

Attention: Practitioner Regulation Subcommittee  
By email to [nraip@dhs.vic.gov.au](mailto:nraip@dhs.vic.gov.au)

Dear Sir or Madam

### Complaints Arrangements Submission

Thank you for the opportunity to comment on the consultation paper *Proposed arrangements for handling complaints, and dealing with performance, health and conduct matters*, as part of the National Registration and Accreditation Scheme for the Health Professions.

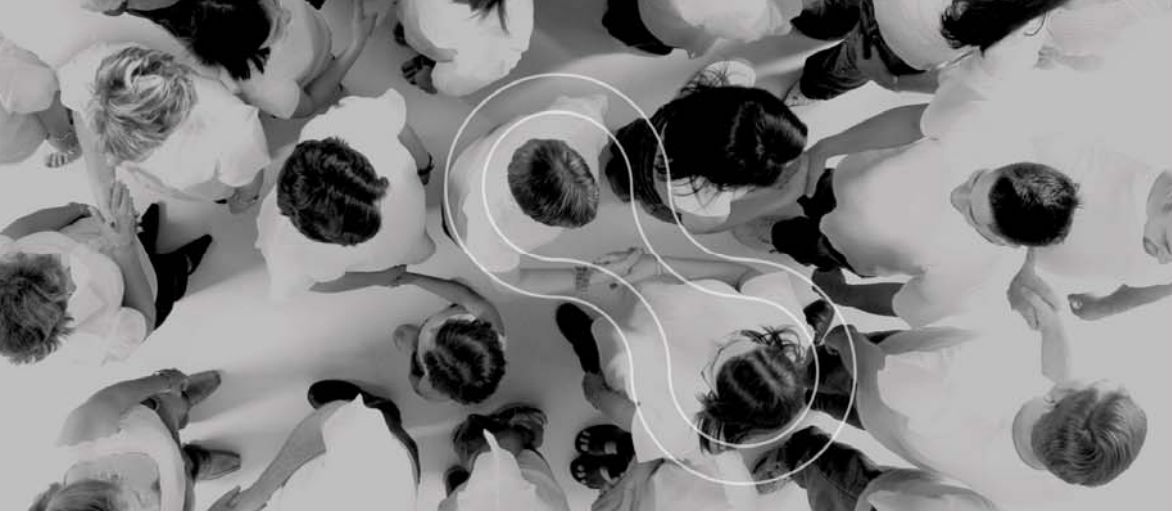
I attach a submission from the Health Quality and Complaints Commission (HQCC), an independent body dedicated to improving the safety and quality of health services in Queensland.

For further information or clarification regarding the HQCC submission, please contact Dr Teresa Lynne A/Director Standards and Quality:  
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Yours sincerely



Cheryl Herbert  
Chief Executive Officer  
21 November 2008



health quality  
and complaints  
commission

POSITIVE HEALTH ACTION

Response from

## Health Quality and Complaints Commission Queensland

to

National Registration and Accreditation Scheme for  
Health Professions Consultation Paper:

Proposed arrangements for handling complaints, and  
dealing with performance, health and conduct matters

21 November 2008

## Introduction

This is a submission from the Health Quality and Complaints Commission (HQCC) in response to the consultation paper *Proposed arrangements for handling complaints, and dealing with performance, health and conduct matters* released in preparation for the National Registration and Accreditation Scheme for the Health Professions.

The HQCC is an independent body dedicated to improving the safety and quality of health services in Queensland. Established in July 2006, the HQCC has three key functions – managing complaints, monitoring and promoting quality improvement in health services and sharing information.

## General comments

The HQCC is supportive of national registration and accreditation but is strongly opposed to the complaints handling arrangements proposed in this consultation paper.

The HQCC was developed in response to major failings in the Queensland health system as detailed in *Queensland Public Hospitals Commission of Inquiry*<sup>1</sup> (Forster) and *Queensland Health Systems Review*<sup>2</sup> (Davies). As a result, the *Health Quality and Complaints Commission Act 2006* placed the HQCC in its present independent oversight and regulatory role. However, the proposed arrangements largely ignore these hard-learned lessons, and would contradict key recommendations of Forster and Davies. They would also seriously interfere with the system of health complaints management which has been successfully operating in Queensland for over two years.

