

# Australian Osteopaths Registration Board's (AORB) Response to Consultation Paper – Proposed Registration Arrangements

## 2. Principles and approach

**Proposal 2.1:** It is proposed that the registration provisions be framed in a way that:

- a. reflects the wording and intent of the IGA
- b. builds on the best aspects of State and Territory schemes, rather than the lowest common denominator or replicating one existing registration scheme, and facilitates a smooth transition to the national arrangements
- c. enables a robust system that is designed to protect the public
- d. is the least restrictive law necessary to achieve the policy objectives, and includes legislated restrictions on practice only where the benefits to the community as a whole outweigh the costs, and there is no other more responsive method of achieving these benefits, and
- e. facilitates the transparent, accountable, efficient, effective and fair operation of the scheme.

### Response

Supported

## 4. Initial registration

### 4.1 Applications for registration

**Proposal 4.1.1:** It is proposed that the legislation require applications for registration to be made to the responsible board, and that an application must be:

- in a form approved by the responsible board
- accompanied by the fee fixed for that profession, and
- accompanied by any information reasonably required by the responsible board.

### Response

AORB has concerns regarding the authentication of documentation and identification of applicants in an online application process.

### 4.2 Information required on initial application

**Proposal 4.2.1:** It is proposed that the national boards have the power to require the following information to accompany an initial application for registration:

- a. evidence of the applicant's qualifications and supervised practice experience that they believe qualifies them for registration
- b. evidence of successful completion of an examination (if required) set by or on behalf of the responsible board
- c. evidence of previous registrations and registration status, ie disciplinary history (where the applicant has been registered under another law)
- d. information on any complaints made against the applicant to bodies such as health complaints commissioners, Commonwealth, State or Territory bodies
- e. evidence of recency of practice (except for new graduates) (see section 9 of this paper)

- f. workforce data required for national workforce analysis (further discussion of this will be provided in the information-sharing paper), and
- g. any other information reasonably required by the responsible board.

### Response

AORB recommends that further information be provided as detailed in proposed 6.4.1. and also proof of identity (100 point check).

## 4.3 Criminal history checks

**Proposal 4.3.1:** There are a number of options available on or relating to requirements for criminal history checking of applicants for registration and renewal of registration:

- Option 1:** That the legislation require criminal history checks be applied to all new applicants for registration from 1 July 2010, but not to existing registrants renewing their registration.
- Option 2:** That the legislation require criminal history checks on all new applicants and at renewal of registration, but these requirements be phased in over time from 1 July 2010.
- Option 3:** The legislation require criminal history checks on all new applicants for registration, with a discretionary power for boards to require checks at annual renewal, and self-declaration obligations imposed on registrants both at annual renewal and during the registration period.
- Option 4:** That the legislation provide the power to require criminal history checks on applicants at the discretion of the relevant board, while not making checks mandatory for all applicants.

### Response

AORB supports Option 3. Criminal history checks should be national not State based (and undertake through Crimtrac) with the additional costs built into the application fee. Courts should also be required to advise the Boards of cases where registrants have been found guilty of an offence.

## 5. Qualifications for registration

**Proposal 5.1:** It is proposed that the legislation define the qualifications for general registration to mean one or a combination of the following:

- an approved course of study
- an approved period of supervised practice (if any) (ie an internship), and
- an examination (if any) set by or on behalf of the responsible board.

### Response

Supported

**Proposal 5.2:** It is proposed that, in addition to the powers above relating to the IGA clause 1.25(c) to register those with approved qualifications, boards have the power to register persons who have training and experience the responsible board considers to be substantially equivalent to an approved course of study and supervised practice. This will allow a national board to recognise substantially equivalent qualifications recognised by registration authorities in another country.

#### Response

Supported

**Proposal 5.3:** It is proposed that qualifications that are ‘approved’ by a responsible board for the purposes of registration are not ‘prescribed in regulation’, but rather that the legislation enables boards to publish a list of approved qualifications on a website.

#### Response

Supported

## 6. Registration decisions

### 6.1 Powers of boards before deciding applications for registration

**Proposal 6.1.1:** It is proposed that the legislation provide for a responsible board at its discretion to exercise the following powers before deciding an application for registration:

- a. investigate the applicant
- b. require the applicant to attend before the board to answer questions about their application
- c. require the applicant to provide further information or any documents considered necessary by the board to decide the application
- d. require the applicant to undergo a written, oral or practical examination to assess the applicant’s competence to practise, and
- e. require the applicant to undergo a health assessment (eg a medical examination or psychological assessment) to assess the applicant’s capacity to practise.

