



The Pharmacy  
Guild of Australia

**Response to the Consultation Paper on  
Proposed Registration Arrangements for National Registration and Accreditation Scheme  
for health professions**

**October 2008**

The Pharmacy Guild of Australia  
PO Box 7036  
Canberra BC ACT 2610  
tel: 02 6270 1888  
fax: 02 6270 1800

<b>Proposal No.</b>	<b>Brief description of proposal</b>	<b>Proposal</b>	<b>Comment</b>
2.1 <sup>1</sup>	<b>Objectives of registration arrangements legislation</b>	The registration provisions be framed in a way that reflects the wording and intent of the IGA, builds on the best aspects of State and Territory schemes and establishes a robust system that is designed to protect the public and facilitation transparency and accountability, and which is effective and fair.	This is a reasonably straightforward statement of policy.
3	<b>Creation of a Pharmacy Board of Australia</b>	A Pharmacy Board will maintain a register of pharmacists.	Supported.
4.1.1 4.2.1	<b>Initial applications for registration</b>	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. An application must be accompanied by the set fee as well as ‘any other information reasonably required by the Board.’ The Board will be able to ask for evidence of qualifications and supervised practice experience, examination results previous registration history, recency of practice experience, and evidence of any complaints to state health complaints commissioners.	The proposal is generally satisfactory.  However, there is no capacity to have conveniently reviewed a form of application that people may consider as being unsatisfactory.  The concept of providing ‘workforce data required for national workforce analysis’ is supported, however, this requirement should satisfy the net benefit test as being ‘the least restrictive law necessary to achieve the policy objective’ (discussed under proposal 3.1).

<sup>1</sup> The proposal numbers are those used in the Consultation Paper

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4.3.1	<b>Criminal checks</b>	<p>Four options are proposed:</p> <p>(1) The first requires criminal checks of all new post 1 July 2010 applicants for registration, but not existing registrants.</p> <p>(2) The second will be a phased introduction of criminal checks for new applicants and for people seeking renewal after 1 July 2010</p> <p>(3) The third is criminal checks for new applicants with a random capacity to check renewing registrants. Renewing registrants will also have to self-declare whether they have been convicted of an offence at the time of renewal.</p> <p>(4) The fourth option gives a board discretion to conduct a criminal check of both applicants and registrants.</p>	<p>There is variation in the way the jurisdictions deal with this issue.</p> <p>Option three is preferred by the Guild as the ultimate aim is to have all registrants to have criminal checks in the future.</p> <p>Whichever option is selected, the scheme should ensure that the criminal checking process does not delay consideration of a person's application or renewal.</p> <p>Further consideration should be given in regard to the source of the funding for the cost of criminal checks. The costs of criminal checks should not be covered entirely from the registration fees as this requirement is for the protection of the community.</p>

Proposal No.	Brief description of proposal	Proposal	Comment
5.1 5.2 5.3	<b>Qualifications for registration</b>	<p>A person will be able to be generally registered if they have successfully completed:</p> <ul style="list-style-type: none"> <li>▪ an approved course of study</li> <li>▪ an approved period of supervised practice (if any) (ie an internship), and</li> <li>▪ an examination (if any) set by or on behalf of the responsible board.</li> </ul> <p>Qualifications ‘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</p> <p>Boards will also have the power to register people who have training and experience considered to be substantially equivalent to an approved course of study and supervised practice.</p>	<p>Under this scheme, the decision of the Board on course recognition is final. There may need to be a mechanism to have the decisions made by the Board to be reviewed.</p> <p>It is also unclear what court, and what cause of action could be used to challenge a decision judicially if that was a course of action being considered.</p>

