

# CONFERENCE OF CHIROPRACTORS REGISTRATION BOARDS

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29 October 2008

Ms Bronwyn Nardi  
Chair  
Practitioner Regulation Subcommittee  
Health Workforce Principal Committee

[NRAIP@dhs.vic.gov.au](mailto:NRAIP@dhs.vic.gov.au)

Dear Ms Nardi

## **Re: Consultation Paper on Proposed Registration Arrangements**

Thank you for your letter of 19 September 2008 inviting submissions for consideration in the development of the first bill for the National Registration and Accreditation Scheme.

The Australian Chiropractors Registration Boards have considered the matters raised in the consultation paper and provide the attached response.

The response is provided on behalf of:

- The ACT Chiropractors & Osteopaths Registration Board
- The Chiropractors Registration Board of New South Wales
- The Chiropractors & Osteopaths Registration Board of the Northern Territory
- The Chiropractors Registration Board of Queensland
- The Chiropractors & Osteopaths Registration Board of South Australia
- The Chiropractors and Osteopaths Registration Board of Tasmania
- The Chiropractors Registration Board of Victoria
- The Chiropractors Registration Board of Western Australia

If you require any further clarification on the submission, please do not hesitate to contact me.

Yours sincerely,

JAYNE WILSON

On behalf of the Conference of Chiropractors Registration Boards of Australia (ACCRB)

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

**CONSULTATION PAPER**

**Proposed Registration Arrangements**

**Chiropractic Boards response 29 Oct 2008**

Issued by the Practitioner Regulation Subcommittee  
Health Workforce Principal Committee  
Australian Health Ministers' Advisory Council  
19 September 2008

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## 1. Introduction

This paper is the first in a series of consultation papers on matters that will require decision from governments in order to prepare the second stage of national legislation to establish the National Registration and Accreditation Scheme for the Health Professions.

The paper addresses policy with respect to the proposed registration arrangements. Further papers will be released at a later date that address proposed arrangements with respect to:

- Accreditation and examinations
- Complaints and discipline
- Privacy and information sharing
- Other matters.

### 1.1 Overview of the Implementation of the National Scheme

The new scheme was agreed by the Council of Australian Governments (COAG) at its meeting on 26 March 2008. On this date COAG signed the Intergovernmental Agreement (IGA) for a National Registration and Accreditation Scheme for the Health Professions. The IGA can be downloaded from the following website: [www.nhwt.gov.au/natreg.asp](http://www.nhwt.gov.au/natreg.asp).

To implement the scheme, national legislation will be introduced in the Queensland Parliament in two stages. The first stage will cover those aspects of the IGA that address the structural elements of the scheme, and will be introduced in the Queensland Parliament in October 2008.

The second stage, to be introduced in the Queensland Parliament in August 2009, will cover matters where further work and discussion is required beyond the terms of the IGA. These include:

- registration arrangements
- accreditation arrangements
- complaints and discipline arrangements
- privacy and information sharing arrangements, and
- other matters.

Health Ministers have announced a process to ensure that professions, consumers, registration boards and education providers, as well as members of the general public, have the opportunity to contribute to the implementation of the new scheme.

Ministers will use as their guiding principles in developing the legislation and the scheme that the safety of the public is paramount, that high quality health care must be protected and advanced and that governments should be accountable and processes transparent.

Ministers have given a commitment that consultation papers on key issues will be made available, with the opportunity for anyone to provide a submission if they wish. All submissions will be due before the end of 2008 with different dates for different topics. In the case of two main topics, complaints and discipline arrangements and privacy and information sharing arrangements, two national public consultation meetings will be held, one in October and one in November 2008.

When the feedback and submissions have been analysed, Ministers will develop a final set of proposals for the overall policy directions for the second piece of legislation. These proposals will also be made available for comment. A national forum and State and Territory forums will be held in March 2009 to discuss the proposals. Further submissions will be accepted at this time, prior to finalisation of the details of the scheme and preparation of further legislation.

The project website [www.nhwt.gov.au/natreg.asp](http://www.nhwt.gov.au/natreg.asp) will carry all consultation papers as they are issued on the new scheme and the implementation process.

## 1.2 How to have your say

As described above, this paper is the first in a series of consultation papers on matters that will require decisions from governments, to develop the second stage of legislation governing the national scheme.

The paper presents a number of proposals, some with alternative options, regarding the registration arrangements for the new scheme. Governments are seeking comments and submissions from interested parties, particularly on those proposals highlighted in boxes within the text, prior to finalising their decisions on national laws to regulate the scheme.

**If you wish to provide comments on this paper, please lodge a written submission in electronic form, marked “Registration Arrangements Submission, Attention: Practitioner Regulation Subcommittee”, at [nraip@dhs.vic.gov.au](mailto:nraip@dhs.vic.gov.au) by close of business on Wednesday, 29 October 2008. Please note that your submission will be placed on the website after the closing date for all submissions unless you indicate otherwise.**

## 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.

In order to move from multiple profession-specific legislative schemes to a single national scheme for all the regulated professions, general (rather than profession-specific) language will be required in legislation to describe the practitioners, the professions, the boards and their functions, etc. Terms such as ‘responsible board’, ‘registered health practitioner’ and ‘regulated profession’ are used in this paper, and may require definition in the legislation.

