

## FREQUENTLY ASKED QUESTIONS – HEALTH PRACTITIONER REGULATION NATIONAL LAW

The following series of questions and answers have been prepared to assist consumers, health practitioners, and others with understanding the National Registration and Accreditation Scheme for the Health Professions, and particularly, the *Health Practitioner Regulation National Law* (the 'National Law').

To assist the reader these questions and answers are presented in three sections:

- 1 – General information
- 2 – Information for the community
- 3 – Information for health practitioners

For further information visit <http://www.ahpra.gov.au/>

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### Section 1 - General information

#### How is the national registration and accreditation scheme being implemented through legislation?

A staged approach is being taken to establishing a legislative basis for the national scheme.

The National Law is contained in the Schedule to the *Health Practitioner Regulation National Law Act 2009* (Queensland). This second stage of legislation builds on the 2008 Council of Australian Governments (COAG) agreement, and provides for the full operation of the National Registration and Accreditation Scheme for the Health Professions from 1 July 2010.

The purpose of the National Law is to protect the public by establishing a national scheme for the regulation of health practitioners and students undertaking programs of study leading to registration as a health practitioner.

Accordingly, the National Law will continue administrative arrangements established under the first stage legislation – the *Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008* (Act A) – but covers the more substantial elements of the national scheme, including registration arrangements, accreditation arrangements, complaints, conduct, health and performance arrangements, and privacy and information-sharing arrangements.

Before introduction into the Queensland Parliament, the National Law was approved by Ministers following a period of extensive consultation. The National Law received Royal Assent in Queensland on 3 November 2009.

Other States and Territories will introduce adopting or corresponding legislation (known as Bills C) into their Parliaments to fully implement the national scheme. The Commonwealth may make consequential amendments to Commonwealth laws to support the implementation of the national scheme.

#### When does the national scheme start?

The scheme is to commence full operation on 1 July 2010.

#### Which health professions will be regulated under the new scheme?

From 1 July 2010 (listed in alphabetical order):

- Chiropractic
- Dental (including Dentists, Dental Therapists, Dental Hygienists, Dental Prosthetists and Oral Health Therapists)
- Medicine

- Nursing and Midwifery
- Optometry
- Osteopathy
- Pharmacy
- Physiotherapy
- Podiatry
- Psychology

From 1 July 2012:

- Aboriginal and Torres Strait Islander Health Practice
- Chinese Medicine
- Medical Radiation Practice
- Occupational Therapy

#### Is the National Law a Commonwealth law?

No. The national scheme is being established via State and Territory laws, using an 'applied law' model. This model is used for matters that are generally within the States' legislative powers, and not the Commonwealth's legislative powers. This model will result in a finalised National Law being enacted by one State or Territory (in this case, Queensland) with other States and Territories entering the scheme as 'participating jurisdictions', by enacting legislation to adopt and apply the National Law as a law of their jurisdiction.

While the Commonwealth will need to make some consequential amendments to Commonwealth laws, to ensure effective interfaces between various Commonwealth agencies and the national scheme, the Commonwealth will not need to apply the National Law.

#### What are the bodies in the new scheme?

- Australian Health Workforce Ministerial Council
- Australian Health Workforce Advisory Council
- National Boards
- State/Territory Boards (committees of national boards)
- Accreditation authorities
- Australian Health Practitioner Regulation Agency (AHPRA)

#### Will the Ministerial Council be required to publish advice it receives from the Advisory Council?

Yes. Under the National Law, the Ministerial Council will make arrangements to publish advice given to it by the Advisory Council as soon as practicable after the Ministerial Council has had the opportunity to consider the advice. However, the Advisory Council can recommend to the Ministerial Council that its advice or part of an advice not be published if this is in the interests of protecting the privacy of any person (a

person here means an individual or an organisation). It is also provided that the Ministerial Council cannot issue a policy direction on, nor seek advice from the Advisory Council on, a particular person, or a particular qualification, or a particular application, complaint or proceeding.

**How can one national scheme deal with health practitioner regulation, registration and complaints from across the country and be responsive to the needs in each State and Territory?**

National Boards will in many cases establish boards at the State and Territory level to ensure an effective and timely local response to health practitioners and others within the jurisdiction.

The Australian Health Practitioner Regulation Agency (AHPRA) will be required to establish and maintain an office in each State and Territory. Registrations and complaints will be handled within the relevant State and Territory office. The State and Territory offices will also provide a single point of contact for practitioners, students and the public.

