

# OPTOMETRISTS REGISTRATION BOARD OF TASMANIA

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## SUBMISSION ON CONSULTATION PAPER

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

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

The Optometrists Registration Board of Tasmania has concerns regarding the complexity of the processes and committee structures for handling complaints as proposed in this consultation paper. The Board notes the comments and proposals in the recent consultation paper on other matters for inclusion in Bill B which seem to address these concerns. The Board supports the proposal that the national boards are given flexible delegation powers which will enable them to establish appropriate processes and structures to deal with complaints and notifications.

In relation to specific proposals within this consultation paper the Optometrists Registration Board of Tasmania makes the following comments:

#### ***Proposal 4.3.2:***

In the case of disciplinary proceedings in relation to a practitioner who was registered at the time of the conduct in question but has since ceased to be registered under the Act or a previous enactment, there needs to be a mechanism for the imposition of sanctions if such a person subsequently seeks re-registration.

#### ***4.4 Options for mandatory reporting***

The Board supports Option 1b and Option 2b. in the interest of public safety. It is that 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 practising while intoxicated by drugs or alcohol, or
- by practising 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.

Under this option, 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.

The Board is concerned that practitioners are protected from malicious complaints.

It is important that registrants would only be expected to report major departures from professional standards where it is within their competence to make such a judgement and that there would be some recourse in the case of malicious complaints.

***Proposal 4.5.1:***

The Board suggests that there should not be any protection for a person making a notification if the complaint is proved to be malicious or vexatious.

***Proposal 4.7.1:***

The Board supports the proposal that the legislation include provisions that empower a responsible board or a notifications assessment committee to immediately suspend the registration of a practitioner for a period of up to three months, and to impose a second or subsequent period if it considers the registrant's continued practice poses a significant risk to public health and safety and the proceedings have not yet been finalised. It does not support the alternative lengths of time for immediate suspension.

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

The Board supports Option 2 that there be a right of review of preliminary assessment decisions for notifiers by a review panel established internal to the board, with or without a level of independent input from, for example, a nominee of the responsible HCC. Reviewable decisions would be the decision to take no further action following preliminary assessment, and the decision to refer a matter to a conduct management committee or performance management committee of the board rather than to an external tribunal for hearing. The notifier would have no right of review with respect to matters being dealt with by the board under the health stream

***Proposal 7.1.2:***

The Board supports Option 2 that health programs, if provided for by a board, will be funded by the board through charges to the registrants receiving health programs in addition to a component of all registrant fees from the profession.

***Proposal 8.3.3:***

The Board considers that 28 days is too long and suggests that notice should be given within 14 days of the decision to conduct an investigation.

***Proposal 9.1.1:***

The board supports option 1 that no additional provisions are required beyond the review, appeal and other mechanisms already described in the paper

***Proposal 9.3:***

The board supports Option 4b that the legislation specifies that the registrant has no right to legal representation, but can have a person accompany them, who may or may not be an

Australian legal practitioner, and that person may speak on their behalf with the leave of the panel.

## **9.8 Role of Commonwealth State and Territory Ombudsmen**

The Board supports option 1 that the Commonwealth *Ombudsman Act 1976* be applied to the national registration scheme.

### ***Proposal 10.5.1:***

The Board suggests the power to dismiss must be included in the findings which a tribunal can make.

### ***Proposal 10.5.2:***

The Board suggests the power to dismiss must be included in the findings which a board can make.

### ***Proposal 10.6.1:***

The board proposes that the Chair of a tribunal be a legal practitioner

### ***Proposal 11.6.1:***

The board supports option 2 that narrowly framed advertising offences be included in the legislation, which just mirror trade practices/fair trading legislation (that is, false and misleading advertising) and a narrow application, only to registrants, and their employing bodies corporate.