



# The Medical Council of Tasmania

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Our ref: AMA:1902:08 (NRAS)

30 October 2008

Ms Bronwyn Nardi  
Chair, Practitioner Regulation Subcommittee  
Of the Health Workforce Principal Committee

(Via email: [nraip@dhs.vic.go.v.au](mailto:nraip@dhs.vic.go.v.au))

Dear Ms Nardi,

**Medical Council of Tasmania Submission – National Registration and Accreditation Scheme for Health Professions (Consultation Paper - Proposed Registration arrangements)**

Further to your email and associated documentation dated 19 September 2008, I provide the Medical Council of Tasmania's submission on the document entitled "*Consultation paper – Proposed Registration Arrangements*".

We have used the same numbering system as that shown in the consultation paper.

**4. Initial registration**

**4.1 Applications for registration**

**4.1.1. Proposal** – It is noted that there is an expectation that the national scheme will include a facility for registrants to make applications on line, as well as paper-based applications. It is further noted, that to the best of this jurisdiction's knowledge there is software to facilitate this process in only two jurisdictions (VIC and QLD) and that this may be only for "renewal" of registration. On that basis, this mechanism could not be achieved without national consistency of software applications and IT platforms.

In addition, there would need to be very clear protocols and procedures to allow for positive identification of practitioners applying for registration.

We can find no reference to "*...and other purposes...*" in Clause 12.4 of the IGA. On that basis, the Medical Council considers that this requires clarification of the intention of the application of fees to "*...other purposes...*".

## 4.2 Information required on initial application

**4.2.1 Proposal** – We would seek clarification as to whether 4.2.1(b) includes the examinations of the Australian Medical Council ('AMC'). The current wording "*...evidence of successful completion of an examination (if required) set by or on behalf of the responsible board...*" is considered to be ambiguous.

4.2.1(f) – it is noted that this implies that national workforce data collection will be a compulsory component of the registration process.

The documentation required on initial application, and as noted in Proposal 4.2.1(a) through to (g) is quite extensive and the Medical Council would consider that requested documentation remain within "reasonable limits".

Given that the NRAS will also apply to International Medical Graduates ('IMGs'), albeit they will be limited by conditions and cannot therefore move from one position to another position in another jurisdiction without formal (and further) application, it is noted that there will need to be provisions for the collection of other personal information from some applicants (i.e. IMGs) such as Curriculum Vitae ('CVs'). Currently the Medical Boards (and their staff) check for "gaps" in CVs. It is imperative to ascertain why there are gaps in practice shown in a person's CV.

## 4.3 Criminal history checks

**4.3.1 Proposal** – 4.3.1 – It is considered that not one of the options provided (on its own) is entirely satisfactory. It is suggested that this should be applied to all new applicants for registration from 1 July 2010; should be phased in for all existing registrants; registrants should be required to notify the Board when offences occur; and impose a statutory declaration obligation at the time of initial registration and a self-declaration at the time of annual renewal.

## 5. Qualifications on registration

**5.1 Proposal** – **As it relates to defining qualifications for general registration** - Again, we would seek clarification as to whether the dot point that reads "*...an examination (if any) set by or on behalf of the responsible board...*" will include the AMC examinations resulting in the conferring of the AMC Certificate.

**5.2 Proposal** – **As it relates to the Boards' powers to consider and approve (for registration purposes), substantially equivalent qualifications recognised by registration authorities in another country** – Clarification is sought as to whether this will be confined to formal accreditation of (say), Competent Authorities. This jurisdictions would be concerned as to whether the Board had the appropriate expertise to make such determinations in the absence of a formal accreditation process.

## **6. Registration decision**

### **6.1 Powers of Boards before deciding application for registration**

- 6.1.1 Proposal – As it relates to the Boards’ discretionary powers before deciding an application for registration** – It is noted that this provision would only apply to initial registration as all practitioners will be deemed to be registered in all jurisdictions as of 1 July 2010. It is presumed that the current mutual recognition legislation (the *Mutual Recognition Act 1992* (*‘the MR Act’*)) will no longer apply to the defined 10 (ten) health professions.

It is further noted that the MR Act does not allow a subsequent jurisdiction to require an MR applicant to undertake or complete a further examination or attain or possess some additional qualification or experience relating to fitness to carry on their occupation in order to obtain registration in the second jurisdiction (s.20(4)(b) of the MR Act). It is expected that the proposed legislative provisions relating to what is outlined in Proposal 6.1.1(d) and (e) will be robust enough to require such examinations and assessments.

