

***National Registration and Accreditation Scheme  
for the Health Professions***

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

***Submission by the  
Pharmaceutical Society of Australia***

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The Pharmaceutical Society of Australia (PSA) is the organisation that represents the professional interests of pharmacists across the nation. It provides standards of practice, education, training and practice support for pharmacists and helps members of the profession to deliver quality health care to consumers.

PSA takes this opportunity to provide a submission on the proposed arrangements for handling complaints, and dealing with performance, health and conduct matters under the National Registration and Accreditation Scheme for the Health Professions.

PSA's comments are presented in table format with cross referencing to the relevant section of the consultation paper.

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7	1.5.1, point a	<p>PSA would like to suggest that dealing “effectively” with complaints must adequately cover the need to do so in a timely manner. The importance of a timely response is one of the reasons PSA supports the provisions for state-based bodies or committees to manage or facilitate the complaints process. We note the issue of timeliness is mentioned under clause 1.25 (a) of the Intergovernmental Agreement.</p>
7	2.1.1	<p>PSA understands the dilemma around the adoption of appropriate terminology and that there will be pros and cons with any of the terms suggested.</p> <p>While the word “complaint” is reasonably common in every day use, PSA believes it is not the preferred term of health professionals because of the negative connotations associated with the word, particularly when the facts of any alleged case or incident have not been ascertained. Importantly, PSA believes the use of such a term is not consistent with the principle stated earlier in the paper that provisions of the legislation would be framed in a way that “balances the rights and interests of consumers with those of health practitioners” (see p. 7 under Proposal 1.5.1, point c).</p> <p>We believe ‘notification’/‘notifier’ are preferable if more neutral terms are to be selected from those suggested in the paper, although we acknowledge these may not be the terms that consumers would regard as most acceptable.</p> <p>Following on from the above, it may be possible to use “How to report your concerns” rather than “How to make a complaint”.</p>
7	2.1.2	<p>In this section as well as a number of other places in the paper, mention is made of the proposal to establish three streams in the management of notifications [i.e. performance (competence), health (impairment) and conduct (discipline)] with flexibility to move between streams and for cross referral. PSA is concerned that this proposal is extremely onerous and does not believe it would work effectively. Our preference would be to have one investigation ‘committee’ to receive and assess all matters with the flexibility of being able to appoint appropriately qualified people to panel(s), if necessary, depending on the nature of the complaint being</p>

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		investigated. We believe this is a better model given that many incidents are more likely to have issues or components requiring investigation by more than one stream. We also believe this would allow the smaller jurisdictions and professions to function where the availability of experts and resources may be more limited.
8	2.1.9	PSA prefers the term “health assessment” over the alternative options. We believe “impairment assessment”, similarly to “medical examination”, is too narrow in scope and moves away from the need for broad, holistic assessment.
8	2.1.12	PSA understands the different approaches and pathways to reaching the different streams of assessment as described (p. 10, second paragraph). However, for consistency we feel the term “conduct assessment” should be used rather than “conduct investigation”.
9	2.1.15	PSA is uncertain that the alternative terminology, “not a fit and proper person”, actually has the same meaning as “not of good character”.
10	5th paragraph under 3.1	PSA is concerned that it may be too simplistic or limited to assume that notifications appropriate for referral to the performance management stream or the health management stream would not have caused harm (or have the potential to do so). PSA notes that notification to these streams has the potential to be done proactively, but unfortunately this is not always the case. The risk to the public from an impaired health professional can never be underestimated.
10	3.2	As stated above, PSA notes that the smaller jurisdictions and/or professions may experience difficulty in allocating resources and appropriately qualified experts from a relatively small pool of health professionals to be able to fulfil the multi-stream model. There are both workforce and funding implications in implementing and managing the proposed complex scheme.
13	4.2.1	Is it expected that consumers will always be able to identify the practitioner concerned? This may preclude consumers from notifying an incident where the health service or organisation can be identified but the practitioner’s name may not be known. There may also be instances where the consumer has suffered harm but the practitioner(s) directly responsible cannot be ascertained.
15	4.4	PSA notes that health practitioners who become aware of an issue often feel responsible to support remedial action rather than report the colleague or associate to authorities immediately. PSA believes this activity should continue to be supported and encouraged with no penalty to the employer or colleague for taking this course of action. Health professionals should be permitted the opportunity to seek treatment or remediate behaviour without obligating those assisting

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		<p>them in this process to report or notify to the board, unless there is any immediate or ongoing risk to the public.</p> <p>If student registration is to be included under the national registration scheme, PSA believes it is appropriate to include any requirements in a way that will promote to the students the professional obligations and personal responsibilities that a health professional is expected to fulfil.</p> <p>Student registration under the scheme could make it possible to ensure a person with, for example, a criminal conviction from their student days can be detected if they subsequently apply to study or register under a different health profession.</p> <p>The legality of inclusion of student registration may need to be investigated further as some students are under 18 years of age.</p>
15	4.5.1	<p>Is it proposed that notifiers would still be protected even if they lodged repeated frivolous or vexatious notifications?</p> <p>The proposal mentions protection from civil proceedings but should it also include protection from criminal proceedings?</p>
15	4.6.1	<p>PSA supports the proposal for boards to have the power to initiate an investigation on its own motion but believes the person being investigated should be notified in the same manner as for other notifications.</p>
17	5.2.1, 2nd dot point	<p>PSA notes the proposal to allow boards to not investigate a notification "...given the amount of time... elapsed since the matter arose". How would the notification be handled if, for example, a person suffered harm but the consequences only became evident some time after the alleged incident? The boards may need to have the power to make a decision based on the circumstances.</p>
20	5.6	<p>PSA would support option 2 based on the need to have an open process, however, we have some concerns that the impact this can have on costs and resources of the scheme is not fully known.</p>
24	7.1	<p>PSA supports the provision for the boards to deal with health matters outside the formal notification streams. Whilst much of the commentary in the paper relates to health impairment due to alcohol or other drugs, there are many other health conditions which may impact on a person's ability to perform certain tasks required by their profession. These may range from physical disabilities, or mental or cognitive impairment brought about by a medical condition, any of which can impact on a person's ability to perform. There can be occasions where the health professional is unable to recognise or admit these factors are impacting on their ability to perform and the boards may need to seek a health assessment to confirm fitness to practice.</p>

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28	8.3.4	PSA acknowledges there may be times when it is necessary to conduct an investigation without informing the practitioner. However this should be reserved for serious matters and there should be a limit on time or outcome before notification must be made.
28	8.3.5	PSA notes the requirement to inform the notifier and registrant about progress of an investigation at least every three months. We believe where an investigation has commenced and is under active consideration, it would be beneficial and preferable for the registrant in particular to be informed on a more regular basis rather than simply defaulting to the suggested minimum reporting frequency.
29	8.4.2	PSA believes the health professional involved must have the right to keep or receive copies of any seized documents or information/data.
31	9.1.1	In the interests of procedural fairness, PSA believes the same review mechanism should apply to all health profession board decisions.
41	11.6.1	Regarding the regulations on advertising, PSA would suggest it is vital that consideration be given to existing arrangements such as the <a href="#">Therapeutic Goods Advertising Code</a> and <a href="#">Price Information Code of Practice</a> which already include some obligations on health professionals in relation to the 'promotion' of therapeutic goods.

(End of submission)