#### Response

Supported

**Proposal 6.1.2:** With respect to terminology, it is proposed that the term ‘health assessment’ be used in the legislation rather than ‘medical examination’ because it allows a broader range of assessments to be conducted.

#### Response

Supported

## 6.2 Who makes registration decisions?

**Proposal 6.2.1:** It is proposed that when a committee makes registration decisions the responsible board would otherwise be empowered to make, it is constituted appropriately. In order to achieve this, the legislation would require provisions that:

- a. require a committee, when exercising registration functions, to comprise at least the following:
  - i. a chair appointed by the responsible board who may be a registrant (from the profession regulated by the responsible board), or a non-registrant
  - ii. at least two members who are registrants from the profession concerned
  - iii. at least one lawyer
  - iv. at least one community member who is not and has never been a registered practitioner in that profession, and
  - v. no more than two thirds of members being registrants from the profession concerned
- b. allow a committee to regulate its own proceedings, while requiring it to observe the principles of natural justice and procedural fairness, and
- c. allow members appointed to committees to be paid the sitting fees and allowances approved by the Ministerial Council .

### Response

The above committee structure is too prescriptive. It should be up to the individual Board to make decisions relating to the composition of its committees. For example smaller Boards may not need registration committees with the number of members suggested.

**Proposal 6.2.2:** It is proposed that the legislation include powers for a responsible board to delegate, in writing, to a member of the responsible board or a member of a committee, a person employed by the National Agency, or a person engaged by the National Agency to provide services to the board, its registration powers and functions under the legislation, other than its powers to:

- a. refuse to grant, or refuse to renew a registration or an endorsement of registration
- b. impose conditions on a registration or endorsement of registration
- c. impose conditions on a registration renewal or endorsement renewal
- d. amend, vary or revoke conditions on a registration or endorsement, and
- e. remove a person's name from the register where the person no longer meets the requirements for registration (see section '12.5 Removal from the register' of this paper).

### Response

Supported

### 6.3 Professional indemnity insurance

**Proposal 6.3.1:** It is proposed that the legislation require registrants (except for non-practising registrants if any) to be covered by PII arrangements at all times during the registration period, as a condition of registration, and to require registrants demonstrate coverage to the satisfaction of the responsible board, at the time registration is granted for the first time, and annually on renewal of registration.

The legislation concerning PII must allow registrants to meet the requirements if they are covered by an employer's PII, their university's PII, or the PII of a health facility where they are a student, as well as when a registrant purchases their own PII cover.

#### Response

Supported

**Proposal 6.3.2:** It is proposed that each national board have the power to issue a guideline about what constitutes acceptable arrangements for PII for registrants.

#### Response

AORB supports this proposal provided the national board seeks professional advice before issuing guidelines.

## 6.4 Powers to refuse to grant registration

**Proposal 6.4.1:** It is proposed that the legislation provide powers for a responsible board to refuse to grant registration on a number of grounds, including but not limited to the following:

- a. the applicant has not satisfied the board of their **competence to practise** in the regulated profession and this cannot be satisfactorily addressed by the imposition of conditions
- b. the applicant's **character** is such that it would not be in the public interest to allow the applicant to practise in the regulated profession
- c. the applicant is considered by the board to be unfit to practise because of **drug or alcohol dependency** or **physical or mental impairment**
- d. the applicant has been **convicted** of or made the subject of a criminal finding for an offence in any participating jurisdiction or an offence under a foreign law, and the circumstances of the offence are such as to render the applicant unfit in the public interest to practise in the regulated profession
- e. the applicant has previously been registered under this Act or a corresponding previous enactment of a participating jurisdiction, and that registration has been suspended or cancelled, or during the course of that registration, the practitioner has had proceedings brought against him or her and those **proceedings have never been finalised**
- f. the applicant has been **deregistered or suspended** under a foreign law, for any reason relating to conduct that would constitute professional misconduct under this Act, or during the course of that registration, the practitioner has had proceedings brought against him or her and those **proceedings have never been finalised**
- g. the applicant has had **insufficient recent practice** experience in the relevant profession (with the time period within which an applicant must demonstrate they have practised to be determined by the responsible board, eg two years is preferred in some professions, five years in others)
- h. the applicant's **English language proficiency** is not considered sufficient by the board for the applicant to practise in the relevant profession
- i. the applicant does not have arrangements for **professional indemnity insurance** that the responsible board considers sufficient, or
- j. the applicant is **disqualified from applying** for registration under this Act or a previous enactment of a participating jurisdiction.

