

21 November 2008



Ms Bronwyn Nardi
Chair
Practitioner Regulation Subcommittee
Level 12
120 Spencer Street
MELBOURNE VIC 3000

Dear Ms Nardi

COMPLAINTS ARRANGEMENTS SUBMISSIONS

This draft submission is in response to the consultation paper issued by the Practitioners Regulation Subcommittee of the Health Workforce Principal Committee on 7 October 2008 in relation to the proposed arrangements for handling complaints under the National Registration and Accreditation Scheme. Thank you for agreeing to accept this draft as recognition that a more detailed response will follow.

I would like to focus on and express my concern about the proposed arrangements in so far as they deal with liaison between a Health Complaints Commissioner (HCC) and a board in relation to a notification received by a board. In Western Australia the HCC is referred to the Office of Health Review (OHR). On my understanding of the paper, the treatment of the subject is based on an inadequate understanding of the role which OHR plays as an independent and impartial statutory authority.

The Principles, as outlined in section 1.5 of your paper are strongly supported, which aim to improve consistency and information sharing at a national level for registered health practitioners. One result, contrary to the intent expressed in paragraph 1.5 of your paper, is the potential compromise to public safety and the rights and interests of consumers. Another result is impairment to the ability of OHR to exercise independent oversight over the health system in the jurisdiction and to achieve improvements in the system.

The role of the OHR is not just to resolve consumer complaints. The functions and powers of the Director are clearly enunciated in the *Health Service (Conciliation and Review) Act 1995, S10(1)* (HSCRA1995).

10. Functions and powers of Director

- (1) The functions of the Director are -
 - (a) to undertake the receipt, conciliation and investigation of complaints under Part 3 and to perform any other function vested in the Director by this Act or another written law;
 - (b) to review and identify the causes of complaints, and to suggest ways of removing and minimizing those causes and bringing them to the notice of the public;
 - (c) to take steps to bring to the notice of users and providers details of complaints procedures under this Act;

- (d) to assist providers in developing and improving complaints procedures and the training of staff in handling complaints;
- (e) with the approval of the Minister, to inquire into broader issues of health care arising out of complaints received;
- (f) subject to subsection (4), to cause information about the work of the Office to be published from time to time; and
- (g) to provide advice generally on any matter relating to complaints under this Act, and in particular –
 - (i) advice to users on the making of complaints to registration boards; and
 - (ii) advice to users as to other avenues available for dealing with complaints.

Resolving consumer complaints is just one aspect of a number of roles. It is also about the protection of the rights of health service users and about independent scrutiny of public safety and public interest issues arising in connection with the State's health system.

The responsibilities of the OHR are linked with those of the Health Professional Registration Board in Western Australia. The *HSCRA1995* is a principal piece of Western Australian legislation governing the management of health complaints in relationship to boards. This relationship is outlined in *HSCRA1995 S31, 53, 54 and 55*.


S31 provides opportunity for consultation between OHR and the board before the matter is referred by OHR. *S53* requires the board to refer a complaint, that comes within *S25* of the *HSCRA1995* and to give a copy of the complaint to OHR. *S54 and 55* outline the requirements of a board when a matter has been referred to them by OHR.

The current arrangements allow for an open cooperative relationship between the agencies encouraging effective resolution of complaints. The consultation paper gives authority to the board whose concern is with the maintenance of standards for the profession. In contrast the OHR is an independent and impartial statutory authority whose function is to look at the matter from the point of view of protecting the public interest and contributing to the improvement of the health system generally.

I would propose that there should continue to be a constructive interaction between the boards and HCCs who maintain the current arrangements where they have the power to retain or refer a complaint. This works successfully in Western Australia with the cooperation of all the boards.

The final submission will be forwarded to you next week.

Yours sincerely



Linley Anne Donaldson
DIRECTOR