The HQCC is also of the opinion that that the proposed complaints handling arrangements would fail to achieve the principles outlined at proposal 1.5.1 because:

- The multiple channels of complaint under the proposed arrangements will not effectively address the complex systemic issues that frequently accompany complaints about individual health service practitioners. Davies found, for example that, *'By dividing the jurisdiction to deal with complaints between numerous bodies there is a confusion for the complainants as to which is the best authority or the appropriate one for a practical resolution*<sup>3</sup> and *'it is perhaps complicated further by the fact that, at times, the complaint might be received by more than one body.*<sup>4</sup>
- Implementation of the system will introduce an unacceptable level of bureaucracy, because of the different arrangements that will apply in different States and Territories
- It is the experience of the HQCC that consumers require substantial assistance from an impartial and independent body to determine who or what their complaint is about, the appropriate bodies to inform, and what action should be taken. Often complaints are about an episode of care that involves multiple contributory factors of which the behaviour of the practitioner is just one, and possibly a secondary, part. It is

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<sup>1</sup> Davies, The Hon. G. Queensland Public Hospitals Commission of Enquiry. Final Report. Brisbane. 2005.

<sup>2</sup> Forster, P. Queensland Health Systems Review. Final Report. 2005

<sup>3</sup> Davies, The Hon. G. Queensland Public Hospitals Commission of Enquiry. Final Report. Brisbane. 2005. Page 454

<sup>4</sup> Davies, The Hon. G. Queensland Public Hospitals Commission of Enquiry. Final Report. Brisbane. 2005. Page 407

therefore often very difficult for the consumer to identify the most important factor and the most relevant authority with whom to lodge a complaint. The establishment of the HQCC has made substantial progress in assisting consumers to navigate this complexity and ensuring that notifications are directed appropriately.

The proposed arrangements will not, therefore, adequately protect the interests of consumers.

Further problems of the proposed arrangements include:

- A high chance that conflicts will arise in deciding which body will take the lead on a notification, or element of a notification. It is the experience of the HQCC that a thorough assessment is required as soon as a notification is received in order that the matter can be considered holistically and directed appropriately.
- Concerns that the boards may not have the health systems knowledge, resources or independence to perform adequate initial assessments. If issues of jurisdiction and methods of referral are not carefully detailed, it is likely that there will be delays because of the extensive consultation that will be required amongst boards and other bodies. This carries risks of duplication of effort and inefficient use of resources, particularly when dissatisfied consumers pursue multiple avenues, even after an issue has been resolved or dismissed by another body. The HQCC has established multiple Memorandums of Understanding to facilitate information sharing in order to avoid unnecessary duplication of investigative effort.
- A risk that cases will be referred for investigation long after the trail of evidence has gone cold.
- An apparent lack of understanding that commissions such as the HQCC have responsibilities beyond conciliation. For example, some of the other important functions of the HQCC include handling complaints and conducting investigations into systemic issues and the quality of health care provided by public and private health services, non-regulated or partially regulated practitioners, other health care workers and individuals purporting to provide a health service.
- It would appear that the proposed arrangements are weighted in favour of the health practitioners and do not adequately protect the interests of consumers, as required at principle 1.5.1(c). As outlined above, the multiple channels of complaint will likely cause confusion, delays and frustration for consumers and will undermine the role of independent HCCs. It is also anticipated that consumer confidence will be undermined by a system where practitioners are assessed, investigated and disciplined by their peers without the involvement of an independent body.
- The HQCC is also concerned by the apparent limited research and evidence base for the scheme in general and the complaints handling arrangements in particular. It is the opinion of the HQCC that much could be gained by drawing from advances in the health care systems of other countries. While it is proposed that the provisions will build on best aspects of current State and Territory schemes, it would perhaps be more productive to consider a new system that applies consistently to all States and Territories rather than attempt to patch one together from disparate and conflicting arrangements. Furthermore, the HQCC fails to see how the variable HCC arrangements are to remain with a common interface to the boards and is concerned

by the lack of consistency and excessive bureaucracy that may result. Resolving the inherent conflicts between them will be a great challenge for the scheme, particularly given the vast differences in population and resources among the States and Territories.