Proposal No.	Brief description of proposal	Proposal	Comment
6.1.1	<b>Additional powers conferred on the Board to consider initial applications</b>	A board will be able to investigate the applicant and require the applicant to attend before the board to answer questions about their application, provide further information or undergo a written, oral or practical examination to assess the applicant's competence to practise. A Board can also require the applicant to undergo a health assessment (eg a medical examination or psychological assessment) to assess the applicant's capacity to practise.	<p>These powers are generally conferred on registration boards.</p> <p>The term 'health assessment' is supported to be used in the legislation rather than 'medical examination' because it allows a broader range of assessments to be conducted.</p> <p>The precise powers to be conferred will need to be carefully considered so as to ensure what is proposed is not too intrusive.</p>
6.3.1	<b>Professional Indemnity Insurance</b>	<p>Registrants (except for non-practising registrants) will need to be covered by PII as a condition of registration.</p> <p>Each national board have the power to issue a guideline about what constitutes acceptable arrangements for PII for registrants.</p>	<p>Most jurisdictions mandate the carrying of PII.</p> <p>The proposal is supported as long as the guideline will be mandatory and not merely advisory in effect.</p>

Proposal No.	Brief description of proposal	Proposal	Comment
6.4.1	<b>Powers to refuse to grant registration</b>	<p>Powers for a responsible board to refuse to grant registration on a number of grounds, including but not limited to the following:</p> <ul style="list-style-type: none"> <li>the applicant has not satisfied the board of their <b>competence to practise</b> in the regulated profession and this cannot be satisfactorily addressed by the imposition of conditions</li> <li>the applicant's <b>character</b> is such that it would not be in the public interest to allow the applicant to practise in the regulated profession</li> <li>the applicant is considered by the board to be unfit to practise because of <b>drug or alcohol dependency</b> or <b>physical or mental impairment</b></li> <li>the applicant has been <b>convicted</b> 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</li> <li>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 <b>proceedings have never been finalised</b></li> <li>the applicant has been <b>deregistered or suspended</b> under a foreign law, for any reason relating to conduct that would constitute professional misconduct under this Act, or during the course of</li> </ul>	<p>These appear to be standard grounds for refusing registration.</p> <p>Refusing to register on the grounds that the applicant's character is such that it would not be in the public interest to allow the applicant to practise is an effective equivalent of the traditional 'fit and proper person' test.</p>

		<p>that registration, the practitioner has had proceedings brought against him or her and those <b>proceedings have never been finalised</b></p> <p>the applicant has had <b>insufficient recent practice</b> 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)</p> <p>the applicant's <b>English language proficiency</b> is not considered sufficient by the board for the applicant to practise in the relevant profession</p> <p>the applicant does not have arrangements for <b>professional indemnity insurance</b> that the responsible board considers sufficient, or</p> <p>the applicant is <b>disqualified from applying</b> for registration under this Act or a previous enactment of a participating jurisdiction.</p> <p>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.</p>	
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6.4.2	<b>Dealing with fraudulent applications</b>	<p>A board with reasonable grounds to believe that a registration has been obtained by fraud, or a person is attempting to fraudulently obtain registration will be able to immediately suspend registration (if already granted), investigate the matter, and refer it, if necessary, for hearing by the relevant State or Territory tribunal.</p> <p>The standard of proof that would apply in such proceedings would be on the balance of probabilities.</p>	The proposals appear to deal with the issue in a satisfactory manner.
6.5.1 6.5.2 6.6.1	<b>Rejecting applications/conditioning registrations</b>	<p>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.</p> <p>It is proposed that the legislation include timeframes for this process before a board makes such a decision.</p> <p>The legislation will 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</p>	The proposed review pathway is a standard model, generally used for occupational licensing decisions in all jurisdictions.

		<p>registration, and if the application has been refused, or conditions have been imposed, to provide reasons for the decision.</p> <p>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).</p> <p>It is proposed that the same entitlements and obligations would apply with respect to an endorsement of registration.</p> <p>It is proposed that a hearing would be a complete merits review – that is, the Tribunal would 'stand in the shoes' of the Pharmacy Board, and can make the same decision as the Board.</p>	
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Proposal No.	Brief description of proposal	Proposal	Comment
7.3.1 7.3.2 7.4.1	<b>‘Types’ of registration granted</b>	<p>A national board will be able to grant different classes of registration and impose conditions on grants of registration. The proposed ‘types and sub-types’ are:</p> <p><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.</p> <p><b>Specific</b> - 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> <p><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.</p> <p><b>Area of need</b> – to allow an applicant to work in an area of unmet need.</p> <p><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.</p> <p><b>Examination candidates</b> – to allow an applicant to undertake training in preparation for an examination approved by the responsible board.</p> <p><b>Teaching or research</b> – to allow an applicant to fill a teaching or research position approved by the responsible board.</p> <p><b>Recognised specialist qualifications and experience</b> – to allow an applicant with approved specialist qualifications to practise in</p>	<p>This is effectively a collection of all types of registrations used in the regulated health professional sector.</p> <p>The proposal is supported as a National Pharmacy Board will have a contingent capacity (but not an obligation) to create a class of licence for these areas.</p> <p>However, it would be clearer to describe the ‘types’ and ‘sub-types’ of licences as <b>classes</b>.</p> <p>The proposal to have a ‘non-practising’ class of registration is not supported by the Guild. It is the view of the Guild that if people wish to keep their options open, then they should stay registered subject to the requirements of registration.</p>