**Response**  
Supported

**Proposal 6.4.2:** It is proposed that the legislation provide for boards to deal with possible fraudulent registration applications. Failure to disclose relevant matters to a board (such as those listed above) might constitute a fraudulent application under the legislation. In such circumstances, the responsible board might refer the matter to the relevant State or Territory police force. In addition, it is proposed that the legislation set out a process for a responsible board to deal with a registrant whom it has reasonable grounds to believe has obtained, or is attempting to obtain registration by fraud. In such circumstances, the responsible board should be empowered to immediately suspend registration (if already granted), investigate the matter, and refer it, if necessary, for hearing by the relevant State or Territory tribunal. The tribunal would be empowered under the legislation to find that the practitioner's registration has or has not been obtained by fraud, and, if appropriate, order that the practitioner's registration be cancelled. The standard of proof that would apply in such proceedings would be on the balance of probabilities.

## Response

Supported

### 6.5 Refusal process

**Proposal 6.5.1:** It is proposed that the legislation provide that in the event that a board is proposing to refuse an application for registration, or to attach conditions to a practitioner's registration, the board would be required to give the applicant notice of its proposal and provide the applicant with an opportunity to make a submission to the board. It is proposed that the legislation include timeframes for this process before a board makes such a decision.

## Response

Supported

**Proposal 6.5.2:** It is proposed that the legislation require a board to notify an applicant of its decision, within a specified period, eg 28 days after determining an application for registration or renewal of registration, and if the application has been refused, or conditions have been imposed, to provide reasons for the decision. The legislation should also require a board to inform the applicant of their right to seek a review of the board's decision and advise of the appropriate review body (the relevant State or Territory tribunal). It is proposed that the same entitlements and obligations would apply with respect to an endorsement of registration (see section 10 of this paper).

## Response

Supported

### 6.6 Rights of review of registration decisions

**Proposal 6.6.1:** It is proposed that the legislation include provision for registrants or persons refused registration to have a right of review to the relevant State or Territory tribunal. It is proposed that this would be a merits review (rather than a review on points of law). The legislation would specify the following decisions as reviewable:

- a. A decision to refuse a person's application for registration or renewal of registration.

- b. A decision to refuse a person's application for endorsement of registration or renewal of endorsement (see sections 10 and 11 of this paper).
- c. A decision to impose a condition on a person's registration or endorsement of registration otherwise than by agreement.
- d. A decision to withdraw registration on the basis that a requirement for registration is no longer met.

### Response

AORB supports an initial appeal to the national Board, and then as a last resort, appeal to a Tribunal.

## 7. Types of registration granted

**Proposal 7.1:** It is proposed that the legislation enable a national board to grant any one of a number of different types of registration, depending on the circumstances of the applicant, and to impose conditions on a grant of registration. The proposed types and sub-types of registration are set out in [Table 2](#) below.

While the labels vary, most jurisdictions provide in some legislative form for the sub-types of registration listed under specific registration.

### Response

AORB supports the use of the following terms:

- Full registration (no conditions);
- Conditional registration (with conditions on registration);
- Temporary Registration (for limited periods);
- Provisional Registration (Senior staff/Registrar granting registration prior to Committee making a decision if the application is considered straight forward).

### 7.3 Non-practising registration

**Proposal 7.3.1:** It is proposed to include in legislation the capacity for boards to adopt a non-practising category of registration if they wish, in order to:

- make more transparent the distinction between those registrants who are and are not in active practice
- better target competency requirements, and
- provide more accurate data for workforce planning purposes.

It may also mean some non-practising registrants maintain a connection with their profession that may facilitate their return to active practice.

**ALTERNATIVE OPTION:** Boards be required to have a non-practising category of registration.

### Response

Support first option. However practising needs to be defined either within the Act or via a board guideline.

**Proposal 7.3.2:** If a non-practising registration is to be provided under the legislation, then it is proposed that those granted this type of registration registrants would be required, as a condition of their registration, not to practise at all. This means that such registrants would be acting unprofessionally (and possibly also committing an offence), if they were to breach the conditions attached to their registration. For example, if a non-practising medical practitioner were to write a prescription this would constitute active practise in breach of their non-practising registration.

## Response

Supported

### 7.4 Student registration

**Proposal 7.4.1:** It is proposed that the legislative provisions with respect to student registration would be framed to:

- require only those students who are undertaking clinical training that involves contact with patients/clients to be registered
- empower boards to deal with students whose ability to undertake clinical training is affected by physical or mental impairment, drug or alcohol dependency, and
- give boards the discretion to include or not include a student category of registration.