**How will an individual health practitioner know who to contact?**

Their first contact will be with the office in their State or Territory and contact details will be published on the website.

**How will the particular issues and needs of specific States and Territories be understood by a National Board?**

Ten National Boards were appointed by the Ministerial Council in August 2009. At least half, but not more than two thirds, of the members are practitioners and at least two of the members are persons appointed as community members.

National Boards for dental, medical, nursing and midwifery, pharmacy, physiotherapy and psychology contain at least one practitioner member from each jurisdiction.

The other four National Boards contain at least one practitioner member from each jurisdiction except for the smaller states and territories (Tasmania, the Australian Capital Territory or the Northern Territory) with a practitioner member from one of the three. Additionally, each National Board has at least one member from a rural or regional area.

National Boards will in many cases establish boards at the State and Territory level to ensure an effective and timely local response to health practitioners and others within the jurisdiction.

**How will the National Board for each profession be able to handle the workload of a large number of registrants?**

It is not envisaged that operational registration and complaints work will be done by the National Board itself. It is anticipated that these matters will be handled at State and Territory level, under the oversight of the National Board. The National Board will be able to delegate its functions to committees, AHPRA staff or contractors, including the accreditation body.

For very small professions there may not need to be a committee in each State and Territory. Each National

Board will decide what structures they need to support their functions.

If the National Board chooses to establish a State or Territory Board to undertake some of its functions, then its members will be appointed by the Health Minister in that jurisdiction.

The role of these State and Territory Boards will be to oversee registration and complaints processes in that State or Territory where these functions are delegated to them by the National Board. State and Territory Boards will perform these functions under the national legislation for the National Scheme.

**What involvement will the State and Territory Health Ministers have in the appointment process for State and Territory boards?**

Each Health Minister will appoint the State and Territory board where the National Board determines these are required in their jurisdiction. Vacancies will be advertised, and AHPRA may provide assistance to Health Ministers with this process.

From 1 July 2010 members of the existing board in that jurisdiction will comprise that State or Territory Board.

**What is the National Board's role in developing standards?**

The scheme contains two types of standards: registration standards and accreditation standards. The National Board is responsible for developing registration standards (these cover the requirements for initial registration and the requirements for renewal of registration for each profession) and submitting them to the Ministerial Council for approval.

Accreditation standards are developed by the accreditation authority for the profession (either an external body or a Board committee) and submitted to the National Board for approval.

**Are there any requirements for consultation in the development of these national standards?**

Yes. National Boards must ensure there is wide-ranging consultation about the content in the development of registration standards. Similarly the accreditation authorities must undertake wide-ranging consultation about the content of the standards they develop. Additionally if a National Board proposes to recommend a matter to the Ministerial Council that another National Board may reasonably be expected to have an interest in, then consultation must occur between the boards. Any contrary views expressed must also be provided with the recommendation to Ministers.

**What obligations are there to report to the National Board a registered colleague or employee who is impaired or practising incompetently or unethically?**

The National Law imposes on all registered health practitioners and employers a legal obligation to report to the relevant National Board any registered health practitioner who has:

- (a) practised the profession while intoxicated by drugs or alcohol, or
- (b) engaged in sexual misconduct in connection with their practice of the profession, or
- (c) placed the public at risk of substantial harm in their practice because they have an impairment, or

- (d) placed the public at risk of harm because of a significant departure from accepted professional standards.

If a practitioner has formed a reasonable belief **during the practice of their profession**, that a professional colleague's conduct is notifiable conduct and fails to report to the Board in these circumstances, this may be considered a professional conduct issue by the Board.

A practitioner is exempt from reporting in certain circumstances, including, if they form a reasonable belief that a professional colleague's conduct is notifiable conduct whilst: employed by an insurer that provides professional indemnity insurance; if they are a legal practitioner and form the belief whilst providing legal services; if they form the belief in the course of exercising functions as a member of a quality insurance committee; or if they reasonably believe that the notifiable conduct has already been reported to the National Agency.

#### **What is the health complaints entity?**

There will be an ongoing and important role under the national scheme for the current, and variously titled, Health Services Commissioner or Health Care Complaints Commissioner in each State and Territory.