		<p>the specialty.</p> <p><b>Internationally trained specialists</b> – to allow an applicant with “specialist” qualifications that are not approved to undergo further training in that specialty.</p> <p><b>Temporary registration in the public interest</b> – to allow an applicant without approved qualifications to be registered for a limited period if the responsible board considers it is in the public interest.</p> <p><b>Non-practising</b> - Applicants who would otherwise be eligible for registration but who do not intend to practise during the registration period.</p> <p><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.</p> <p>The Discussion Paper suggests three options for the registration of students:</p> <p>(1) The first option is to restrict the requirement to register students to those professions that have traditionally done so, such as medicine and dentistry.</p> <p>(2) The second option is to make mandatory the registration of students undertaking clinical training – that is, those in direct contact with patients.</p> <p>(3) The third option is to make registration mandatory for all students once they enrol in studies.</p>	<p>With respect to student registration, it is noted that pre-registration pharmacists gaining practical experience under supervision would probably be eligible for ‘provisional’ registration.</p> <p>Student’s registration is useful in current environment of student placements. Any misconduct in this arena would inform future registration suitability which is an issue at present.</p> <p>The Guild is of the view that registration of students should commence from pre-registration year, however, there may be merit in having the students registered when they have a ‘substantial’ contact with patients in their clinical placements in the fourth year of the course.</p> <p>Another option to consider (which is not proposed in the consultation paper) is to give a board a discretion to register students in such circumstances as the Board considers appropriate as the need could be profession specific.</p>
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Proposal No.	Brief description of proposal	Proposal	Comment
8.1	<b>Protection of professional titles</b>	<p>It is proposed to make it an offence for anyone other than a registered pharmacist to use the terms:</p> <ul style="list-style-type: none"> <li>▪ ‘pharmacist’; and</li> <li>▪ ‘pharmaceutical chemist’</li> </ul> <p>There is also a general provision prohibiting the use of ‘any other title, name, symbol, description, etc, which given the circumstances could be reasonably understood to indicate the person is a registered pharmacist.</p>	The identified terms are supported as being worthy of statutory protection.
8.1.1	<b>Use of other courtesy terms such as doctor, professor</b>	<p>Titles such as ‘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.</p> <p>Therefore, unregistered persons using such titles would risk prosecution only where use of a courtesy title could, in the circumstances, lead others into believing.</p> <p>the person is qualified and registered under the Act in a regulated health profession when they are not.</p>	This appears to be appropriate.

Proposal No.	Brief description of proposal	Proposal	Comment
9.2.1 9.2.2	<b>Continuing Professional Development (CPD)/Continuity of Practice</b>	<p>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.</p> <p>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.</p> <p>However, in response to increasing community expectations, the powers of many registration boards have been strengthened in recent years.</p> <p>Accordingly, jurisdictions have adopted a range of competency assessment/maintenance provisions such as 'recency of practice', CPD, self assessment and self-declaration against established competencies, performance assessment by boards, credentialing by health service agencies, etc.</p> <p>Proposal 9.2.1 requires the enabling legislation to require Boards to 'establish requirements within each profession for registrants to demonstrate continuing competence at the time of annual renewal, with the scheme to be</p>	<p>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.</p> <p>Pharmacy legislation has usually required pharmacists to display 'recency of practice'.</p> <p>The provisions allows a board to have full access to the various mechanisms that are available that permit a Board to be satisfied that a pharmacist's skills are current.</p> <p>Subject to the observations made below, the proposals appear reasonable.</p> <p>However, proposal 9.2.1 is unclear and the intention of this proposal needs to be clarified.</p> <p>It may be better for a National Pharmacy Board is to establish (interim?) continuing competence requirements to be in place at the 1 July 2010 commencement of the scheme.</p> <p>It is noted that minimum competency standards are determined by the Ministerial Council.</p>