### **6.2 Who makes registration decisions?**

It is noted that the preamble to this section indicates that due to the workload associated with the registration functions, the proposed legislation will need to make provision for the delegation of decision-making on registration applications in terms of “...*both routine and non-routine applications...*” to occur at the State and Territory level.

It is further noted that it goes on to state that that the legislation will be required to provide the capacity for some committees of the Board to act “...*as the national Boards...*” for the purposes of some decisions such as registration (6.2.1). The constitution of such a committee is clearly outlined at Proposal 6.2.1. However, it is not clear if Proposal 6.2.2 that specifically lists those matters “not” to be delegated will be extended to the committee as constituted and outlined in 6.2.1 or limited 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...*”. That is, a committee (as constituted under what is proposed at 6.2.1 can, on behalf of the national Board refuse to register, refuse to renew a registration or an endorsement of registration, impose conditions on a registration etc., etc.,

### **6.3 Professional indemnity insurance**

- 6.3.1 Proposal** – It is noted that the proposed Professional Indemnity Insurance (‘PII’) provisions do not include non practising health professionals. It is further noted that to the best of this jurisdiction’s knowledge, PII insurance applies at the time a claim is made, that is, if the health professional is not covered by PII at the time a claim is made, the health professional is not necessarily covered by PII insurance. It may be that this requires clarification from a PII organisation.

## **6.4 Powers to refuse to grant registration**

**6.4.1 Proposal – as it relates to 6.4.1(g) insufficient recent practice** – it is noted that the recency of practice provisions are determined to be two years “...in some professions” and five years in others. It is further noted that two years (for the medical profession) may be too soon to make a fair determination as to an appropriate level of recency of practice.

## **6.5 Refusal process**

**6.5.1 Proposal – as it relates to an opportunity to make a submission to the Board (in relation to a proposed refusal by the Board to register) before a Board makes that decision** - it is noted that this is not currently the case in this jurisdiction. An applicant is currently advised of the decision, the reasons for the decision and their right of appeal against the decision to the Supreme Court.

## **6.6 Rights of review of registration decisions**

**6.6.1 Proposal – as it relates to a review of such decisions to the Tribunal** – it is noted that this appeal mechanism is currently handled through the Supreme Court (in this jurisdiction) and as such, the costs are met by the judiciary system, not the medical regulatory system. The proposed review mechanism will need to be costed into the national system.

In addition, given that this is proposed to be a “merits review”, the Medical Council considers that such a review should be conducted “peers”.

## **7. Types of registration granted**

**7.1 Proposal – Table 2 - as it relates to general registration** – Specialty endorsement should only occur if the practitioner has the required postgraduate qualifications and has complied with all the requirements required for working in that specialty – that is, recency of practice in the specialty, CPD in the specialty etc., otherwise a practitioner could be a practising GP who also has the FRACS. If his or her general registration were endorsed with the FRACS it would give the public the impression they were a practising surgeon.

## **7.2 Specific registration**

It is noted that the list (for Tasmania) provided at Attachment 3 to the consultation paper is incomplete. The types of registration (under conditional registration for specific purposes) under the provisions of section 21(2) of the *Medical Practitioners Registration Act 1996* (‘the Act’) are as follows:

- (a) undertake a period of approved postgraduate training;
- (b) no longer applies;
- (c) further specialist training or an examination required for recognition by the relevant Australian specialist college or institution if the person has specialist qualifications and experience not recognised by such college or institution;
- (d) teaching or research;

- (e) practise within a specialist if the person has specialist qualifications and experience recognised by the relevant Australian specialist college or institution;
- (f) practise in the public interest; and
- (g) practise in an Area of Need.

These sub-categories have been brought to the Committee's attention because they have been similarly listed within Attachment 3 when referring to other jurisdiction's similar categories.

### **7.3 Non-practising registration**

7.3.1 **Proposal – as it relates to the alternative option** – the Medical Council agrees with what is proposed as the alternative option.

7.3.2 A clear definition of non-practising registration needs to be provided. It must allow the practitioners to teach; be an expert witness; sit on Boards etc., provided that they have no clinical responsibilities associated with those types of activities.