**The Chiropractic Boards endorse the proposal 2.1**

## 3. Regulated professions

The IGA sets out the professions that will be included in the first stage of implementation of the national scheme, as well as the proposed registers and divisions of the register for each

profession. Health Ministers have also agreed to include the profession of podiatry in the first round of implementation.

The boards, registers and divisions of registers proposed for inclusion in the legislation are as set out in Table 1 below:

**TABLE 1: BOARDS, REGISTERS AND DIVISIONS OF REGISTERS**

Board	Title of Register	Divisions of Register
Chiropractic Board of Australia	'Register of chiropractors'	Nil
Dental Care Practitioners Board of Australia	'Register of dental care practitioners'	<ul style="list-style-type: none"> <li>• Dentists (Division 1)</li> <li>• Dental therapists (Division 2)</li> <li>• Dental hygienists (Division 3)</li> <li>• Dental prosthetists (Division 4)</li> </ul>
Medical Board of Australia	'Register of medical practitioners'	Nil
Nursing and Midwifery Board of Australia	'Register of nurses and midwives'	<ul style="list-style-type: none"> <li>• Registered nurses (Division 1)</li> <li>• Enrolled nurses (Division 2)</li> <li>• Midwives (Division 3)</li> </ul>
Optometry Board of Australia	'Register of Optometrists'	Nil
Osteopathy Board of Australia	'Register of Osteopaths'	Nil
Pharmacy Board of Australia	'Register of Pharmacists'	Nil
Physiotherapy Board of Australia	'Register of Physiotherapists'	Nil
Podiatry Board of Australia	'Register of Podiatrists'	Nil
Psychology Board of Australia	'Register of Psychologists'	Nil

**NOTE:** Use of the term 'enrolled nurse' dates back to when State and Territory legislation established both a 'register of nurses' and a separate 'roll of nurses'. Under the new scheme, there will be a single register that encompasses all levels of nurse (and midwives) and will distinguish between them by reference to divisions of the register or, in the case of nurse practitioners, via an endorsement mechanism.

#### 4. Initial registration

##### 4.1 Applications for registration

Most State and Territory registration Acts set out how an application for registration may be made, the form to be used (either prescribed by regulation or approved by the responsible board), and the information that boards may require in an application. There is some consistency across jurisdictions in these legislative requirements.

**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.

It is not intended that the forms for registration be prescribed by regulation. It is expected that the national scheme will include a facility for registrants to make applications on line, as well as paper based applications.

In accordance with Clause 12.4 of the IGA, it is intended that the legislation empower the National Agency to publish a schedule of fees for each profession, for registration and other purposes, following agreement with the respective national boards.

The Chiropractic Boards support the making of enquiries regarding registration on-line but have concerns regarding authentication of documentation and identification of applicants in an on-line application process. Fail proof procedures are required to enable direct verification of the information detailed below in 4.2.

The Chiropractic Boards support that the initial application for registration should be on paper with inclusion of appropriate declarations.

The Chiropractic Boards support the availability of on-line re-registration with payment by BPay or other electronic transfer. There is a requirement for a means for making legal declarations incorporated into this process to cover issues such as competency, fitness to practice, convictions, PI insurance etc.

The Chiropractic Boards in accordance with 12.4 of the IGA which empowers the national agency to publish a schedule of fees for registration and other purposes should also include publication of application fees, locum or short term registration fees, late fees, restoration fees. Fees for services such as provision of a copy of the register, copies of registration documents and certificates of good standing and other administration cost recovery fees as required.

These fees need to be included in the fees agreed between the respective national boards and the national agency.

## 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:

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

The Chiropractic Boards support the information required in 4.2 for initial application for registration with the addition of the following criteria:

- Evidence of identity such as “100-point” proof of identity, consistent with other government agencies.
- Evidence of current professional indemnity insurance.
- For non-citizens, evidence of a current and relevant work visa.
- For overseas applicants there must be evidence of having passed the relevant Accrediting Agency exam and have evidence of English language e.g. IELTS certificate or similar if from non-English speaking country

It is for the above items, that the Chiropractic Boards believe that full electronic application process is not suitable.

The Chiropractic Boards believe the process of renewal of registration should include all of the above requirements except

1. evidence of the applicant’s qualifications and supervised practice experience that they believe qualifies them for registration
2. evidence of successful completion of an examination (if required) set by or on behalf of the responsible board.
3. evidence of previous registrations and registration status, ie disciplinary history (where the applicant has been registered under another law)

### 4.3 Criminal history checks

Some State and Territory registration Acts empower but do not require their respective boards to undertake a criminal history check on an applicant for registration.

There are a number of factors to be considered in balancing the requirements for public safety and the resources and timeframes required to implement criminal history checks through registration. A number of options are being considered given that many employers and universities already undertake such checks.

It should be noted that there are a number of other mechanisms through which a registrant’s criminal record might come to the attention of a board, notably via a self-declaration made, on application, and at annual renewal, or via a notification to the board from the relevant court.

**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.

The Chiropractic Boards support Option 3. The Chiropractic Boards consider that criminal history checks are important on initial registration as chiropractors are often in close relationships with vulnerable members of the public.

It is preferable to obtain a declaration from the practitioner every year rather than obtaining criminal history checks every year.