#### **How will the complaints arrangements work in a co-regulatory jurisdiction?**

The arrangements for NSW, as a co-regulatory jurisdiction, will be made clear in the NSW legislation which modifies current NSW health practitioner legislation.

However, the National Law includes provisions to ensure that there is a proper flow of information between NSW and the national system (for example where a practitioner resident in NSW may be subject to a complaint relating to an event in another State or Territory).

The National Law also provides that the outcomes of complaints processes anywhere in Australia are reflected in the national public register of practitioners where conditions are imposed or there are other changes to registration status (for example, deregistration). NSW will make legislative provision to ensure that these arrangements and interaction with the national scheme are efficient and effective.

#### **What privacy arrangements are provided under the National Law to ensure information is protected under the national scheme**

Ministers have agreed to use the Commonwealth's privacy laws as a template for the privacy arrangements under the national scheme.

To achieve this, the National Law applies the Commonwealth's Privacy Act, with modification, for the purposes of the national scheme. In doing so, the National Privacy Principles and other relevant parts of the Privacy Act will be applied as a law of each State and Territory that participates in the scheme. These privacy arrangements will not be Commonwealth law. This will provide a consistent national privacy regime for the new scheme.

The National Law provides for a National Health Practitioners Privacy Commissioner to administer the national scheme's privacy regime. Further work is being completed on how this arrangement will work administratively.

Aspects of the Commonwealth's Privacy Act are either not relevant to the national scheme, or will need to be tailored to ensure that the privacy protections work efficiently and effectively for the national scheme. Because of this, the National Law makes modifications and enables further tailoring to be made in the proposed national regulations to ensure that the application of the provisions of the Commonwealth Privacy Act is effective and flexible.

This approach is intended to meet expectations expressed by both health practitioners and consumers that information collected and retained by the National Boards and the AHPRA is subject to consistent, nationwide protections of a high standard.

#### **Will Freedom of Information (FOI) laws or Ombudsman legislation apply to the national scheme?**

Yes. Similar to the approach being taken for privacy, the Commonwealth Freedom of Information Act and the Commonwealth Ombudsman Act are applied with modifications under the National Law for the purposes of the national scheme.

Also consistent with the approach being taken for privacy, the National Law will enable further tailoring of the FOI arrangements and ombudsman arrangements for the purposes of the national scheme to ensure lodging and processing FOI applications or complaints to the scheme's Ombudsman are clear and workable. The proposed National Law regulations will set out these modifications.

It is anticipated that there will be consultation in relation to the proposed National Law regulations.

There will be ongoing collaboration with the Commonwealth on how to best achieve these modifications and ensure efficient and effective arrangements for the national scheme.

## Section 2 – For the community

### **How will the new scheme improve protections for the Australian community?**

An important objective of the new scheme is protection of public safety. There are many measures in the National Law to do this.

The background of each applicant for registration in a regulated health profession will be carefully checked by the board. This will include criminal history and identity checking. Australian trained applicants will need to have completed an approved program of study plus any other registration requirements of the board. International applicants will have their qualifications assessed for equivalence with Australian qualifications and will also need to be able to speak and understand English and have recent practice. The board will be able to refuse registration if it considers that the applicant is not fit or suitable to practise ethically or competently.

Provisions for mandatory reporting by practitioners and employers will also improve public safety, as will the new national public register of practitioners.

### **How will I find out if a health practitioner is registered?**

There will be a number of ways to check a health practitioner's registration status. The new national registers for each profession will be available on the national website and may be searched electronically. You will be able to enter the name of a practitioner and information will be displayed on the practitioner, the type of registration they hold, their qualifications, and other relevant details on their registration status. You will be able to search a single register for a health profession, or search all the registers together. You may also ring or visit your State or Territory office for assistance if unable to access the national register electronically.

### **How will I identify specialist practitioners?**

When you search the national register and enter the name of a health practitioner you will be able to tell whether the health practitioner is registered as a specialist in a specialty that is recognised under the national scheme. You will be able to check the qualifications of any health practitioner who is registered as a specialist under the scheme.

### **How will I be able to make a complaint about a health practitioner under the national scheme?**

It will be easy for you to make a complaint under the national scheme. There will be a national contact number to call, with experienced officers taking the calls. Complaints may also be made in writing, by email, or in person through the office in each State and Territory capital city. If you need help to make your complaint staff will be available to assist you. AHPRA will be required to refer all complaints to the relevant National Board or co-regulatory authority in NSW.