		<p>implemented for each profession on 1 July 2010.’</p> <p>National Boards will then be able to develop and publish minimum standards of competence (which must be approved by the Ministerial Council) setting out the continuing competence requirements that registrants must meet.</p> <p>Registrants failing to meet the standards can have their registration either cancelled or conditioned.</p>	<p>With respect to qualifications, decisions made by a Ministerial Council that set out minimum standards of practice are not contained in an instrument capable of being disallowed by a parliament, or easily challenged in court. This issue needs to be further explored.</p>
9.3.1	<p><b>Information to be submitted on renewal of registration</b></p>	<p>Pharmacists seeking a renewal of a licence are to declare how the board’s continuing competence requirements have been met, whether they have been charged with or convicted/subject of a finding of guilt for an offence punishable by 12 months imprisonment or more, have had any medical negligence claims served and whether any clinical privileges or whether credentials have been withdrawn or restricted by a health service body or third party payer.</p> <p>They will also have to provide ‘any data required to be provided to the Ministerial Council for workforce planning purposes’.</p>	<p>The concept of providing ‘any data required to be provided to the Ministerial Council for workforce planning purposes’ is supported, however it could be time consuming to collect.</p> <p>Clarification is needed as to the sort of data anticipated to be collected under this provision, and to determine whether this satisfies the net benefit test (discussed under proposal 3.1) as being ‘the least restrictive law necessary to achieve the policy objective’.</p>

Proposal No.	Brief description of proposal	Proposal	Comment
9.4.1 9.4.2	<b>Power to make guidelines about professional practice standards</b>	<p>Legislation will include a range of provisions which empower boards to effectively monitor practitioners whose competence or fitness to practice may be in question.</p> <p>It is therefore proposed that National boards have a general power to issue guidelines for registrants about professional practice standards.</p> <p>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.</p>	<p>This would appear to be the head of power that would facilitate developing practice guidelines etc, which are the documents issued by the current pharmacy boards that all pharmacists usually follow to ensure compliance with licensing legislation.</p> <p>The concept that failing to follow guidelines are not mandatory, but may be taken into account when determining unprofessional conduct or professional misconduct is a concept that do not offer a 'safe harbour' for people, protecting them from litigation if they comply with the guideline/code.</p> <p>It also makes the prosecution/defence of unprofessional conduct/professional misconduct cases somewhat lengthy and complex as the relevant tribunal has to consider what was the standard of practice a reasonable pharmacist should have displayed, and then whether or not it was appropriate to have followed (or not followed) a guideline in the particular circumstance.</p> <p>There are therefore grounds to consider whether adherence to any guidelines should be regarded as compulsory.</p> <p>This would mean any breach of the guidelines would be regarded as being unprofessional conduct/professional misconduct, but proof of compliance would be a defence to a misconduct charge.</p>

Proposal No.	Brief description of proposal	Proposal	Comment
9.4.3	<b>Matters to be reported within 30 days</b>	Registrants must report to the Pharmacy Board within 30 days if they have been if charged with or convicted/subject of a finding of guilt for an offence punishable by 12 months imprisonment or more, become subject to a medical negligence claim, have had withdrawn or had limited any clinical privileges or credentials by a health service body, or any other matter as set down by the Ministerial Council.	This appears satisfactory.
10.1.1 10.1.3 <sup>2</sup> 10.3.1	<b>Specialities/approved areas of practice</b>	<p>There will be a general power to allow a Board to recommend to the Ministerial Council that a particular speciality should be recognised for its profession. This would include specifying the qualifications a person seeking registration should possess.</p> <p>This is in addition to the role of the national boards in recommending to the Ministerial Council approved qualifications for registration purposes.</p> <p>It is also proposed that the Ministerial Council be able to permit a sub-group of practitioners within the profession who have specific training and are considered qualified to provide services in an identified ‘approved area of practice’ that they would otherwise be prevented by law from delivering.</p> <p>The legislation will set out how Boards will consider applications to practise in an approved area of practice.</p>	<p>The discussion paper indicates that 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.</p> <p>The speciality concept may not specifically impact on pharmacy at present, however, in future, scope of pharmacy may change. The law should permit people who gain a relevant recognised graduate diploma to be able to apply to practise in an approved area of practice.</p>