The Chiropractic Boards also recommend that the National Board have discretionary power to require a criminal history check at any other time during a registration period if it has sufficient reason.

## 5. Qualifications for registration

All State and Territory registration Acts set out, in broad terms, the qualifications and other requirements that applicants must meet in order to be granted registration. There are some differences in wording, with some referring to 'accredited courses', others 'approved courses', and others making specific reference to courses accredited by a specific body, such as the Australian Medical Council (AMC).

The IGA at clause 1.25(c) provides that the role of the national boards will include approval of a list of accredited courses of study that meet the qualifications required for general 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 accredited by the relevant profession-specific accreditation agency
- 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.

Allowing boards to determine the combination of qualifications, experience and examination required for registration reflects existing differences in registration requirements across professions. For some professions, supervised clinical practice is built into a course of study (eg psychology Masters programs), some require an internship following completion of an approved course of study (eg medicine), and others still require applicants to sit an additional board examination following completion of both an approved course of study and internship year (eg pharmacy).

The Chiropractic Boards believe that general registration should apply to practitioners who have completed an accredited course of study or completed and passed the necessary exams conducted by the chiropractic accreditation organisation to be eligible for registration in Australia.

The Chiropractic Boards are in agreement with the above proposal as amended, as it allows each profession to determine its qualification, experience and examination, as per current requirements and agreement.

This proposal introduces a further consideration "there should be mechanisms for National Boards to follow if they suddenly wish to alter their requirements for registration e.g. the introduction or removal of pre/post supervised practice etc.

National Board members may change frequently with determined requirements changing as quickly.

**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.

The Chiropractic Boards do not support Proposal 5.2 on the basis that currently only those practitioners who have completed qualifications at an accredited institution in Australia and N.Z. or those who have completed the evaluations and examinations of the chiropractic accreditation organisation to be eligible for registration in Australia.

**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.

**Students who are undertaking a program of study leading to registration in one of the regulated health professions at the time of the commencement of the new scheme will be eligible for registration when they complete that program on the terms on which they expected to be eligible for registration at the commencement of the program.**

**NOTE:** Further detail on the proposed arrangements for accreditation of primary qualifications for registration and the nature of the relationship between a national board and an external accreditation body will be the subject of a further consultation paper.

The Chiropractic Boards do not support the approval of qualifications by the National Chiropractic Board for the purposes of registration, but does support the approval of the accredited chiropractic program.

The Chiropractic Boards support that the National Board be given the power to publish lists of accredited and approved programs and not have these programs prescribed in regulation.

## **6. Registration decisions**

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

Some State and Territory registration Acts make explicit the powers that boards may exercise before deciding applications for registration. Other Acts are silent on this matter.

**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.

**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.

The Chiropractic Boards support the powers outlined in 6.1.1 and supports the term “health assessment” in 6.1.2.

## 6.2 Who makes registration decisions?

The statutory power to make registration decisions will reside with the respective national boards. However, because of the workload associated with the registration function for most of the professions, the legislation will need to make provision to allow decision-making on registration applications (both routine and non-routine applications) to occur at the State and Territory level.

It is anticipated that, in light of the workload, each national board will determine what functions should best be carried out nationally versus at the local level. Each board will determine the combination of committees it requires and that if the workload is relatively small, a single committee may carry out multiple statutory functions spanning the registration, investigation and disciplinary functions, either at the national or local levels. What is required in the legislation is the capacity for some committees of the board to act as the national board for the purposes of some decisions such as registration.

**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.

The Chiropractic Boards support the proposed structure for local committees responsible for registration.

The Chiropractic Boards believe that one person may have the qualifications to fulfil the criteria in items iii. and iv. above. This would allow for a minimum 3 member committee with 2 registrant members, one community member with legal expertise and the chair appointed who would be one of the 2 registrants.

The Chiropractic Boards assume that the sitting fees paid to committee members would be set by the National Board in consultation with the Management Agency (for budget purposes) and approved by the Ministerial Council.

The Chiropractic Boards notes that the registration functions listed under proposal 6.2.2 will create an enormous work load for the national board or its delegated/empowered committees as per 6.2.1 in dealing with matters listed under

- 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).

The National Chiropractic Boards recommends that the National Chiropractic Registration Board should have the ability to delegate to the relevant State committee the power to determine these matters (a) to (e).

In addition to this power to establish committees, there is a need for a mechanism in legislation that allows routine registration decisions to be made by staff of the State and Territory offices, on delegation from a national board.

**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).

The Chiropractic Boards support proposal 6.2.2

The Chiropractic Boards recommend that the National Board have the powers described in 6.2.2 namely to

- refuse to grant, or refuse to renew a registration or an endorsement of registration
- impose conditions on a registration or endorsement of registration
- impose conditions on a registration renewal or endorsement renewal
- amend, vary or revoke conditions on a registration or endorsement, and
- 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)
- and that the Board have the ability to delegate those powers as outlined in 6.2.2.

The Chiropractic Boards assumes that the item "to grant registration" will be included under the powers of the National Board and the delegated powers to state committees.

The Chiropractic Boards notes that the registration functions listed under proposal 6.2.2 will create an enormous work load for the national board or its delegated/empowered committees as per 6.2.1 in dealing with matters listed under

- 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).