While it is acknowledged that the models of HCCs in each State and Territory have various strengths and weaknesses, it is the opinion of the HQCC that the Queensland model has much to offer, partly because it is the most recently formed and has had the benefit of drawing on a broad range of experiences. One of the major strengths of the Queensland system is the dual focus on safety and quality of health services. At the HQCC, complaints management and quality improvement functions are carried out by the same organisation and are able to inform each other. As recommended by Davies, improvement in health services requires a combination of effective complaints handling and other measures for maintaining and improving standards: *'Whilst a good deal of attention has been devoted to complaints and incident management systems those systems should not be the sole focus for improvement in the future...complaints systems tend to be focused on eradicating inadequate treatment, rather than striving for excellence in clinical standards...Other measures for maintaining standards, such as audit, accredited training posts, and critical mass of doctors, are essential because they provide other means of checking the standard of clinical services.'*<sup>5</sup>

A further lesson from the Queensland system is its focus on early resolution of complaints. While it is acknowledged that *'the national regulatory scheme is designed to protect the public as distinct from resolution of complaints'*, it is the experience of the HQCC that the amount of time spent on a complaint is inversely proportionate to a successful resolution. It is anticipated that the boards will find themselves short on resources to deal effectively with complaints if provisions are not made to resolve notifications quickly. Often complaints can be effectively dealt with at a local level, and in Queensland this is embodied in provisions of the *Ombudsman Act 2001* where notifiers must make reasonable attempts to resolve an issue locally before they can make a notification to the Ombudsman. In a similar vein, the HQCC has implemented a Standard which requires all health service providers to have a complaints handling system in place. Further, of all enquiries that are made to the HQCC, 78.4% are closed within one day. It is also recommended that the boards consider a strong incentive for providers to resolve minor disputes through open disclosure. For example, it is anticipated that a large proportion of minor complaints could be resolved quickly if a practitioner was assured no adverse inference will be drawn if they can resolve a matter quickly and locally to the satisfaction of the notifier.

As recommended by Davies, *'There are obvious advantages in having one independent body which could act upon complaints from patients and health practitioners or on its own initiative with the powers to assess and to investigate doctors, nurses, allied health professionals, private hospitals and public hospitals and which had the power to conciliate but also adjudicate, discipline and suspend in cases where there exists a real risk to patients.'*<sup>6</sup> It is the strong recommendation of the HQCC that it is in the public interest to have an independent, state-based body with oversight of all health complaints which is in a position to conduct a thorough assessment of notifications and refer them appropriately.

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<sup>5</sup> Davies, The Hon. G. Queensland Public Hospitals Commission of Enquiry. Final Report. Brisbane. 2005. Page 395

<sup>6</sup> Davies, The Hon. G. Queensland Public Hospitals Commission of Enquiry. Final Report. Brisbane. 2005. Page 314

This ensures that all relevant bodies will be informed and complex systemic issues are addressed, as well as reducing duplication of effort and confusion for consumers.

## **Specific comments**

The HQCC's response to specific proposals included in the consultation paper are listed below; identified by the reference numbers used in the consultation paper. Where proposals are omitted it can be assumed the HQCC has no comment.

### **Section 2: Proposed terminology**

#### **2.1.1 Notification**

The proposal to adopt the term 'notification' is supported as it more accurately encompasses information received from a variety of sources.

#### **2.1.2 Preliminary assessment**

The HQCC has strong concerns about the concept and definition of 'preliminary assessment' as it does not reflect the importance of considering all contributing factors and possible jurisdictions on receipt of a notification in order to determine the appropriate course of action. It is suggested the term 'assessment' may be more appropriate while the alternative options 'investigation' or 'preliminary investigation' are unsuitable and should be reserved for more comprehensive enquiries.

#### **2.1.3 Notifications assessment committee**

Following from 2.1.1 and 2.1.2, the proposal to adopt the term 'notifications assessment committee' is supported.

#### **2.1.15 Not of good character**

The terms 'not of good character' and 'not a fit and proper person' are open to misinterpretation, lack transparency, and make no reference a person's suitability for a profession. The alternative terms 'unsuitable for practice' or 'unfit to practice' are proposed, and could be further clarified by examples of the behaviours or traits that demonstrate it.

### **Section 4: Notifications**

#### **4.1 Who may make a notification**

##### **Proposal 4.1.1**

The proposal - to provide for any person or organisation to make a notification to the board - is supported.