The National Law provides that if a complaint about a registered health practitioner relates to their actions in more than one state or territory then the primary practice address of the practitioner will be used to determine where the matter is to be dealt with. This is particularly relevant for those practicing in NSW or a practitioner being referred to a Tribunal for a hearing.

### **How will I know that my complaint will be dealt with fairly?**

The national scheme will provide a number of 'checks and balances' to ensure all complaints are dealt with rigorously and fairly. For instance, AHPRA will have expert staff in each State and Territory trained to receive and investigate complaints. Health Complaints Entities in each State and Territory will have a clear role in ensuring that the public interest is served in the Boards preliminary assessment of complaints and notifications.

Additionally National Boards and State and Territory Boards (after their first year of operation) must have no less than one third of their members be community members.

### **Why wasn't the Public Interest Assessor included in the National Law?**

Ministers have agreed that the combination of a stronger role for the Health Complaints Entity and strong community representation on boards mean that a further layer of public interest assessment is not necessary.

Given these extra public protection elements, the Ministerial Council resolved that the proposed Public Interest Assessor arrangements were no longer required.

### **What is the standard against which my complaint about a practitioner's conduct will be judged?**

The National Law includes a number of standards which are applied in making decisions about the conduct or performance of a practitioner. These are 'unsatisfactory professional performance', 'impairment', 'unprofessional conduct' and 'professional misconduct'.

Complaints that a practitioner's performance is unsatisfactory or that the practitioner may have an impairment, are likely to be dealt with directly by the board and may or may not proceed to a board hearing. More serious complaints of possible 'professional misconduct' will be referred by the National Board for hearing by a Tribunal that is external to the board. A range of orders may be made by the board or its hearing panel, or the Tribunal, depending on the seriousness of the conduct.

### **How will I find out if a health practitioner's registration is suspended or cancelled?**

You will be able to see practitioners who have been deregistered on a separate list for each profession on the national website.

### **How will I know if a health practitioner has limits or restrictions on the services that they can provide?**

When searching for a health practitioner on the national register you will be able to tell whether a particular practitioner has conditions or limitations placed on their registration.

### **What happens to the regulation of professions that are currently registered in some States and Territories but are not included in the new national scheme?**

The decision not to include these professions in the national scheme does not directly affect their registration status in individual States and Territories.

Continued registration of these professions will be a matter for the relevant Health Minister in each State and Territory to decide.

**Will the scheme ensure that registered health practitioners have professional indemnity insurance?**

Yes. All health practitioners will be required to have professional indemnity insurance arrangements in place at all times when practising. In the case of employed practitioners this may include appropriate indemnification by their employer.

Professional indemnity insurance is not currently available for privately practicing, independent midwives. Consequently the Ministerial Council has agreed to a, short term (2 years) exemption for independent midwives in the course of attending a home birth. This exemption is subject to specified requirements, including informed consent and reporting.

**Is my health practitioner likely to need to increase his/her fees to meet increased costs of the new scheme?**

It is unlikely that the changes will be of a size that will impact on the level of fees charged to patients by their practitioners.

Currently there is significant variation in the fees paid by health practitioners between States and Territories and professions. The overall cost of administering the scheme is not expected to increase significantly as there is great opportunity for efficiencies under a consistent national scheme. Under the national scheme, all health practitioners of the same profession across Australia will be charged the same fee. This means the fees for some practitioners will increase while some may reduce.

**Can I be assured that the health professionals providing care in Australia will continue to have a world class education?**

Yes. All programs preparing graduates for registration in a health profession under the national scheme will need to be accredited against nationally agreed accreditation standards and it is intended that these will reflect international standards.

**Will the information collected about me and my complaint be kept confidential?**

You will have control of how the information you supply is used. When you make a complaint, you will be advised of the likely actions the board will take to deal with the complaint. The health practitioner will be informed of the details of the allegations and will be given an opportunity to respond. If your complaint proceeds to a hearing, the National Law provides for information about you to be kept confidential and for your identity to be suppressed. Panel hearings conducted by the boards will not be open to the public. Tribunal hearings are expected to be open to the public, but may be closed and the identity of witnesses suppressed, to protect complainants.