The National Chiropractic Boards recommends that the National Chiropractic Registration Board should have the ability to delegate to the relevant State committee the power to determine these matters (a) to (e).

### 6.3 Professional indemnity insurance

Most States and Territories require registered health practitioners to hold or be covered by professional indemnity insurance (PII) arrangements in order to practise. However, the mechanism through which this is achieved varies. [Attachment 1](#) sets out the current arrangements across jurisdictions with respect to PII.

**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.

**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.

The Chiropractic Boards support compulsory PI Insurance as a condition of registration and practice and supports the national board issuing a guideline regarding suitable arrangements.

The Chiropractic Boards recommend that the National Registration Board be granted the authority to determine a suitable period that a registrant must retain PI insurance after ceasing to practise.

### 6.4 Powers to refuse to grant registration

All State and Territory Acts specify a range of factors that disqualify a person from being granted registration. These are reasonably consistent across jurisdictions. However, in some jurisdictions these are expressed as positive requirements that the applicant must

demonstrate in some way at the time of application, in others, these are expressed as grounds for a board to refuse to grant an applicant 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.

It is expected that the application form for registration would require applicants to make a declaration with respect to each of the above matters, and provide supporting documentary evidence if required.

The Chiropractic Boards support the grounds listed in 6.4.1 for refusal of registration. It is suggested that the terminology in 6.4.1 (c) be changed from "drug and alcohol dependency" to "substance abuse"

**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.

The Chiropractic Boards strongly supports the Board having powers to refuse an applicant's fraudulent application and to refer the matter to the police

## 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.

**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).

The Chiropractic Boards support both proposal 6.5.1 and 6.5.2.

## 6.6 Rights of review of registration decisions

There is considerable variability across States and Territories as to the rights of review afforded persons who are refused registration or who have conditions placed on their registration. [Attachment 2](#) sets out a sample of these arrangements.

**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.

The Chiropractic Boards support initial appeal to the National Board and then, if not resolved, an appeal to a Tribunal

**NOTE:** The future consultation paper on complaints and discipline will set out the proposed reviewable decisions with respect to conduct, competence and impairment proceedings.

## 7. Types of registration granted

All State and Territory registration Acts include a number of types or forms of registration that may be granted by a national board. However, there is some variability across jurisdictions, both in the labels applied, and the scope of practise conferred.

Attachment 3 provides a summary of the types of registration granted in each jurisdiction.

A body of cross jurisdictional work was undertaken from 2002-2004 in the context of the AHMAC Nationally Consistent Medical Registration Legislation Project. A range of recommendations were accepted by AHMC in April 2004, including with respect to the adoption of nationally-consistent categories (or types) of registration. These recommendations are reflected in the proposed types of registration outlined below.

**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.

**TABLE 2: PROPOSED TYPES AND SUB-TYPES OF REGISTRATION**

Type of registration	Eligibility
<b>General</b>	Applicants who hold approved qualifications (and have met any other requirements set by the responsible board). This category would include practitioners who hold approved specialist qualifications in addition to their approved general qualifications, and therefore hold a specialist endorsement on their general registration.
<b>Specific</b>	<p>Applicants who do not qualify for general registration. This type of registration would entitle a registrant to practice, subject to a specified form of restriction. The following sub-types of specific registration would apply:</p> <ul style="list-style-type: none"> <li>a. <b>Provisional</b> – to allow an applicant to undertake an internship or other period of supervised clinical practice, following graduation from an approved course of study.</li> <li>b. <b>Area of need</b> – to allow an applicant to work in an area of unmet need.</li> <li>c. <b>Post-graduate supervised practice or training</b> – to allow an applicant to be registered on a temporary basis to undertake a period of post-graduate training approved by the responsible board.</li> <li>d. <b>Examination candidates</b> – to allow an applicant to undertake training in preparation for an examination approved by the responsible board.</li> <li>e. <b>Teaching or research</b> – to allow an applicant to fill a teaching or research position approved by the responsible board.</li> <li>f. <b>Recognised specialist qualifications and experience</b> – to allow an applicant with approved specialist qualifications to practise in the specialty.</li> <li>g. <b>Internationally trained specialists</b> – to allow an applicant with “specialist” qualifications that are not approved to undergo further training in that specialty.</li> <li>h. <b>Temporary registration in the public interest</b> – to allow an applicant</li> </ul>

	without approved qualifications to be registered for a limited period if the responsible board considers it is in the public interest.
<b>Non-practising</b>	Applicants who would otherwise be eligible for registration but who do not intend to practise during the registration period.
<b>Student</b>	Applicants who are enrolled in an approved course of study or undertaking approved supervised clinical training in preparation for an examination for registration.

The Chiropractic Boards support the contents of Table 2 for registration of the Chiropractic profession.

## 7.1 General registration

Registrants granted general registration hold approved qualifications (either because they have graduated from an approved course of study or because their qualifications are judged equivalent under a mutual recognition (competent authority) arrangement.

However, general registration does not necessarily mean ‘unconditional’ registration. A grant of general registration may be subject to conditions imposed by the responsible board, either at the time of registration, at registration renewal or via a disciplinary, performance or impairment process. Further details on these matters will be available in later consultation papers.

The term ‘general’ is suggested to describe the type of registration granted to those with approved general (usually undergraduate) qualifications, because it is the most commonly used term across jurisdictions.