#### **4.2 In what form may a notification be made**

##### **Proposal 4.2.1**

The proposals regarding the form a notification must take are supported.

##### **Proposal 4.2.2**

The proposal – for boards to provide reasonable assistance to make a notification - is supported.

#### **4.3 What sort of matter may be the subject of a notification**

##### **Proposal 4.3.1**

It is recommended the provision regarding communication skills be expanded to reflect competency in the English language *to a clinical standard*, as well as interpersonal skills and cultural sensitivity.

### **Proposal 4.3.2**

The proposal - to provide for notifications to be made regarding practitioners who are no longer registered - is supported. However, the HQCC recommends specifying a reasonable period of time in which notifications must be made. Section 63(3) of the *Health Quality and Complaints Commission Act 2006* specifies a period of one year, though it is the experience of the HQCC that this timeframe is considered too short by many consumers, and a longer period of two to five years may be more appropriate. Timeframes should not apply to cases which may warrant suspension or cancellation of registration.

### **4.4 Mandatory reporting obligations**

The HQCC supports the concept of peer reporting, but the implications of mandatory reporting obligations and the manner in which such obligations are implemented is problematic and requires careful consideration. Furthermore, a search of the literature found little research on mandatory reporting and the HQCC questions the evidence-base and efficacy of the practice. An alternative model is to require practitioners to monitor and report on the conduct and performance of colleagues through their adherence to professional standards and codes of conduct, such as those contained at section 6.4 of *Good Medical Practice*<sup>7</sup> which may soon be adopted by Australian medical practitioners.

If mandatory reporting is to be adopted, a major risk for safety and quality of health care, particularly with regard to Option 1a, is that it may discourage health practitioners from seeking treatment or assistance. This could adversely affect their own well-being as well as that of their clients or patients. There are also problems with Options 2a and 2b regarding the definition of 'employer' and that the obligations may not apply to organisations including public and private hospitals, and those who do not provide regulated services. Therefore by default, Option 1b is supported but the HQCC raises the following points of concern for consideration and mitigation.

Firstly, there is the possibility that mandatory reporting obligations will be misused and leave practitioners exposed to vexatious or unwarranted claims, particularly where different professions have varying beliefs about appropriate courses of treatment.

The boards may also have to contend with over-reporting and high volumes of less serious notifications from practitioners who fear punitive action for not fulfilling their obligations.

The provision regarding mandatory reporting by registrants 'where it is within their competence to make such a judgment' is also problematic as it implies that practitioners from one profession may not be able to make sound judgements about practitioners from another profession. In many cases, it is practitioners who observe multiple procedures and practitioners (such as nurses and anaesthetists) who are in the best position to identify and report such issues. The provisions need to be carefully framed so as not to discourage inter-profession reporting and the useful practice of 360 degree feedback.

Even the issue of sexual misconduct is problematic in some cases and may not apply equally to all professions and in all circumstances. It may be necessary to elucidate issues of power and boundary, and to consider the plight of individuals who may be the only health practitioner in a rural or remote community and the manner in which they might be permitted to develop normal social and marital relationships when they are potentially in a treating relationship with every person they meet.

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<sup>7</sup> Australian Medical Council. *Good Medical Practice: A Draft Code of Professional Conduct*. 2008

Finally, of particular concern to the HQCC, is the case of practitioners who deal with reports of notifications on a daily basis as a result of their employment, for example practitioners who work for HCCs or medical indemnity insurers, and it is strongly recommended these individuals be exempt from any mandatory reporting obligations.

### ***Student registrants and mandatory reporting***

In a submission on *Proposed registration arrangements*, the HQCC supported the proposal to give boards discretion to include or not include a student category of registration. It is recommended that for those boards who choose student registration, the same mandatory reporting obligations should apply to students.

The issue of whether registered practitioners or educational institutions should be required to report registered students is more problematic, and it is suggested reporting obligations only apply to matters that would result in cancellation or suspension of registration, or any other issue that would preclude a student from gaining registration.

## **4.5 Protection for notifiers and registrants**

### **Proposal 4.5.1**

The proposal is supported, that the information obtained from a person making a notification is privileged if it is given in good faith. It is recommended the clause be extended to offer protection from reprisal, as provided for in section 93 of the *Health Quality and Complaints Commission Act 2006*.