**How will I know if a health practitioner is qualified to provide a particular type of service?**

In most cases, if a health practitioner is registered then they will be qualified to provide all services typically provided by health practitioners in that profession, unless their registration is restricted in some way. You

will be able to check this by entering their name and searching the public register electronically. You will also find out by ringing or visiting the State or Territory office.

If a health practitioner has approved specialist qualifications in a specialty recognised under the national scheme, then this information will also be set out on the national register against their name. In some cases, health practitioners will be endorsed as qualified to practise in an approved area of practice, such as acupuncture. These details will also be set out on the public national registers.

## Section 3 – For health practitioners

### 3.1 Registration

#### **If I am currently registered, will I need to re-register under the new arrangements before 1 July 2010?**

No. All health practitioners registered in a State or Territory immediately prior to commencement of the scheme on 1 July 2010 will be considered registered under the new legislation. Your registration will continue in place until it is due to be renewed. When it is due for renewal, you will renew it under the new arrangements. You will be advised when registration renewals are due.

#### **If my registration is due to expire under State or Territory legislation on 1 July 2010 (commencement date of the new scheme), will I be registered under the National Law?**

Yes. In addition, under the National Law, there will be provision for an up to one month grace period to apply to late renewal of registration. However you will be required to pay a late fee in addition to the renewal fee and no extra period of registration is gained without payment.

#### **If I am currently registered in more than one jurisdiction, will I have to renew registration in each of those jurisdictions following the commencement of the new scheme?**

No. Following commencement of the scheme on 1 July 2010, health practitioners will be registered to practise throughout Australia. National registration will only be renewed once a year, renewal will not be required in each State and Territory.

#### **If I have lodged a registration application prior to commencement of the new scheme but it has not been considered, will I have to re-apply?**

No. The application will be considered, automatically, to be an application under the National Law. You may be asked to provide additional information required under the legislation, but will not need to re-apply.

#### **Will my registration status change from 1 July 2010?**

There may be some changes in the terms used to describe the type of registration that you hold, but you should not notice any change that will affect your practice. It is intended that a practitioner's registration status will remain the same, even though the words used to describe the type of registration may change. It is intended that your existing registration, including any conditions and endorsements, will be rolled over into the new registration arrangements from 1 July 2010 without the need for you to do anything.

#### **How will I know about my registration under the new scheme?**

The National Board for your profession is developing a registration transition plan, in conjunction with your current registration board, prior to the commencement of the scheme. The plan will identify how health practitioners registered under current arrangements will transition across to the new registers, divisions and types of registration. It is expected that you will be provided more information about your proposed category of registration prior to transition. After

finalisation of the plan, the vast majority of health practitioners will be automatically

switched across to the relevant national register from 1 July 2010.

It may be that a small number of existing registration types do not readily match the new national types of registration and individual allocation decisions will be required.

You will be individually notified of your registration status under the new arrangements before 1 July 2010 and if you are unhappy with the new registration type you are to be allocated, you will have the opportunity to make a submission to the relevant National Board..

#### **Will registrants be required to lodge applications for registration with the national office?**

It is expected that applications for registration, endorsement of registration and renewal of registration may be lodged at State and Territory offices where it is not suitable or practical to lodge electronically. Registration applications and registration renewals are likely to be handled at the State and Territory offices under delegation from the national boards.

#### **How will the national registers be organised under the new scheme?**

Registrants may be granted one or a number of different types of registration and their names will be entered on the relevant national register. Details of the type of registration each practitioner holds will be listed against their name, along with their qualifications and a range of other information. Some registers (for example, nursing, dental, Chinese medicine and medical radiation) will have divisions for the different sub-groups of health practitioner within the profession.

The types of registration that may be granted will be:

- general registration
- specialist registration (for medical practitioners and dentists and any other profession approved by the Ministerial Council)
- provisional registration (for the purposes of completing a required period of supervised practice in order to qualify for general registration)
- limited registration (for the purposes of undertaking post-graduate training or supervised practice or sitting an examination or assessment, for limited practice in an area of need, for a limited time or limited scope in the public interest, or for teaching and research)
- non-practising registration.

It is also proposed that each national board keep a student register for each profession, but this will not be a public register.