General registration will also include the ability to have specialist endorsement notated against a registrant’s name in the register to recognise practitioners who hold approved specialist qualifications in addition to their approved general qualifications, and therefore hold a specialist endorsement on their general registration (refer to section 10.1 – Specialist endorsement).

The Chiropractic Boards support general registration.

## 7.2 Specific registration

The term ‘specific’ is suggested as a way of identifying in legislation the type of registration granted to practitioners who do not hold approved qualifications and therefore are subject to various forms of restriction on their practice, either geographic, scope of practice, or duration of registration. While the term ‘specific’ is not ideal, there are also disadvantages with the various alternative terms. The term ‘conditional’ is problematic because a practitioner with ‘general’ registration may also have conditions placed on their registration, and the term ‘special purpose’ can have negative connotations to some.

The Chiropractic Boards support a “specific registration” for the registration of interns who are required to practise under a supervision plan. This proposal would also allow for chiropractors from overseas to attend Australian seminars where restricted practices may be involved (specific c. postgrad supervised practice) and for the overseas presenters of the same seminars (specific e. teaching or research). This would also allow for overseas practitioners coming to Australia with sporting teams to perform restricted practices (specific h. temporary)

## 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.

In some jurisdictions, there is a lack of clarity about what a registrant who is ‘non-practising’ is and is not authorised to do.

**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.

The Chiropractic Boards support a category of non practising registration. What activities may be permitted under this type of registration need to be prescribed by the National Board.

The Chiropractic Boards would argue that such a category would mean that a registrant is not engaged in clinical practise. Such registrants may be able to participate in continuing professional development which may include courses in manipulative procedures. These registrants would continue to be entitled to use the title chiropractor. Further definition of the a non-practising Chiropractor could be determined by the National Chiropractors Board.

## 7.4 Student registration

There is variation across States and Territories with respect to the status of students under the legislation. The main variations are:

- some jurisdictions’ registration Acts provide for student registration for all regulated health professions, others require only medical students, or medical and dental students to be registered, and others make no provision for student registration;
- some jurisdictions’ Acts require students to be registered only when they are undertaking clinical training as opposed to class room based activities. Others register students as a matter of course, regardless of whether they are in contact with patients.
- The powers that boards may exercise with respect to students vary. Some provide powers only with respect to matters of impairment and drug or alcohol dependency. Others also have powers to deal with a student who has been charged with an indictable offence or convicted or found guilty of such an offence.

There are a number of options with respect to the registration and regulation of students under the legislation:

**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.

The Chiropractic Boards support Option 2 but only for students undertaking practical training where they are interacting with members of the public. The South Australian Chiropractors Registration Board supports option 3.

## 7.5 Corporate registration

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

The Chiropractic Boards support proposal 7.5.

The Chiropractic Boards support the ability of non registrants to own, buy, sell, administer a practice(s)

## 8. Authorities conferred by registration

### 8.1 Title protection

Clause 1.28 of Attachment A of the IGA states that the primary basis for regulation is to be 'protection of professional title', with statutory offences to prevent unregistered or unauthorised persons using professional titles. Table 2 in Attachment A of the IGA sets out the professional titles that are proposed to be restricted under the legislation, with a role for the Ministerial Council in determining any further titles to be restricted.

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

Profession	Titles to be protected
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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	<p>Titles restricted to those registered in the relevant division of the register:</p> <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	<p>Titles restricted to those registered in the relevant division of the register:</p> <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>

Rather than protecting multiple titles for a profession (or sub-profession), the approach is to protect only those key titles commonly used by the profession, and to include a catchall provision that allows a board to prosecute a person who might be 'holding themselves out' as a registered practitioner in a regulated profession.

The Chiropractic Boards support the list of titles to be protected in the above table.

**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.

The Chiropractic Boards support the protection of the title chiropractor, its derivatives and the catchall provision. It is important that the public is protected from individuals who use terminology which implies that they have the skills of a registered chiropractor.

The Chiropractic Boards support the use of the courtesy title Doctor provided it is used in a way that its use does **not** lead others to believe the person is qualified and registered under the Act in a regulated health profession when they are not.

The Chiropractic Boards would consider that a person registered under the respective act would appropriately refer to themselves as Dr (chiro/osteo/dent/med) name, or Dr name dentist/chiropractor/osteopath/medical practitioner

## 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.

The following proposals are designed to give effect to the IGA.

## 8.3 Dentistry practice restrictions

Attachment 4 sets out the current arrangements in each jurisdiction for defining and restricting dentistry practice.

**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.

The Chiropractic Boards support proposal 8.3.1

#### 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.

The Chiropractic Boards support proposal 8.4.1

**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.

The Chiropractic Boards support proposal 8.4.2

#### 8.5 Restrictions on spinal manipulation

Current arrangements with respect to regulation of spinal manipulation vary across States and Territories, with some jurisdictions restricting its practice to registered practitioners (such as chiropractors, osteopaths, physiotherapists and medical practitioners), and in others, there is no legislative restriction on its practice.

The key question is whether there is any evidence to suggest that the community is more vulnerable in those jurisdictions where no restrictions apply, compared with those where restrictions apply. It may be that the more serious risks associated with spinal manipulation relate mainly to manipulation of the cervical spine, and that if a restricted act is to be included in the legislation, it should be narrowly framed.

