well-intentioned complainants must be assured that raising a complaint, allegation or issue will not lead to defamation or civil proceedings.

RECOMMENDATION

HCQ strongly supports Proposal 4.5.1.

Comment – 4.6.1 Own motion powers

State and Territory boards will from time to time come to hear of issues about the performance, health or conduct of a health professional when they have not received a complaint/concern from an external party. To ensure potentially serious matters are investigated in the public interest, the board should have the power to initiate an investigation on its own motion.

RECOMMENDATION

HCQ strongly supports Proposal 4.6.1.

Comment – 4.7.1 Immediate suspension powers

HCQ strongly suggests that a registration board should never take the least onerous action in the circumstances. Where rules and laws define the consequences of potentially harmful activities, these

consequences should be implemented. HCQ would prefer that the time limit for a suspension be unlimited where a registrant's continued practice is considered to present a serious risk to the community, until an investigation and the subsequent hearing are finalized in a timely manner.

RECOMMENDATION

Where a registrant's continued practice is considered to present a serious risk to the community, their practice should be suspended until an investigation and subsequent hearing are finalized. This process should be subject to three-monthly review.

6. PERFORMANCE MATTERS

Comment – Proposal 6.1.1

While HCQ agrees in principle with this proposal, that practitioners whose performance is not sufficiently satisfactory should be accountable for that performance and subsequently undertake up-skilling activities, there are concerns that individual boards have discretionary power about the degree of competence or skills and knowledge deficits of individual practitioners. HCQ would like to see consistent assessment criteria developed and used across jurisdictions.

HCQ supports the model, which Queensland Health has implemented. We believe this model can inform national processes. Queensland Health's Clinician Performance Support Service (CLiPSS) provides a global approach to risk management, rather than an examination of who is at fault. It is designed to improve patient safety by managing concerns about Queensland Health clinicians' performance. A CLiPSS assessment is not an investigation into wrongdoings but a program to identify existing clinicians' strengths, and focus attention on areas where structured support would make a difference. The goal of CLiPSS assessment is to decide if a support plan is needed, and if so, what it should constitute. Any similar national program would need to balance the priorities of patient safety and support for clinicians.

Comment – Proposal 6.3.2

HCQ poses the question, "How would this be monitored?"

Comment - Proposal 6.4.1

HCQ acknowledges that there needs to be a balance of expertise on the panel with the inclusion of at least one experienced consumer, preferably two, as a mandatory requirement. Consumers bring a different perspective to the process, often relying on lived experience to inform their perspective or the collective viewpoints of the health or condition specific group, which they represent.

RECOMMENDATION

That any performance panel hearing include at least one consumer as a mandatory requirement.

Comment – Proposal 6.5.2

HCQ considers that all relevant evidence and records of previous work history and/or performance assessment and/or investigation be made available to the panel for a comprehensive investigation into the practitioner's capacity to currently practise.

RECOMMENDATION

HCQ accepts the Proposal in principle but recommends that all previous evidence, records of previous work history and/or performance assessment and/or investigation be made available to the panel.

Comment – Proposal 6.5.3

While HCQ supports Proposal 6.5.3, it is on the condition that reasons should be provided to the practitioner and the complainant within 14 days of the hearing. HCQ believes this is a reasonable turnaround time and will help to alleviate the psychological impact on the practitioner and the notifier.

RECOMMENDATION

HCQ accepts the Proposal in principle but recommends that the time frame for providing the practitioner for reasons for decisions be reduced from 28 days to 14 days unless in exceptional circumstances.

7. HEALTH OR IMPAIRMENT MATTERS

Comment – Proposal 7.3

HCQ believes the appointment of one or more assessors, independent of a board or health management committee of a board is essential to ensure a comprehensive assessment of the registrant's health status and functioning. It is imperative that the practitioner receives a report of the assessment within seven days to alleviate psychological distress and to ensure all reasonable steps are taken to enable the registrant to seek medical care and treatment.

HCQ agrees that in situations where the content of the assessment may be harmful to the registrant's state of mind or well-being, a registered practitioner previously nominated by the registrant receive the report for follow-up with the registrant. Consideration must be given to the degree of risk posed to the registrant's consumers and the wider public, the registrant's ability to function at a standard required of his/her profession and his/her need for treatment, therapy and other health services to minimize a negative impact on his/her health and well-being and that of his/her consumers and potential consumers.

RECOMMENDATION

HCQ accepts Proposals 7.3.1, 7.3.2 and 7.3.3 with the qualification that patient and public safety is balanced against the registrant's health and well-being.

Comment – Proposal 7.4.1 Health panel hearing

HCQ believes a minimum and maximum number should be set for membership of any panel. The panel composition should include at least one consumer as a mandatory requirement. Consumers bring a different perspective to the process, often relying on their lived experience to inform their perspective or the collective viewpoints of the health or condition specific group, which they represent.

RECOMMENDATION

That any health panel hearing include at least one consumer as a mandatory requirement.

Comment – Proposal 7.5.3 Decisions available to a health panel following a hearing

While HCQ supports Proposal 7.5.3, it is on the condition that reasons should be provided to the practitioner and the complainant within 14 days of the hearing. HCQ believes this is a reasonable turnaround time and will help to alleviate the psychological impact on the practitioner and the complainant.