#### **How will the National Law apply to the four partially regulated health professions (Aboriginal and Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners, and occupational therapists) being brought in the national scheme?**

The national boards for these professions will be appointed up to 12 months in advance of July 2012, in order to undertake the task of establishing the

registration standards and other requirements, and assessing applications for registration. However, the registration requirements will not come into force until July 2012. Prospective applicants for registration in these professions will be encouraged to apply for registration prior to 1 July 2012. It is intended that those already registered (in those States and Territories that have registration schemes for these professions) will be transferred to the national scheme without the need to reapply.

**Can I be registered without holding professional indemnity insurance?**

Yes, but you must be covered by professional indemnity insurance arrangements of the type and level of cover required by the National Board for the profession when practising. If you are registered in the non-practising category of registration or as a student PII requirements do not apply. In the case of employed practitioners, appropriate insurance may include appropriate indemnification by their employer.

Professional indemnity insurance is not currently available for privately practicing, independent midwives. Consequently the Ministerial Council has agreed to a, short term (2 years) exemption for independent midwives in the course of attending a home birth. This exemption is subject to specified requirements, including informed consent and reporting.

**Will participation in continuing professional development be mandatory for registered health practitioners under the national scheme?**

Yes. Registered health practitioners (not students) will be required to demonstrate that they have participated in a continuing professional development (CPD) program as determined by their national board when they renew their registration annually. A health practitioner granted non-practising registration will not be subject to CPD requirements. While each profession's CPD requirements will be set by the relevant National Board, a board may use an accreditation body to set standards for CPD programs, and approve providers of such programs, including, in the case of medicine, specialist medical colleges, where that is the best arrangement for the profession. The requirement to participate in CPD is not a requirement for reassessment of competence or revalidation.

**Will there be requirements for professional revalidation under the new scheme?**

No. There are no legislated requirements for professional revalidation under the new scheme. However, it would be open to National Boards to propose such requirements to Ministers as part of registration standards some time in the future if they wished to do so.

**Will students be registered?**

Each National Board is to register people who are undertaking an approved program of study or clinical training in a health profession regulated under the national scheme. However, students may not be required to be registered from the beginning of their program. Each National Board will decide at what point in the program students need to be registered, having regard to the potential risk to public safety.

**When will registration of students come into effect and what will I, as a student, have to do?**

You will not have to do anything. All students who are currently registered will be transferred onto the appropriate student register, with any current conditions, on 1 July 2010. Registration for students who are not currently registered will commence from March 2011.

**Will students need to pay registration fees?**

No, students will not be required to pay registration fees.

**How will students apply for registration?**

Students will not have to apply individually for registration. Each education provider will be required to provide a list with details of enrolled students to the relevant National Board, as well as provide amendments to the list from time to time as enrolments change. Students will be registered when their names have been entered by the board on the student register for the profession.

After the relevant National Board has been notified of the student's particulars by an education provider the board may take the additional step and also request in writing that the student completes an application for student registration.

**How will students know that they are registered?**

The relevant National Board will inform each education provider that their students have been registered, and of any changes to the student register and it will be the education provider's responsibility to inform the student of his/her registration and any changes to that registration.

**What powers will a National Board have in relation to students?**

The powers of the National Boards with respect to students extend only to assisting a student who may be impaired (for example, students suffering from mental illness), or where a student has been charged with or found guilty of an indictable offence. Where a student may be impaired, the board may require the student to undertake a health assessment, and may attach conditions to their registration, in order to protect the public. Where the student has been charged with an offence, the board's concern is to ensure that patients are protected, and again, conditions may be placed on the student's registration.

**Does the National Law allow for criminal history checks to be undertaken on non-practising health practitioners?**

Yes, criminal history checking provisions do apply. Non-practising registration is still a form of registration that is subject to annual renewal and all other provisions that relate to registration (except for professional indemnity insurance, CPD or recency of practise requirements because persons in this category are not practising the profession).

**If I hold non-practising registration, will I be able to undertake some limited practice, for example, make referrals, provide advice or renew prescriptions?**

No. A condition of non-practising registration is that you do not undertake any practice at all. If you wish to return to active practise, you will need to apply to the relevant national board to change the type of

registration you hold and meet any additional requirements the board might apply to ensure you are safe to practise.

The National Law provides for those registrants with occasional practice under existing registration schemes to transition with similar rights and privileges but with the assurance of relevant CPD and professional indemnity insurance requirements to protect the public. The grandfathering arrangement will only permit those practising under similar arrangements at the time of transition and will not permit future registrants in this category.