Clause 1.28(c)(ii) of the IGA (Attachment A) states that 'elements of the practice of spinal manipulation may also require legislative protection, and further work will be undertaken to define these for this purpose'.

**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.

The Chiropractic Boards supports the protection of the practice of spinal manipulation.

The Chiropractic Boards do not recommend defining the term spinal manipulation in the legislation. However if it is determined to include a definition, the Chiropractors Boards consider the following elements essential:

- Spinal Manipulation is a procedure that is only performed by a person registered to perform such a restricted practice
- Spinal manipulation is a procedure performed by a person registered to perform such a restricted practice with intent to effect a change in joint(s) of the spine and pelvis
- Specifically, *“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”*.

The chiropractic and osteopathic professions have an enviable record of safety in the provision of spinal manipulation.

The Chiropractic Boards empirically have more complaints made about injury from spinal manipulation performed by un-registered practitioners.

Current accredited chiropractic and osteopathy programs at universities in Australia provide graduates with the skills to perform spinal manipulative procedures at the conclusion of 5-6 years of training.

The Chiropractic Boards recommend that only those practitioners registered as chiropractors or osteopaths, or those who can demonstrate an equivalency of competence by post graduate training be granted the right to use the restricted practice of spinal manipulation.

Consideration should be given for practitioners, who are registered health practitioners who are not chiropractors or osteopaths, to be granted an endorsement on their registration for spinal manipulation if they can demonstrate the competencies above.

## 9. Renewal of registration and continuing competence

### 9.1 Background

One of the key functions of registration boards is to ensure that registered practitioners meet minimum acceptable standards of competence, and are safe to practise. The key objectives here are public safety and quality of healthcare. Historically, scrutiny of a registrant’s competence has occurred mainly through the application of initial registration criteria, and thereafter, only following a complaint to the board. This was based on the expectation that membership of a profession somehow guaranteed a commitment by the practitioner to

keeping their skills and knowledge up to date. However, in response to increasing community expectations, the powers of many registration boards have been strengthened in recent years. Boards are now expected to be more proactive with respect to ensuring practitioners are safe to practise.

There is a range of indirect or proxy measures of competence and a range of systems that have been developed. These include requirements for 'recency of practice' and participation in continuing professional development (CPD), self assessment and self-declaration against established competencies, performance assessment by boards, and credentialing by health service agencies, etc. Some State and Territory Acts contain provisions that empower registration boards to require practitioners demonstrate recency of practice, self-assessment, or CPD participation. See [Attachment 6](#) for an overview of existing State and Territory registration mechanisms for ensuring competence.

Clause 1.25 of Attachment A of the IGA provides a role for the national boards to manage the development of standards and requirements, including with respect to registration, competency, and CPD.

Under the national scheme, a board must have sufficient powers to satisfy itself of the competence and fitness to practise of a practitioner, both at initial registration, and at renewal of registration. In addition, boards must be in a position to monitor the ongoing competence and fitness to practice of registrants, during the registration period.

## 9.2 Continuing competence requirements

While there is variability across States and Territories as to the extent to which boards are empowered to require that registrants demonstrate they are competent to practise beyond first registration, there is an opportunity with the establishment of the new scheme to establish some form of requirement for registrants in all regulated health professions to demonstrate continuing competence to practise. The nature of the requirements would be recommended by the National Board in each profession. There is likely to be variability across professions depending on the nature of the profession and the extent to which requirements already apply.

**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.

The Chiropractic Boards support proposal 9.2.1 with one additional item.  
"That the National Registration Board should have the authority to require a registrant's evidence of competence at any time during a registration period as it deems necessary in addition to at annual renewal."

Each board would need to work with their profession and other stakeholders to develop the standards that would apply under the continuing competence requirements. The arrangements would need to be flexible in order to cater for registrants who work in a range of settings, including rural practitioners and those in solo practice.

**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.

The Chiropractic Boards support proposals 9.2.2

### 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:

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

The Chiropractic Boards support proposal 9.3.1 but recommends the term "any professional negligence claims" instead of "any medical negligence claims". The Chiropractic Boards also recommend that the Boards have the power to require evidence of current Professional Indemnity Insurance.

### 9.4 Monitoring the professional competence of registrants

**Proposal 9.4.1:** In addition to the proposed continuing competence arrangements outlined above, it is proposed that the legislation include a range of provisions which empower boards to effectively monitor practitioners whose competence or fitness to practice may be in question. Some of these powers will be addressed in more detail in the consultation paper on complaints and discipline. However, in general terms, it is proposed that the legislation confer on boards the following powers.

The Chiropractic Boards support proposal 9.4.1

## ***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.

While the legislation would not make compliance with board issued guidelines mandatory, a registrant's compliance or otherwise with any guidelines issued may be taken into account by internal or external disciplinary or performance panels when making findings and determinations with respect to unprofessional conduct or professional misconduct.

The Chiropractic Boards support proposal 9.4.2

## ***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:

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

A number of matters related to registrants' rights to practise will be covered in the forthcoming paper on complaints and discipline. Among these are:

- powers to investigate professional conduct and deal with disciplinary matters (the disciplinary pathway)
- powers to require a performance assessment and deal with competence matters (the performance pathway)
- powers to require a health assessment and deal with impairment matters (the impairment pathway), and
- options for mandatory reporting requirements.