Alternative options are as follows:

- Option 1:** The legislation include powers to register and regulate students, but only for specified professions and boards, for example, the medical and dental professions.
- Option 2:** The legislation include powers for all boards to register and regulate students, and student registration be mandatory, but only for those students who are undertaking clinical training, that is, those who are at the point in their course where they are in direct contact with patients.
- Option 3:** The legislation include powers for all boards to register and regulate students, and student registration be mandatory for students in all regulated professions, at the point of enrolment and for the duration of their course.

## Response

AORB supports option 3.

### 7.5 Corporate registration

**Proposal 7.5:** It is not proposed that the legislation make provision for registration of corporations.

## 8. Authorities conferred by registration

## 8.1 Title protection

**TABLE 2. PROFESSIONAL TITLES PROPOSED TO BE RESTRICTED UNDER THE NATIONAL SCHEME**

| <b>Profession</b>     | <b>Titles to be protected</b>   |
|-----------------------|---|
| Chiropractic          | <ul style="list-style-type: none"> <li>• 'chiropractor'</li> <li>• catchall provision along the lines of 'any other title, name, symbol, description, etc, which given the circumstances could be reasonably understood to indicate the person is a registered chiropractor'</li> </ul>                             |
| Dental                | Titles restricted to those registered in the relevant division of the register: <ul style="list-style-type: none"> <li>• 'dentist'</li> <li>• 'dental therapist'</li> <li>• 'dental hygienist'</li> <li>• 'dental prosthetist'</li> <li>• 'oral health therapist'</li> <li>• catchall provision as above</li> </ul> |
| Medical               | <ul style="list-style-type: none"> <li>• 'medical practitioner'</li> <li>• catchall provision as above</li> </ul>   |
| Nursing and Midwifery | Titles restricted to those registered in the relevant division of the register: <ul style="list-style-type: none"> <li>• 'nurse'</li> <li>• 'nurse practitioner'</li> <li>• 'enrolled nurse'</li> <li>• 'midwife'</li> <li>• catchall provision as above</li> </ul>   |
| Optometry             | <ul style="list-style-type: none"> <li>• 'optometrist'</li> <li>• 'optician'</li> <li>• catchall provision as above</li> </ul>  |
| Osteopathy            | <ul style="list-style-type: none"> <li>• 'osteopath'</li> <li>• catchall provision as above</li> </ul>  |

| <b>Profession</b> | <b>Titles to be protected</b>  |
|-------------------|--|
| Pharmacy          | <ul style="list-style-type: none"> <li>• 'pharmacist'</li> <li>• 'pharmaceutical chemist'</li> <li>• catchall provision as above</li> </ul>  |
| Physiotherapy     | <ul style="list-style-type: none"> <li>• 'physiotherapist'</li> <li>• 'physical therapist'</li> <li>• catchall provision as above</li> </ul> |
| Psychology        | <ul style="list-style-type: none"> <li>• 'psychologist'</li> <li>• catchall provision as above</li> </ul>                                    |

## Response

AORB supports this proposal provided the catchall provision is expanded to restrict any derivatives of the protected titles.

**Proposal 8.1.1:** With respect to the use of courtesy titles, such as the title ‘doctor’ or ‘professor’, it is proposed that these not be legislated as protected titles, nor reserved for use only by members of one or a number of regulated health professions.

Therefore, unregistered persons using such titles would risk prosecution only where use of a courtesy title could, in the circumstances, lead others into believing the person is qualified and registered under the Act in a regulated health profession when they are not.

**Response**  
Supported

## 8.2 Practice protection

Clause 1.28(c)(i) states that the professions of dentistry and optometry will be subject to legislative definitions of core practices and offences to prevent practice by unregistered or unauthorised persons. Clause 1.28(d) states that general exemptions from title and practice offences will apply to:

- regulated professionals undertaking their usual activities;
- students
- assistants working under supervision;
- businesses employing registered practitioners; and
- persons assisting in emergencies.

