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# OPTOMETRISTS REGISTRATION BOARD OF WESTERN AUSTRALIA

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## National Registration & Accreditation Scheme for the Health Professions

### Consultation Paper on Proposed arrangements for handling complaints and dealing with performance, health and conduct matters

#### Submission by the Optometrists Registration Board of WA (ORBWA)

##### **Proposal 1.5.1**

ORBWA supports the proposed framing of the legislation relating to the management of complaints and matters of conduct, health and performance.

##### **Proposal 2.1.1**

ORBWA believes that as the profession and consumers have been used to the term “complaint” for approximately 70 years, the change in terminology would, in fact, be confusing.

##### **Proposal 2.1.2**

ORBWA believes that as the profession and consumers have been used to the term “investigation” for approximately 70 years, the change in terminology would, in fact, be confusing. ORBWA would prefer the term “preliminary investigation”

##### **Proposal 2.1.3**

ORBWA believes that the term “complaint” is preferable to “notification” and as such considers the term “complaints assessment committee” should be used.

##### **Proposal 2.1.5**

ORBWA considers the term “competence” to be preferable to “performance” as it believes a person could be considered to perform, without being competent.

##### **Proposal 2.1.6**

ORBWA considers the term “competence” to be preferable to “performance” as it believes a person could be considered to perform, without being competent.

##### **Proposal 2.1.7**

ORBWA considers the term “competence” to be preferable to “performance” as it believes a person could be considered to perform, without being competent.

##### **Proposal 2.1.8**

Isn't this the same as 2.1.5?

##### **Proposal 2.1.15**

ORBWA supports the term “Not of good character”

##### **Proposal 2.1.18**

ORBWA supports the term “Unsatisfactory professional conduct”

#### **4.4 Mandatory Reporting Obligations**

ORBWA supports mandatory reporting.

ORBWA supports Option 1b provided there are adequate safeguards to prevent frivolous notifications. ORBWA believes that notification shouldn't be limited to only

situations of a treating relationship and should include situations that may include sexual misconduct.

ORBWA supports Option 2b as they believe any allegations of unsatisfactory professional conduct or professional conduct should be reported.

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

Should the Registration Board have the power to determine the future of a student or should that be left to the University?

#### **Proposal 4.7.1**

ORBWA supports suspension for a period of three months as well as the power to impose a condition immediately and to also to give an order to desist from carrying on an activity.

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

ORBWA supports Option 1. Whilst the arguments for a review process are understood, history would show that notifiers who feel aggrieved with a Board's decision will never be satisfied with the decision of the Board unless the decision provides the outcome they are seeking.

#### **Proposal 6.3.2**

ORBWA supports this proposal. It is presumed that the 7 day reporting requirement is from the date that the assessment is completed and not from the date the assessment commences.

#### **Proposal 6.4.1**

ORBWA questions whether limiting the number of registrants from the profession concerned to 50% is appropriate. As this panel is charged with the responsibility of assessing the performance of the practitioner it is not clear how panel members from outside the profession can make an assessment of the practitioners' performance. ORBWA does support inclusion of members who are not and have never been a registrant in a regulated health profession, but considers that there needs to be more members from the profession on any panel.

#### **Proposal 7.1.2**

ORBWA supports Option 2 on the basis that the health programs should be on a user pays basis. The practitioner would meet their own personal health costs if they were not imposed by the Board.

#### **Proposal 9.1.1**

ORBWA supports Option 1. Whilst the arguments in Option 2 & 3 are acknowledged, the costs of implementing such a system for smaller boards would be cost prohibitive.

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

ORBWA considers that all registrants should have the right to be legally represented at a Board hearing. History would show that where hearings are conducted and the Board has legal representation, either by appointment for that hearing, or through representation on the Board, the practitioner can feel intimidated. As such the Board support Option 2.

#### **Proposal 9.7.1**

ORBWA questions whether notification should be given to an employer. This exposes the registrant to a penalty imposed by the Board as well as by the employer. ORBWA does acknowledge, however, that in some cases, such as a finding of sexual misconduct, that these findings should be reported to an employer.

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

ORBWA believes that Option 1 is preferable.

**Proposal 10.3.1**

What is our position here?

**Proposal 10.4.1**

What is our position here?

**Proposal 11.5.1**

ORBWA considers that any person who directs a registered practitioner to act in a manner that might constitute unsatisfactory professional conduct or professional misconduct should be subject to the offence provisions.

**Proposal 11.6.1**

ORBWA supports Option 3 in that broadly framed advertising better protects the public.