The Chiropractic Boards support proposal 9.4.3

The Chiropractic Boards support the inclusion of an additional item (e) any changes of details that would ordinarily be identified on an application for registration or upon a renewal of registration.

## **10. Endorsement of registration**

Endorsement of a practitioner's registration is a mechanism through which particular registrant subgroups who have additional qualifications recognised by a board can be identified to the public, employers and other users of register information. An endorsement is also a method of identifying practitioners considered qualified by a board, who may then be authorised by another body to provide a particular type of service.

Some registration Acts contain provisions that allow additional qualifications that are recognised by the board to be entered on the public register against the name of the practitioner, in addition to those required for registration purposes. However, this type of

provision has limitations because the certification is not subject to annual renewal (although a board might amend its list of recognised qualifications from time to time), and it does not provide powers for a board to attach conditions to the certification, or to expect the registrant to update or revalidate their qualification.

Endorsements may be of various types and have various effects. The main types are as follows:

- a. an endorsement that confers the right under the registration legislation to use a specific professional title which is otherwise restricted and hold themselves out as qualified under the legislation to practise as a particular type of practitioner. Examples are:
  - endorsement to use the title 'nurse practitioner' or 'acupuncturist', or
  - endorsement that identifies those practitioners who have specialty (post-graduate) training recognised by the relevant board and can hold themselves out as a specialist (for example, medical specialists);
- b. an endorsement that is recognised under another Act or regulation (either State or Commonwealth), thereby conferring an authority to provide certain types of services. Examples are:
  - endorsement that qualifies the registrant for authority to prescribe scheduled drugs under relevant state/territory drugs and poisons legislation, or
  - endorsement that qualifies the registrant for accreditation to provide Medicare or PBS funded services, or eligibility for provider rebate status under private health insurance regulations.

## 10.1 Specialist endorsement

Clause 1.31 of the Attachment A of the IGA sets out how it is intended that the recognition of specialties and specialists be dealt with under the national scheme, and the roles of the respective bodies, that is, the national boards, the National Agency and the Ministerial Council. The Agreement states that recognition of specialist qualifications will be achieved by:

- a. the relevant board being empowered to 'endorse' or 'notate' the registration of a suitably qualified practitioner, with this information entered on an integrated register, against that practitioner's name
- b. public identification and communication of recognised specialties, specialist titles and approved qualifications, identified through the public registers and via guidelines issued by the relevant board (rather than via an extensive list of specialties and associated specialist qualifications listed in regulation under the legislation)
- c. general statutory offences that prevent unregistered or unauthorised persons from using any title that could induce a belief that the person is endorsed as a specialist, or from holding themselves out as a specialist in one of the established specialties (rather than offences for use of the separate specialist titles), and
- d. recognition of new specialties or specialty areas of practice on professional registers to be subject to the approval of the Ministerial Council.

**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.

NOTE: Details of the exact offences and the protected titles, and exemptions from offences proposed for each profession will be set out in the consultation paper on complaints and discipline.

It is expected that recognition of specialties and specialists will be required under the scheme, for at least the medical profession. The Australian Medical Council currently carries out the function of assessing applications for recognition of new specialties for the medical profession, and makes recommendations to the Federal Health Minister on these matters for purposes such as Medicare. Under the new arrangements, it is expected that the AMC (at least for the first three years of the scheme) would continue to carry out these functions, but might make its recommendations to the Medical Board of Australia, which would then seek Ministerial Council approval of specialties for the purposes of the registration scheme. Further details on the current and proposed roles of these respective bodies will be set out in the consultation paper on the accreditation function.

There may also be a case for recognition via the relevant practitioner register of a limited number of specialties in a small number of other professions. For example, it is intended that the public registers maintained by the national boards to be the source of authoritative information for Medicare (and others), and to identify which practitioners have certified qualifications for reimbursement purposes, rather than, for example, a specialist college or professional association. Decisions as to which services are rebated and which ones not would continue to reside with the relevant third party payer.

**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.

Further work will be necessary to determine whether specialist recognition is required under the scheme for any other professions, and if so, which specialties will be recognised and what qualifications requirements will apply for each. Any decision by the Ministerial Council to recognise additional specialties within a profession should weigh the costs and benefits of recognizing particular specialties within the registration scheme, and the risk of further stratifying the workforce and entrenching unnecessary rigidities.

The Chiropractic Boards support the use of endorsement to general registration to cover other areas of practice. Currently in Australia there are a number of chiropractors who have completed post graduate specialty programmes which may form the basis of specialty endorsements under general registration. The conditions listed in proposal 10.1.3 would seem reasonable to be applied to the chiropractic specialties to be developed in accordance with the principles in 10.1.1

## 10.2 Endorsement as qualified to prescribe scheduled medicines

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

*State and Territory drugs and poisons legislation will, at the discretion of States and Territories, provide a mechanism through which suitably qualified registrants of the nursing and allied health professions may be authorised to possess, administer and prescribe scheduled medicines, with :*

- a) *responsibility for determining the qualification requirements and endorsing qualified individuals residing with the relevant board, and*
- b) *authorisation for particular professions (or sub-groups within professions) to obtain, possess, use, sell or supply (administer or prescribe) medicines to be granted under State and Territory drugs and poisons legislation.*

Therefore, the intention is that the registration legislation work in combination with State and Territory drugs and poisons legislation to identify and authorise suitably qualified practitioners to prescribe scheduled medicines.