**Response**  
Supported

## 8.3 Dentistry practice restrictions

**Proposal 8.3.1:** With respect to protection of the practice of dentistry, it is proposed that there be defined in legislation a number of restricted acts relating to dentistry and that there be an offence for a person who carries out a restricted act and is not a registered dental care practitioner or a person who falls into a class of exempted persons (for example a registered medical practitioner). It is proposed that the restricted acts with respect to the practice of dentistry be along the following lines:

- a. the performance of any operation on the human teeth or jaws or associated structures
- b. the correction of malpositions of the human teeth or jaws or associated structures
- c. fitting or intra-oral adjustment for a person of artificial teeth or corrective or restorative dental appliances, and
- d. the performance of any operation on, or the giving of any treatment or advice to, any person that is preparatory to or for the purpose of the fitting, insertion, adjusting, fixing, constructing, repairing or renewing of artificial dentures or restorative dental appliances.

## Response

Supported

### 8.4 Optometry practice restrictions

Attachment 5 sets out the current arrangements in each jurisdiction for defining and restricting optometry practice.

**Proposal 8.4.1** With respect to protection of the practice of optometry, it is proposed that the legislation prohibit unregistered or unauthorised persons from prescribing optical appliances. It is proposed that an optical appliance would be defined as: ‘contact lenses, spectacle lenses, or any other appliance designed to correct, remedy or relieve any refractive abnormality or defect of sight’.

Stakeholders are invited to address in their submissions whether the definition of optical appliance should be framed broadly to include all contact lenses (whether for therapeutic or cosmetic purposes), or narrowly, to exclude ‘plano’ or cosmetic contact lenses.

If cosmetic contact lenses are included in the definition of a restricted optometry act, the effect would be to make it illegal to supply cosmetic contact lenses to a person, except in accordance with a prescription issued by a registered optometrist or other authorised person.

## Response

Supported.

**Proposal 8.4.2:** If the prescribing of optical appliances is to be a restricted act under the legislation, then it is proposed that an orthoptist who is listed with the Australian Orthoptic Board (not a statutory board in this scheme) be exempted from committing an offence for prescribing spectacle lenses in the normal course of their practice.

## Response

Supported

### 8.5 Restrictions on spinal manipulation

**Proposal 8.5.1:** With respect to protection of the practice of spinal manipulation, it is proposed that further consideration be given to practice restrictions as detailed in the IGA at 1.28(c)ii).

Stakeholders from the registered and unregistered professions, as well as consumers are invited to include in their submissions on this paper comments on the need, if any, for inclusion in the national legislation of a restricted act with respect to spinal manipulation, and if so, how broadly or narrowly this restricted act should be framed and what definition should be adopted.

## Response

The AORB is comprised of eight separate Boards administering the registration of Osteopaths in each state and territory of Australia. Four of the Boards administer both the registration of Osteopaths as well as Chiropractors.

Currently, all states and territories of Australia, with the exception of Victoria and Western Australia, legislatively restrict the practise of spinal manipulation to a subset of registered health professionals (Victoria and WA have a titles protection only). In addition, South Australia currently restricts all forms of manipulation of the body. As the proposed legislation aims to build on the best aspects of State and Territory schemes, rather than the lowest common denominator, and at all times ensuring that public safety is the priority consideration, the Osteopathic Registration Boards of Australia believe they have a duty of care to strongly recommend that spinal manipulation should be a legislatively restricted practise under the proposed national system.

At its meeting of 27 October 2008, the AORB confirmed that their position regarding spinal manipulation is as follows:

The practise of spinal manipulation should be restricted to the following health professionals:

- 1) Registered Osteopaths,
- 2) Registered Chiropractors,
- 3) Registered Physiotherapists with appropriate qualifications that demonstrate an equivalence of competency,
- 4) Registered Medical Practitioners with appropriate qualifications that demonstrate an equivalence of competency, and
- 5) Students of the above professions attending accredited undergraduate or post-graduate courses and acting under the direct supervision of a registered practitioner in the course of training and instruction for a recognised qualification. (Also covered under item 8.2 Practice protection of the discussion paper)

The AORB propose that spinal manipulation be defined as per the NSW Public Health Act 1991 *“the rapid application of a force (whether by manual or mechanical means) to any part of a person’s body that affects a joint or segment of the vertebral column”* (NSW Public Health Act 1991, Part 2A Division 2 Section 10AC).

The AORB consider that the restriction of spinal manipulation to the above registered health professionals to be in the interest of public safety and in keeping with the principle outlined in Section 5.4(c) of the IGA which state *“it [the legislation] should recognise that restrictions on the practice of a profession should only occur where the benefits of the restriction to the community as a whole outweigh the costs”*. In this light, the AORB are of the opinion that only appropriately qualified practitioners should be authorised to use these techniques. Current accredited undergraduate Osteopathic programs at universities within Australia provide graduates with the skills to perform spinal manipulative procedures at the conclusion of 5-6 years clinical training. Other than for Osteopaths and Chiropractors the Boards consider that a demonstrated equivalence of competence to practise spinal manipulation should be required as part of the registration process. It should be noted that the proposed requirement for registered health professionals to hold adequate professional indemnity insurance (item 8.2 of the discussion paper) adds an additional layer of protection for the public/community in the event of a procedure causing injury, relative to unregistered practitioners should spinal manipulation not be restricted.