## **4.6 Own motion powers**

### **Proposal 4.6.1**

The proposal - that boards be given the power to initiate an investigation without a notification - is supported. On the basis of HQCC's recent experience, the HQCC strongly recommends the boards establish robust methods of assessing and monitoring continuing competence, and to make this a condition of registration renewal.

## **4.7 Immediate suspension powers**

### **Proposal 4.7.1**

The alternative option - to specify no term for suspension and leave it the board's discretion - is supported. However, it is recommended the boards each specify an appropriate maximum term, so as not to prevent a practitioner from re-entering the profession because they fail to meet a board's recency of practice requirements.

### **Proposal 4.7.2**

The proposal - that suspension apply while a registrant seeks review of a tribunal decision - is supported.

### **Proposal 4.7.3**

The proposal - that boards be given the power to accept an undertaking from a practitioner as an alternative to immediate suspension - is supported.

## **Section 5: Preliminary assessment of notifications**

### **5.1 Powers following receipt of a notification**

As discussed above, it is the experience of the HQCC that complaints do not happen in isolation but as part of a system, and often involve practitioners from multiple professions, as well as other health care workers, and public and private health services. Consumers often need a great deal of assistance to extract the various elements of their complaint

and identify the appropriate jurisdiction, and a matter may often be substantially progressed before all its intricacies are elucidated. It is important that a thorough assessment be required upon receipt of a notification in order to consider the complexity of contributing factors and jurisdictions and to direct a notification to the appropriate channels.

The HQCC is concerned that the national boards may not have the health systems knowledge, resources or independence to conduct such an assessment. This presents an unacceptable risk that issues will not be referred appropriately to other agencies, boards or HCCs, particularly with regard to systemic issues. For the average consumer, the proposed arrangements will introduce the risk that a matter is incorrectly referred and result in further bureaucracy, time delays and frustration.

The consultation paper fails to specify which types of notifications will be referred to various bodies, and how effective consultation and referral will be achieved. The potential for conflict between jurisdictions is significant when deciding which body should be notified and who should have responsibility for a matter. The complexity of this situation in Queensland is outlined in the table below.

Table 1: Notification of serious adverse health incidents in Queensland

	Reportable Death	Criminal Allegation	Serious potential risk to vulnerable persons	Systemic Health Quality Issues	Professional Misconduct
Crime And Misconduct Commission	Official Misconduct (if incident related to suspected official misconduct in public sector health service the matter needs to be notified to the CMC prior to dealing with the matter)				
Health Quality And Complaints Commission	Notify where the incident is related to an adverse health event			Lead Agency	Lead Agency (Provider not registered)
Health Practitioner Registration Boards	<ul style="list-style-type: none"> <li>Immediate notification - if a registered medical or allied health practitioner poses a serious potential risk to vulnerable persons and immediate action to suspend or impose conditions is necessary.</li> <li>Routine notification - if matter relates to suspected professional misconduct</li> </ul>			May need to know	Lead Agency (Medical & Allied Health)
Queensland Nursing Council	<ul style="list-style-type: none"> <li>Immediate notification: if a nurse, midwife or other person practising nursing poses a serious potential risk to vulnerable persons</li> <li>Routine notification- if matter relates to suspected professional misconduct</li> </ul>			May need to know	Lead Agency (Nursing)
Queensland Police Service	Lead Investigation Agency		May need to know	Do not notify	
Office of the State Coroner	Lead Agency	Need to know (where a death is suspected to be a reportable death but has not already been reported to a Coroner)			
Chief Health Officer	May need to know (if matter relates to the questionable operation of a licensed private health facility or premises suspected of operating unlawfully without a licence)				
CCYPCG	Notify (if matter relates to a person under 18)	May need to know (if matter relates to child or young person in the child safety system receiving either public or private health services)			
Queensland Ombudsman	May need to know (if matter relates to public sector maladministration)				

At a minimum, this provision needs to be amended to indicate that all notifications that fall within the ambit of the State and Territory HCCs are referred to the responsible HCC, not only those requiring conciliation. However, it is the HQCC's strong preference that there is one independent, state-based health complaints body to conduct assessment of all health-related notifications.