**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.

Prescribing rights exist for chiropractors in some overseas jurisdictions. The Chiropractic Boards would support limited prescribing rights being available provided chiropractors have adequate training.

## 10.3 Other endorsements on registration

It is important that the legislative provisions are flexible enough so that, over time, new types of endorsement can be put in place (on application from a responsible board to the Ministerial Council), and others can be dropped off that are no longer required.

Such an endorsement function could be used as a means of identifying practitioners with particular qualifications who are then authorised to undertake practices or provide certain

kinds of services that are otherwise restricted under the Act or under other legislative or administrative schemes, such as Medicare, PBS.

**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).

The distinction between an endorsement with respect to an 'approved area of practice' and an endorsement as a 'specialist' would be the level and complexity of the training required, and whether this is or may in the future be part of an undergraduate qualification (an approved area of practice), or is only available to post-graduates (specialties).

The endorsement function would serve as a means of identifying practitioners with particular qualifications who are then authorised to undertake practices or provide certain kinds of services that are otherwise restricted under the Act or under other legislative or administrative schemes, such as Medicare, PBS.

The Chiropractic Boards support proposal 10.3.1. This would allow highly specialised procedures and techniques to be regulated to ensure that only those with appropriate training are endorsed.

## 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.

It is not proposed that there be a standard registration period in legislation that applies to all practitioners, for example a calendar year or a financial year. Rather, it is proposed that the legislation enable, for example, renewals to be staggered throughout the year, with the renewal date for each practitioner falling due 12 months after they first registered or renewed their registration.

The Chiropractic Boards support 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.

The Chiropractic Boards do not support renewals being staggered throughout the year for individual registrants based on the date of their initial registration. This is based on previous administrative experience and the necessity of registrants to manage the co-incidence of managing continuing professional development, reporting and the renewal dates for professional indemnity insurance.

## 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.

The Chiropractic Boards support proposal 11.2.1.

**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).

The Chiropractic Boards support proposal 11.2.2.

**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.

The Chiropractic Boards support proposal 11.2.3.

**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.

A view has been expressed that, in order to protect the public, the new system needs to provide for the tracking of movement of practitioners across the country, so that a responsible board is able to determine in which jurisdictions and/or practice locations a practitioner is working.

The Chiropractic Boards support the imposition of a penalty for non notification of change of name or address.

**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.

The Chiropractic Boards support the requirement for a practice address in addition to a postal address including for all locums.

### 11.3 Failure to renew

Some State and Territory registration Acts contain provisions that specify what happens if a practitioner fails to renew their registration. In some jurisdictions, practitioners are afforded a 'grace' period (for example of three months following the date the renewal fell due), during which either they are automatically deemed to be registered or once they renew, their registration is backdated. This means that in the event that they have, inadvertently, continued to practise during this period (thereby 'holding out' as registered), their practice is not illegal and their PII arrangements continue to apply.

**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.

The Chiropractic Boards do not support a 3 month grace period. The Chiropractic Boards would prefer to see an easy process for restoration to the register and a grace period of 1 month as detailed in 11.3.1.

### 11.4 Reinstatement to the register

Some State and Territory Acts contain provisions that provide a streamlined process for practitioners to be reinstated to the relevant Register, within a two year period after they have let their registration lapse. Such a provision facilitates re-entry to practice for those who can demonstrate recent practice but who hold older qualifications that may no longer be approved for registration purposes. Without such a mechanism, such senior practitioners might otherwise not be eligible for registration.

**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.

The Chiropractic Boards support the first proposal but with a period of five years to restore general registration, and that this then apply to those who may be granted non-practising registration

## 11.5 Removal from the register

A number of State and Territory registration Acts make provision for a practitioner's name to be removed from the register in a range of circumstances, such as when the practitioner dies, when the practitioner was wrongfully registered, or fails to renew for whatever reason. In some cases this includes a power to remove from the register when the person no longer meets the mandatory requirements for registration. Examples include where a medical practitioner is granted registration under an 'area of need' provision which is linked to employment with a particular agency in a particular location, and the practitioner leaves that employment, or a student who 'drops out' and therefore is no longer enrolled in an approved course of study (which defines student registration).

**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.

The Chiropractic Boards support proposal 11.5.1.

## 12. Transition arrangements

There is a range of transition matters that will need to be addressed both in legislation and by the respective bodies in the lead up to commencement of the scheme. In determining these arrangements, considerations of public protection and safety will be of primary concern.

**NOTE:** The proposed content of the register and what information is to be publicly accessible and to whom, will be the subject of a separate paper.

### ***Transitional provisions***

Careful framing of transition provisions will be required, to ensure successful migration, from State and Territory schemes, of registrations, conditions imposed on registration, endorsements, investigations and conduct, competence and impairment proceedings etc in a manner that ensures protection of the public.

**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.

It should be noted that the provision at (a) caters for the circumstances of those whose qualifications have been gained through programs of study which are no longer accredited. As long as the practitioner is registered on 30 June 2010, they will continue to be registered under the national scheme on 1 July 2010.

**The Chiropractic Boards support proposal 12.1.**