### **7.4 Student registration**

This jurisdiction supports the registration of medical students. As to the best option (from the 3 proposed), it would seem that option 3 (“...to register and regulate students, and student registration be mandatory for students in all regulation professions, at the point of enrolment and for the duration of their course...”) is the preferred option. This is reflective of the reality that medical students can have access to patients from the first year of their under-graduate education.

### **8.1 Title protection**

**Table 2** – it is noted that (in the “Note” below Table 1 at section 3. Regulation professions), that Nurse practitioners are “endorsements” and therefore, it is considered that they should not be included in Table 2, notwithstanding that Table 2 is extracted from the Intergovernmental Agreement (‘IGA’).

### **8.2 Practice protection**

The Medical Council is unclear as to why these exemptions are listed. Specifically, “...assistants working under supervision..” and “...businesses employed registered practitioners...”

### **9. Renewal of registration and continuing competence**

9.1 **Background** – the Medical Council don't agree that “...increasing community expectations...” is an evidenced-based decision. The Council considers that this is a political decision.

### **9.3 Annual reporting obligations on registrants**

- 9.3.1 Proposal – as it relates to charges or convictions that are punishable by 12 months imprisonment or more –** under 9.3.1(b) it is noted that there may be punishable offences that do not result in a minimum of 12 months imprisonment and yet, may be such, that it is not considered to be in the public interest to register a health professional with such a conviction.

The Medical Council considers that such reporting obligations include declarations regarding health and medical indemnity insurance.

Under 9.3.1(e) it is noted that annual reporting obligations include compulsory collection of data for workforce planning purposes.

### **9.4 Monitoring the professional competence of registrants**

- 9.4.3 Proposal – as it relates to a time period for notifications of charges, /convictions, medical negligence claims, withdrawal or limitation of clinical privileges or credentials by a health service body or any other matter set down from time to time by the Ministerial Council –** it is noted that this is currently proposed as 30 days. This jurisdiction's experience shows that this is a very short time frame and as such, was extended to 60 days under amendments that took effect the Act from 1 September 2004.

It is considered that other obligations could be added to the list. Those including matters such as actions by Medicare; issues referred to a practitioner's medical insurers and problems with Pharmaceutical Services Branches of State Health Departments.

### **10.1 Specialist endorsement**

- 10.1.1 Proposal – as it relates to the general power of the national Boards to recommend (to the Ministerial Council) specialties that should be recognised for their profession –** it is noted that these functions are currently undertaken by the AMC and that the AMC will continue (for 3 year of the NRAS) will continue to fulfil these functions.

The Medical Council also reiterates its comments provided at 7.1.

### **11. Other matters**

- 11.1.1 Proposal –** the Medical Council considers that it would have been preferable to have one statutory renewal date, however, it also acknowledges the impracticalities associated with 500,000 health professionals renewing their registration at the same time. However, it is considered that the renewal provisions as outlined at 12.1(e) and (f) will potentially be problematic and will require careful monitoring.

**11.2.5 Proposal** – it is considered that this will not prevent the problem of knowing where a medical practitioner is working at any time – which State, which part of the State, divided between practice addresses. Boards need to know and accurate workforce data will be reliant upon Boards “knowing” where practitioners are practising.

### **11.3 Failure to renew**

The consultation paper is silent on what the process will be annual renewals. That is, will the documentation be sent to the recorded practice/business address; how long prior to the due date will the renewal form be sent; will a “reminder” be sent and what sanctions will be imposed in the event that a practitioner fails to renew their registration and they continue to practise.

## **12. Transition arrangements**

**12.1 Proposal – as it relates to deemed registration from 1 July 2010** – it is noted that all health professionals (from the approved 10 professions) will be deemed to be registered under the new national scheme from 1 July 2010. It is further noted that where a practitioner is registered in more than one jurisdiction and these registrations expire at different dates, they are automatically deemed to be registered through until the latest date of registration date 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. This jurisdiction supports what is proposed.

The Medical Council of Tasmania thanks you for the opportunity to make this submission.

If you have any queries, please contact the Registrar Mrs Annette McLean-Aherne by telephone on 03.6233.5499, by facsimile on 03.6233.7986 or by email ([registrar@medicalcounciltas.com.au](mailto:registrar@medicalcounciltas.com.au)).

Yours sincerely,



**Dr Mike Hodgson AM**  
President