RECOMMENDATION

That the practitioner and the complainant are advised of the health panel's reasons for their decision within 14 days of the hearing.

8. CONDUCT MATTERS

Comment – Proposal 8.3.4 Notice of an investigation

HCQ believes that all practitioners the subject of investigation have a right to be given notice of the investigation. This is grounded in the principles of natural justice.

RECOMMENDATION

Any practitioner who is the subject of investigation is entitled to be informed of the investigation and given an opportunity to develop relevant responses to allegations.

Comment – Proposal 8.3.5

HCQ agrees that the investigation process must be facilitated in a timely manner, to bring closure for all concerned parties as equitably as possible.

RECOMMENDATION

HCQ agrees with all aspects of this proposal.

Comment – Proposal 8.6.3 Decisions available to a conduct panel following a hearing

While HCQ supports Proposal 8.6.3, it is on the condition that reasons should be provided to the practitioner and the complainant within 14 days of the hearing. HCQ believes this is a reasonable turnaround time and will help to alleviate the psychological impact on the practitioner and the notifier.

RECOMMENDATION

That the practitioner and the complainant are advised of the conduct panel's reasons for their decision within 14 days of the hearing.

9. ENSURING ACCOUNTABILITY, TRANSPARENCY AND PROCEDURAL FAIRNESS

Comment – 9.3 Legal representation for registrants at panel hearings

HCQ believes the registrant has the right to choose legal representation, as is the case in other adjudicating bodies. HCQ acknowledges the intention to maintain a level of informality at hearings but also believes hearing procedures need to be balanced against the right of the registrant to be adequately represented if he/she chooses.

RECOMMENDATION

HCQ supports Option 2: The legislation specifies that the registrant has the right to be legally represented at a board hearing.

Comment – 9.4 Confidentiality of panel hearings

While HCQ prefers Proposal 9.4.1, it believes the complainant should be given the right to attend conduct hearings, without requiring the leave of the panel, if he/she so wants to do so. He/she has a right of reply at the time of the hearing. Results of the hearing should be made public, but de-identified in cases where the registrant is subject to disciplinary action. Queensland currently has this process in place at the Guardianship and Administration Tribunal (GAAT), where reasons for decisions about guardianship orders are forwarded to key parties and those reasons are placed on the GAAT website, but de-identified to protect the identity of the adult with impaired capacity. This provides a system of transparency and accountability within confidentiality provisions but allows for procedural fairness and consistency across jurisdictions. Where a decision is placed on the website, in extreme cases, that decision should remain on the website indefinitely or for the lifetime of the registrant.

RECOMMENDATION

HCQ supports Option 2, but with the inclusion of the complainant's right to attend conduct hearings, without requiring the leave of the panel.

HCQ recommends that reasons for decisions are placed on the board's website, but de-identified to protect the identity of the registrant and key parties.

10. TRIBUNAL HEARINGS

Comment – 10.5 Findings and determinations of a tribunal

HCQ supports national legislation that sets out the findings, and determinations or orders that a responsible tribunal may make with respect to each type of matter heard under its original and review jurisdictions. Under the original jurisdiction, HCQ believes a fine on the practitioner of \$50,000 is an insufficient deterrent while a fine of \$100,000 would have serious implications for any practitioner. HCQ suggests the tribunal is given enforceable powers to make an order for costs against any party to the proceedings and to recover those costs at law.

RECOMMENDATIONS

HCQ supports Proposal 10.5.2 with the addition of a maximum fine on the practitioner of \$100,000.

HCQ recommends that Proposal 10.5.5 is extended to include provision for the recovery of an order for costs at law as required.

11. OFFENCES AND REGULATED CONDUCT

HCQ acknowledges that under current arrangements, there is significant overlap across jurisdictions in the types of offences that apply in State and Territory registration Acts. HCQ believes a consistent approach across Australia is required to ensure patient safety and the delivery of quality, effective health services. In regards to the regulation of advertising of regulated health services, HCQ believes a national approach to a code of advertising practice is essential to minimize the risk associated with some forms of health service delivery, particularly for vulnerable consumer populations.

Comment – Proposal 11.6.1

HCQ believes offences with respect to registrants who advertise in a manner that is false or misleading must attract penalties commensurate with the risk or potential risk to the public.

RECOMMENDATIONS

HCQ supports Option 3: include broadly framed advertising offences in legislation, that allow boards to deal with both registrants and bodies corporate who, for example, use testimonials, create an unreasonable expectation of beneficial treatment, or encourage the indiscriminate or unnecessary use of regulated health services as the most realistic option.

CLOSING STATEMENTS

HCQ supports COAG's goal to implement a coordinated and standardized approach to the handling of complaints and the processes for dealing with health professionals' performance, health and conduct matters. HCQ acknowledges the commitment of the Health Ministers through the IGA to engaging in consultation with stakeholders, including consumers, on the implementation of a national scheme. HCQ also commends COAG for its prioritization of safe, quality and effective health services in the public interest and supports these principles being upheld in every facet of the national scheme. HCQ will continue to engage with, and monitor the implementation of the national scheme, providing the consumer perspective on the issues that affect Queensland health consumers.