**Will I be registered for life once I am registered?**

No. You must renew your registration annually. At this time, the board will require you to provide information on the annual renewal form, for example, about whether you are still fit to practise, whether you have participated in continuing professional development during the year, and whether you have maintained recency of practice.

**What happens if a health practitioner fails to apply for renewal of registration in time?**

The National Law provides for a one month grace period. If you do not apply to renew registration before it expires, the registration is taken to continue in force until the end of the day one month after it would have expired. If you renew within the one month grace period, a late fee set by the board, on top of the renewal fee will be required and no extra period of registration is gained without payment.

**Will a health practitioner who is not registered be able to practise in a health profession regulated under the national scheme?**

No. Under the National Law, it will be an offence for persons who are not registered to call themselves a ‘registered health practitioner’, to use any of a list of restricted professional titles which might indicate that they are registered or qualified to practise in a health profession, or claim to be registered or qualified to practise in a health profession that is regulated under the national scheme. In addition, there are certain activities or practices that will be restricted only to persons registered in specified professions (see below).

**What activities are restricted to specific registered health practitioners?**

Under the National Law, there will be a number of activities or practices that only persons registered in specified professions will be authorised to carry out:

- a range of dental acts will be restricted to persons registered in the dental or medical professions, medical or dental students,
- the prescription of optical appliances will be restricted to registered optometrists or medical practitioners. Orthoptists will also be permitted to prescribe spectacles subject to a number of conditions,
- manipulation of the cervical spine will be restricted to those registered in the chiropractic, osteopathy, medicine or physiotherapy professions, or students if done as part of a program of study in one of these health professions.

These three restrictions represent restrictions that are currently in place in most or all jurisdictions and that are

considered high risk to patients if performed inappropriately or by untrained individuals.

**If a National Board decides that an applicant for general, specialist or limited registration should undertake an examination or assessment, who will conduct this examination or assessment?**

Under the National Law, an accreditation authority for the health profession must conduct this examination or assessment, unless a National Board decides otherwise. In making this decision, the National Board will take into account an accreditation body’s capacity to conduct the examination or assessment, or its history of providing suitable examinations or assessments.

**What will the government do about unregistered practitioners?**

There are practitioners who will continue to provide health services outside the national registration scheme. Some of these unregistered practitioners are covered by self-regulatory arrangements where the profession is organised into an association that sets membership standards, a code of ethics and manage consumer complaints. For example counsellors, social workers and dieticians.

**How will new health professions be introduced to the scheme?**

Health Ministers recognise that there are professions that will require consideration for inclusion into the national scheme from time to time. It is anticipated that this will take place at an appropriate time in the future, with the Australian Health Practitioner Regulation Agency providing stewardship following the roll-out of the national scheme.

**3.2 Fees and Funding**

**Are my registration fees likely to increase with national registration?**

The national scheme is to be funded primarily from registration fees paid by practitioners. Currently there is significant variation in registration fees between States and Territories and between professions. The national scheme intends that boards move to charge a single national fee for each profession. This inevitably means that some fees will go up and some will go down, depending on where you live.

Some practitioners who practise across State and Territory boundaries currently have to pay multiple registration fees. For these practitioners, registration costs are likely to reduce because they now only have to pay one fee. The overall cost of administering the national scheme is not expected to lead to an overall increase in costs to registrants, since there is significant potential for administrative efficiencies with the maintenance of a single registration database and single office in each State and Territory.

**Will the fees I pay for registration in my profession be used to pay the costs of regulating members of another profession?**

No. Under the new scheme health practitioners in a profession will be charged the same fee. However, because some professions are more expensive to regulate than others, the fee schedules will differ across professions. Fees collected from one profession will not be used to cross-subsidise the regulation of another profession. The National Law requires the Australian

Health Practitioner Regulation Agency (AHPRA) to keep separate account for each national board.

**How will the relationship between the AHPRA and the National Boards operate?**

Under the National Law all the regulatory functions are conferred on the National Boards not AHPRA. The role of AHPRA is to administer the national scheme efficiently and effectively. The National Boards have responsibility for regulatory functions and may delegate some functions to AHPRA staff. The boards and the AHPRA will negotiate an agreement (“Health Professions Agreement”) which sets out the services to be provided to and the costs to be met by each National Board. The agreement will also set out the fees for each board necessary to meet these costs.