<sup>2</sup> There is no proposal 10.1.2

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10.2.1	<b>Endorsement as qualified to prescribe schedule medicines</b>	This gives effect to clause 1.32 of Attachment A to the IGA. It is proposed that the national registration 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.	<p>The Guild is supportive of the provision for endorsement as qualified to prescribe.</p> <p>Clarification needed as to the mechanism used to authorise the practice to gain Ministerial Council approval for eligible pharmacists to have their registration endorsed to be able to prescribe.</p>
11.1.1 11.2.1 11.2.2 11.3.1	<b>Registration periods/ Issuing of certificates</b>	<p>It is proposed that national boards to grant registration for a period of up to 12 months and that a grant of registration be subject to annual renewal.</p> <p>The renewal date will be the anniversary of the day the practitioner was first registered.</p> <p>National boards to issue certificates of registration or renewal of registration to those who have met the registration or renewal requirements specified by the responsible board.</p> <p>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. However, another option canvassed is that a person will be ineligible to practise at all if they fail to renew within time.</p>	<p>Some jurisdictions currently set registration periods as constituting for either financial or calendar years; others base the period from the date the practitioner becomes registered.</p> <p>The Guild supports the proposed option of the renewal date to be the anniversary of the day the pharmacist was first registered, provided that there is adequate notification period prior to the renewal date.</p> <p>Given that prospective employers may be permitted to require a prospective employee to show their registration prior to engagement, the proposal appears reasonable with respect to how certificates will be produced.</p> <p>The Guild does not support three months grace period that would allow pharmacists who fail to renew registration as there issues associated with non-registered people being in practice.</p>

Proposal No.	Brief description of proposal	Proposal	Comment
11.2.3	<b>Suspended/cancelled registrations to be returned to the board; legal presumption created by the issue of a certificate of registration</b>	<p>Practitioners who have had registration cancelled or suspended will under an obligation to return the certification.</p> <p>It is proposed that for 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.</p>	These provisions are satisfactory.
11.2.4 11.2.5	<b>Changes of address</b>	There is debate as to whether or not a practitioner should provide Boards with both a contact address and a practice address.	<p>This issue deals with the capacity of Boards to keep track with practitioners and the information is useful when tracking broad workforce movements, and the specific monitoring of practitioners who may, for example, have qualified registration.</p> <p>The Guild would be supportive of a provision for a practitioner to provide the National Board with a contact address and where the person practises.</p>

Proposal No.	Brief description of proposal	Proposal	Comment
11.4.1	<b>Reapplication for registration within 2 years of allowing registration to lapse</b>	<p>Two options are offered.</p> <p>The first is to permit 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 and they meet any continuing competence requirements set by the responsible board.</p> <p>The alternative is that where a person's registration lapses, they must satisfy the registration requirements that are in force at the time of reapplication.</p>	<p>The preferred option for the Guild is the first option.</p>
11.5.1	<b>When a board can remove a name from a register</b>	<p>It is proposed to permit a board to remove a name from the register in certain circumstances, including death, failure to renew, suspension or cancellation of registration or where the person no longer meet the mandatory requirements for registration.</p>	<p>This appears to be an appropriate provision.</p> <p>However, clarification is needed as to the phrase 'a person no longer meets the mandatory requirements for registration'.</p>
12.1	<b>Transitional Provisions</b>	<p>Everyone registered as a pharmacist on 30 June 2010 will be deemed to be registered under the new national scheme on 1 July 2010, for the term specified in their registration renewal. People with multistate registrations will be registered for the longest period for which the person is eligible.</p>	<p>These are reasonably standard transitional provisions, given the relatively universal recognition of eligible courses of study needed to enter the profession.</p>