## **5.2 Grounds for a board to refuse to deal with a notification**

### ***Proposal 5.2.1***

The proposals regarding the grounds on which a board may refuse a notification are supported. However, it is recommended there be consistency regarding the amount of time that has elapsed since a matter arose, and that these timeframes be made clear to consumers.

## **5.3 Liaison with health complaints commissions**

### ***Proposal 5.3.1***

#### ***National registration legislation***

The proposal implies that the only complaints that fall within the ambit of the HCCs are complaints from consumers, and that only matters suitable for conciliation will be referred to the HCCs. While conciliation is an important and valuable part of the HQCC's work, the proposal ignores and undervalues its other important roles. At a minimum, this proposal must be amended to require boards to refer all matters to the HCCs that are within their ambit. In the case of the HQCC, this would also include matters relating to systemic issues, public and private health services, and unregulated or partially regulated professions regardless of who makes the notification. As outlined in sections 36 and 37 of the *Health Quality and Complaints Commission Act 2006*, the HQCC is empowered to deal with:

- a health quality complaint which is a complaint about:
  - the quality of a health service
  - a provider's failure to improve health services
  - matters relating to the provision of more than one health service
- a health service complaint which is complaint about a provider acting unreasonably:
  - by not providing a health service
  - in the way of providing a health service
  - in providing a health service
  - by denying or restricting access to records
  - by disclosing information about a consumer
  - or that a public or private entity that provides a health service acted unreasonably by:
    - not properly investigating a complaint
    - not taking proper action in relation to a complaint.

Detailed clarification, perhaps in the form of flow charts, is required to ensure that there can be no misunderstanding or misinterpretation regarding the appropriate bodies to deal with various notifications and the manner in which this will be achieved. If this is not clarified, consultation could be required on every notification which will be unnecessarily time-consuming and resource-intensive, and could involve duplication of effort. Such ambiguity increases the potential for conflict and breakdown of relationships between parties which is not in the best interests of public safety and effective handling of notifications.

With regard to whether the HCCs should take on the role of prosecuting serious misconduct matters before a disciplinary tribunal, it is the HQCC's preference that in Queensland this role remains with the Health Practitioners Tribunal and Nursing Tribunal.

### ***State and Territory health complaints legislation***

The provisions contained in this section seem reasonable and are similar to the current satisfactory arrangements between the HQCC and the Queensland boards that encourage both parties to agree who is best placed to deal with the matter. However, the same issues arise regarding the potential for excessive bureaucracy and breakdown of relationships between the boards and HCCs and it is also difficult to comment on the provisions until the detail of how consultation will be achieved is revealed. The proposal also highlights the confusion and duplication that may arise from the boards having to work with different legislation and protocols for each State and Territory. While it is outside of the scope of this submission and of the scheme, this suggests there may be value in also nationalising HCCs and complaints handling arrangements in future.

## **5.4 Who conducts the preliminary assessment of the notification**

### ***Proposal 5.4.1***

It is the position of the HQCC that a central, independent body receive and assess all health complaints for that State or Territory, and refer the notifications to relevant parties, identifying the lead agency on separate aspects of the matter.

## **5.5 Powers following preliminary assessment of a notification**

### ***Proposal 5.5.1***

The HQCC makes no comment other than to reiterate that the proposals needs to be amended to reflect that matters must be referred to the responsible HCC for any matter that falls within their jurisdiction, not merely for conciliation.

## **5.6 Notifiers' rights of review of preliminary assessment decisions**

Option 2 is supported, provided there is a consistent approach across States and Territories.

## **Section 6: Performance matters**

### **6.5 Decisions available to a performance panel following a hearing**

While it is necessary to include provision to refer a matter to another body following a hearing, it is suggested this option need not be exercised often if a notification is thoroughly assessed and appropriately referred in the first instance. Referral at a later stage, often after a considerable time has elapsed, will hinder subsequent investigations and cause frustration to all parties concerned.

## **Section 7: Health or impairment matters**

### **7.5 Decisions available to a health panel following a hearing**

*See response to section 6.5 above.*

## **Section 8: Conduct matters**

### **8.3 Investigations**

#### ***Appointment of investigators***

The HQCC is concerned that the boards may not currently have the experience and resources to conduct timely and effective investigations. It is suggested that provision be made for the boards to refer matters to the HCCs for investigation where appropriate, particularly where an investigation may fall within the ambit of that HCC or involve more

than one profession. It is also proposed that the boards be required to provide the HCCs with details of their methods and findings of all investigations.