This submission is on behalf of AORB. Although it is acknowledged that the Queensland Board has made a separate state based submission to the national committee, Queensland was involved in the drafting of this submission.

## 9. Renewal of registration and continuing competence

### 9.1 Background

**Proposal 9.2.1:** With respect to ensuring continuing practitioner competence, it is proposed that the legislation require the boards to establish requirements within each profession for registrants to demonstrate continuing competence at the time of annual renewal, with the scheme to be implemented for each profession on 1 July 2010. Since continuing competence would be a condition of registration renewal, requirements would apply to all registered health professionals, regardless of whether they work in public or private settings, and are employees or self-employed.

#### Response

Supported

**Proposal 9.2.2:** It is proposed that the legislation enable the national boards to:

- a. develop and publish minimum standards (approved by the Ministerial Council) for:
  - i. the continuing competence requirements that registrants must meet in order to renew their registration in a regulated profession, and
  - ii. the requirements that any accreditation/certification/performance appraisal scheme must meet in order for registrants who participate to be able to satisfy the board's continuing competence requirements
- b. oversee a system of approval of various accreditation/certification/performance appraisal providers or schemes, or approve an external body or bodies to ensure these schemes meet the board's standards
- c. refuse to renew the registration of a practitioner on any ground on which the board might refuse to grant registration (see section 6.4 of this paper), and on grounds that the registrant has not met the responsible board's continuing competence requirements and therefore has not demonstrated, to the satisfaction of the board, that they are competent to practise in the regulated profession, and
- d. impose conditions on registration at renewal in the same way conditions may be imposed at first registration, including with respect to those registrants who have not met the continuing competence requirements of the board.

#### Response

Supported

### 9.3 Annual reporting obligations on registrants

**Proposal 9.3.1:** It is proposed that the legislation require registrants to submit to their respective boards at the time of annual renewal various items of information required by the board in order to determine whether the practitioner is fit to practise. As part of such an annual return, the legislation might require reporting on a range of matters including:

- how the board's continuing competence requirements have been met
- if charged with or convicted/subject of a finding of guilt for an offence punishable by 12 months imprisonment or more
- any medical negligence claims
- if any clinical privileges or credentials have been withdrawn or restricted by a health service body or third party payer, and
- any data required to be provided to the Ministerial Council for workforce planning purposes.

#### Response

AORB supports this proposal provided "professional negligence" is used instead of "medical negligence".

### 9.4 Monitoring the professional competence of registrants

#### *Powers to issue guidelines about professional standards*

**Proposal 9.4.2:** It is proposed that the national boards have a general power to issue guidelines for registrants about standards recommended by the responsible board with respect to professional practice.

#### Response

Supported

#### *Reporting obligations on registrants – during the registration period*

**Proposal 9.4.3:** It is proposed that the legislation require registrants to report to boards, at any time during the registration period, and within 30 days, on the following matters:

- if charged with or convicted/subject of a finding of guilt for an offence punishable by 12 months imprisonment or more
- any medical negligence claims
- any withdrawal or limitation of clinical privileges or credentials by a health service body, and
- any other matter set down from time to time by the Ministerial Council.

#### Response

Supported

## 10. Endorsement of registration

### 10.1 Specialist endorsement

**Proposal 10.1.1:** Given the framework set out in the IGA, it is proposed that the legislation include the following provisions:

- a. A general power (in the part of the legislation which sets out the broad powers and functions of the national boards) for the national boards to recommend to the Ministerial Council specialties that should be recognised for their profession, and the qualifications that the responsible board considers should apply for the purposes of endorsement of registration in each recognised specialty. This would be in addition to the role of the national boards in recommending to the Ministerial Council approved qualifications for registration purposes.
- b. Powers for the Ministerial Council, following recommendation from a national board to:
  - i. approve those professions for which specialist recognition will operate under the national scheme
  - ii. approve the list of specialties against which those boards referred to above will approve suitably qualified registrants for endorsement of their registration
  - iii. approve the qualifications required for endorsement in each approved specialty, and
  - iv. approve changes, from time to time, to the list of recognised specialties for a regulated profession and the qualification requirements for specialist endorsement within an approved specialty.
- c. For those boards with a specialist endorsement function, the same powers as when dealing with an application for registration or renewal of registration, that is, powers to receive an application for endorsement of registration, require further information, require attendance at the board, refuse an endorsement or attach conditions to an endorsement, etc. Review rights would also apply.
- d. Offences for registered or unregistered persons who:
  - i. Use restricted titles listed in the legislation (for example, the titles of 'medical specialist', 'surgeon' or 'dental specialist') when they are not entitled to; or
  - ii. Hold themselves out as being registered and endorsed as a specialist under the legislation when they are not.

### Response

Supported.

**Proposal 10.1.3:** With respect to protection of specialist titles, it is proposed that:

- for registered medical practitioners:
  - those with specialist endorsement from the Medical Board of Australia be authorised to use the title 'medical specialist', and
  - there be an offence for a person who is not a registered medical practitioner with endorsement as a specialist to hold themselves out as a medical specialist
- for registered dentists:
  - those endorsed as dental specialists by the Dental Care Practitioners Board of Australia be authorised to use the title 'dental specialist', and
  - there be an offence for a person who is not a registered dentist with endorsement as a specialist to hold themselves out as a dental specialist

- for registered podiatrists:
  - there be an offence for a person who is not a registered podiatrist with endorsement as a podiatric surgeon to hold themselves out as a podiatric specialist.

## Response

AORB supports this proposal provided that the national board has the flexibility at a later date to determine areas of special endorsement.

## 10.2 Endorsement as qualified to prescribe scheduled medicines

Clause 1.32 of the IGA (Attachment A), states:

**Proposal 10.2.1:** To give effect to this, it is proposed that the national legislation make provision for a prescribing endorsement for those boards that regulate the nursing and allied health professions. This will link to various authorities conferred on identified practitioners under State and Territory drugs and poisons legislation.

## Response

Supported

## 10.3 Other endorsements on registration

**Proposal 10.3.1:** It is proposed that the national legislation make provision for a mechanism through which a board may identify a sub-group of practitioners within the profession who have specific training and are considered qualified to deliver a particular type of service that they would otherwise be prevented by law from delivering.

In order to give effect to this, it is proposed that the legislation include provisions that:

- a. empower a responsible board to endorse a registrant whom it considers qualified to practice in an 'approved area of practice', and to impose any conditions on an endorsement
- b. empower the Ministerial Council, on application from a responsible board, to approve an 'area of practice' for the purposes of endorsement of registration and, at any time, to amend, vary or revoke a notice approving an area of practice
- c. require the responsible board to publish a list of 'approved areas of practice' on its website and in a publication circulated to registrants regulated by the board, and
- d. set out the powers of boards with respect to applications for endorsement qualifications required for endorsement and powers to refuse an endorsement (in a similar manner to those provisions relating to applications, qualifications for and refusal of registration).

## Response

Supported

## 11. Other matters

### 11.1 Duration of registration

**Proposal 11.1.1:** It is proposed that the legislation provide for the national boards to grant registration for a period of up to 12 months and that a grant of registration be subject to annual renewal.

#### Response

AORB supports one date for renewal of registration which can be staggered for each profession. (eg osteopaths due 30 June, physiotherapists due 31 July, etc). If there is a common date for renewal, registrants from the same profession will be more aware of their responsibility to re-register as all colleagues will be in the same position.

### 11.2 Registration certificates

**Proposal 11.2.1:** It is proposed that the legislation provide powers for the national boards to issue certificates of registration or renewal of registration to those persons who have met the registration or renewal requirements specified by the responsible board.

#### Response

Supported

**Proposal 11.2.2:** It is proposed that the legislation provide for these certificates/renewals to be in a form approved by the responsible board (subject to the operational framework established by the National Agency in consultation with the national boards). It is not proposed that there be a separate 'practising certificate' in addition to the certificate of registration or renewal of registration. It is proposed that if practitioners are required, by their employers or agents for example, to demonstrate their right to practise, then they should show their current registration or renewal certificate. There should be flexibility under these arrangements to allow a responsible board to issue either electronically or otherwise, on first registration, an attractive certificate suitable for display, and to issue a renewal in different form (for example a wallet sized card).

#### Response

Supported

**Proposal 11.2.3:** It is proposed that the legislation require a practitioner whose registration has been suspended or cancelled to return their certificate of registration to the responsible board. It is proposed that the legislation also provide that, for the purposes of legal certainty, in the absence of evidence to the contrary, a certificate of registration is evidence that the person to whom the certificate is issued is registered.