### ***Timelines for the conduct of investigations***

It is the experience of the HQCC that the requirement to provide regular feedback is onerous and also has the potential to compromise an investigation. It is suggested that feedback be permitted in the form of a generic letter rather than a detailed report.

## **8.6 Decisions available to a conduct panel following a hearing**

*See response to section 6.5 above.*

## **Section 9: Ensuring accountability, transparency and procedural fairness**

### **9.1 Achieving separation of functions**

#### ***Proposal 9.1.1***

Under the proposed arrangements, separation of powers is not properly achieved as boards are to have primary responsibility for ‘assessment, investigation, prosecution (of both serious and less serious matters) and determination of less serious issues’. Separation of functions will only occur when the State and Territory tribunals are called upon to deal with serious misconduct matters. It is anticipated that consumers will have little confidence in these arrangements as notifications will effectively be dealt with by a process of peer review, and not by an independent body. It is also anticipated that registrants who are the subject of notifications may be concerned that the one body will perform all the functions in managing complaints. As stated in the consultation paper, the legislation will need to be carefully written to address issues of due process, procedural fairness and natural justice.

Option 2 is supported, with provisions that establish a statutory office to assess prosecution decisions, similar to the ‘director of proceedings’ models of New South Wales and New Zealand. It is suggested this body would best sit within the national agency in order to achieve consistency between States and Territories.

#### ***Proposal 9.1.2***

The proposal - to establish public interest criteria – is supported.

### **9.2 Matters involving registrants from different professions**

#### ***Proposal 9.2.1***

While the proposal goes some way to address duplication of effort and coordination among boards, it fails to acknowledge the various other parties that may be involved and the jurisdictions with which collaboration may be required. The HQCC reiterates the importance of conducting coordinated investigations that address all issues holistically and the need to avoid duplication of effort, particularly in the case of securing scarce expert opinion. The provision does at least acknowledge systemic issues and suggests these are dealt with ‘by ensuring State based bodies with a role in reviewing these types of matters are notified when these cases arise’ but there are significant shortcomings in this approach. It is again suggested that cases involving systemic issues and multiple professions and jurisdictions be investigated by a HCC.

### **9.3 Legal representation for registrants at panel hearings**

Option 2 – to specify a registrant’s right to be legally represented at a board hearing – is supported.

## **9.5 Status of notifiers at panel hearings**

### ***Proposal 9.5.1***

The first part of the proposal - regarding notifier's presence at a hearing - is supported. The second part of the proposal - that notifiers are not to have a right under legislation to seek a review of a decision of a hearing panel - is not supported. The HQCC considers that notifiers and registrants should have equal rights to seek a review in order to align with principle 1.5.1(c) of this consultation paper, that the rights of consumers and health professionals should be balanced.

## **9.6 Review rights for registrants**

As outlined in response to 9.5 above, the HQCC considers that notifiers and registrants should have equal rights to seek a review of a hearing panel decision in order to align with principle 1.5.1(c) of this consultation paper.

## **9.8 Role of Commonwealth, State and Territory Ombudsman**

Option 1 - that the Commonwealth *Ombudsman Act 1976* apply - is supported. The HQCC feels this option will best achieve consistency between States and Territories and ensure that multiple avenues of review are not made available.

## **Section 10: Tribunal hearings**

It is the position of the HQCC that the current arrangements for the Health Practitioners Tribunal and Nursing Tribunal in Queensland are satisfactory. It is noted that all State and Territory tribunals arrangements will comply with national criteria agreed by the Australian health Ministers' Council, in order to achieve consistency of approach.

## **Section 11: Offences and regulated conduct**

### **11.5 Direct or incite offences**

#### ***Proposal 11.5.1***

The proposal – to include a series of offences for any person or entity who directs or incites a registered practitioner to act in a manner that might constitute unsatisfactory professional conduct or professional misconduct – is supported.

### **11.6 Regulation of advertising**

The HQCC supports Option 2 which strikes the best balance between protecting the public, and cost and resource issues associated with enforcing the regulation of advertising.

### **11.10 Monitoring of registrants**

#### ***Proposal 11.10.1***

The proposal – for the boards to monitor registrants' compliance – is supported.