#### Response

Supported

**Proposal 11.2.4:** It is proposed that the legislation impose an obligation on registered practitioners to notify the responsible board of a change of contact address, within 28 days and that a penalty apply for failure to comply.

**ALTERNATIVE OPTION:** There be no penalty for failure to notify of change of address.

### Response

AORB supports the imposition of a penalty for non notification of a change of address. This penalty should be an expiation fine issued by the national Board and not through a lengthy court process.

**Proposal 11.2.5:** It is proposed that the legislation provide a power for boards to require registrants provide details of each practice address from which they offer regulated health services. Special arrangements would be required so that the reporting obligations are manageable for locum practitioners whose practice address changes regularly.

**ALTERNATIVE OPTION:** There be no requirement to provide a practice address.

### Response

AORB supports the second alternative. We can see no advantage of providing a practice address however, by making it optional it allows those Boards that consider it to be necessary to impose this requirement on registrants.

## 11.3 Failure to renew

**Proposal 11.3.1:** It is proposed that the legislation include provision for a 'grace' period of three months following expiry of registration, during which a practitioner is 'deemed' to be registered, but that if they fail to renew by the end of this period, then the board removes their name from the relevant register.

**ALTERNATIVE OPTION:** That there is no 'grace' period and that if a practitioner fails to renew their registration on time, their name is removed immediately from the register and they may be committing an offence if they continue to practise.

### Response

AORB Board supports a grace period of registration however there should be a substantial financial penalty for late payments. It is in the interest of the scheme to have practitioners registered. From the Boards experience the 3 month grace period has ensured a high level of registration without unduly penalising registrants (criminal proceedings) for being late in their annual payments. The SA Board supports a no grace period. Renewals can fall due one month before the expiry date of registration.

## 11.4 Reinstatement to the register

**Proposal 11.4.1:** It is proposed that the legislation include provisions that allow a practitioner's name to be restored to the register, if they re-apply within a period of two years following a lapse of registration (under this Act, or a previous enactment of a participating jurisdiction), and they meet any continuing competence requirements set by the responsible board.

**ALTERNATIVE OPTION:** There be no provision for restoration to the register, and practitioners who hold outdated qualifications and let their registration lapse be required to meet current registration requirements in the event that they reapply for registration, that is, they complete either an approved course of study and supervised practice, or an approved re-entry or refresher course.

### Response

The first option is supported. Without the 2 year period practitioners who have qualified many years ago and do not renew their registration may be unable to re-register despite having kept up to date in their profession CPD etc.

## 11.5 Removal from the register

**Proposal 11.5.1:** It is proposed that the legislation include provision for a responsible board to remove a person's name from the register for a range of specified reasons, including where they no longer meet the mandatory requirements for registration, removal in cases of death, failure to renew, cancellation by agreement or via a tribunal decision.

### Response

Supported

## 12. Transition arrangements

### *Transitional provisions*

**Proposal 12.1:** With respect to transition arrangements, it is proposed that transitional provisions provide for:

- a. all persons who are registered on 30 June 2010 in one or more of the ten regulated health professions be automatically deemed to be registered under the new national scheme on 1 July 2010, on the register or division of the register specified in the transition provisions, and for the term specified in their registration renewal
- b. all persons who have endorsements on their registration of a type available under the national scheme on 30 June 2010 be deemed to have endorsement of that type under the national scheme from 1 July 2010
- c. all persons who have conditions imposed on their registration or endorsement of registration on 30 June 2010 in one jurisdiction be automatically deemed to have the same conditions imposed on their registration or endorsement of registration from 1 July 2010
- d. where there are disparities between the types of registration or endorsements available under the national scheme and those conferred by existing State and Territory legislation,

wherever possible registrants be migrated across to the national scheme with the widest possible scope of practice that is consistent with public safety. They would then be expected to practice within their competence, with conditions imposed only if it is considered necessary to limit their practice in order to protect the public

- e. where a practitioner is registered in more than one jurisdiction and these registrations expire at different dates, then they be automatically deemed to be registered through until the latest date of registration that applies, unless they have conditions placed on their registration, in which case, they will be deemed to be registered through until the first expiration date that applies, and
- f. if a practitioner holds or has held multiple registrations and has been either deregistered in one jurisdiction, or has not renewed in a jurisdiction where an investigation or disciplinary process was not finalised, then they not be automatically 'deemed' to be registered from 1 July 2010 and will be required to make a fresh application for registration with an expeditious process required.

## Response

Supported