**Will National Boards control their own funds and employ staff?**

The National Law provides for a budget for each National Board. This budget must be agreed by the board in the health profession agreement just described. The AHPRA will receive all funds on behalf of the National Boards and assign them to each board’s budget. The AHPRA will employ the staff that each National Board requires to carry out its statutory functions.

**What happens if the National Board and AHPRA cannot agree?**

If the board and AHPRA cannot reach agreement then the matter is referred to the Ministerial Council which will direct how the matter is to be handled.

**How will transparency and accountability be assured in the financial management of the AHPRA and the National Boards?**

The National Law builds in safeguards to ensure sound financial management. It requires the annual financial reports to be prepared in accordance with Australian Accounting Standards and be audited by a public sector auditor.

It imposes obligations on the AHPRA and the National Boards to ensure their operations are carried out efficiently, effectively and economically, with internal control procedures in place governing accounting and any expenditure.

**3.3 Accreditation**

**I am currently a student in an accredited undergraduate program. Can I be confident that I will be able to register when I complete my program?**

Under the National Law, existing programs that are currently accepted for the purposes of registration by a State or Territory registration board will automatically be approved under the new scheme from 1 July 2010 for registration under the national scheme. Further, the accreditation standards that are currently used by national accrediting bodies to assess programs of study for accreditation will also be rolled over into the new scheme.

**Can I be assured that the education of Australian health professionals will continue to be acceptable internationally?**

Yes. All programs preparing health practitioners for registration will need to be accredited against nationally

agreed accreditation standards and it is intended that these will continue to reflect international standards.

**How will accreditation be independent?**

The National Law provides for the independence of the process through which programs of study are assessed for accreditation in several ways:

- (1) the Ministerial Council may appoint an entity, external to a national board, to exercise accreditation functions on behalf of the board.
- (2) Accreditation standards developed by the accreditation authority will be submitted for approval to the relevant national board.

Ministers have a limited power to only issue a direction on accreditation standards if in their opinion a new or changed accreditation standard will have a substantive and negative impact on the recruitment or supply of health practitioners. In considering a direction on accreditation standards, Ministers must first consider the impact that a direction might have on the quality and safety of healthcare.

The Ministerial Council acting under Act A has already assigned the accreditation function to external accreditation entities in nine of the ten professions.

**3.4 Notifications and complaints**

**How do I know that any notification or complaint about me will be dealt with fairly?**

The new scheme provides a number of consistent features nationally which cover the complaints process. If a complaint is received about your practice, you will be notified and given the opportunity to respond. Then the National Board will decide what path is to be taken, according to the seriousness of the matter. The board can dismiss complaints that it considers to be frivolous, vexatious, or lacking in substance. In dealing with any complaint, boards are bound by the rules of natural justice and must ensure all their processes accord with procedural fairness. You will have rights of review in relation to decisions taken within the scheme through Tribunals external to the scheme and independent of the boards. And you will have rights of review from the Tribunals as provided under State and Territory law.

**What is the standard against which my conduct will be judged?**

The National Law includes a number of defined standards which are applied in making decisions about professional conduct. These are ‘unsatisfactory professional performance’, ‘impairment’, ‘unprofessional conduct’ and ‘professional misconduct’. Complaints that a practitioner’s performance is unsatisfactory, or that the practitioner may have an impairment are likely to be dealt with directly by the board and may or may not proceed to a board panel hearing. More serious complaints of possible ‘professional misconduct’ will be referred by the National Board for hearing by a Tribunal that is external to the board. A range of decisions may be made by the board or its hearing panel, or the Tribunal, depending on the seriousness of the conduct.

**What are my obligations to report to the National Board if I believe a colleague is impaired or practising incompetently or unethically?**

The National Law imposes a legal obligation on all registered health practitioners who in the course of practising their profession form a reasonable belief of

notifiable conduct to report to the relevant National Board any registered health practitioner who has:

- (a) practised the profession while intoxicated by drugs or alcohol, or
- (b) engaged in sexual misconduct in connection with their practice of the profession, or
- (c) placed the public at risk of substantial harm in their practice because they have an impairment, or
- (d) placed the public at risk of harm because of a significant departure from accepted professional standards.

In relation to (d) there is an implicit principle in law of a 'reasonable person' person test. This would require that the practitioner making the report under (d) would be required to have the requisite capacity or knowledge to assess the other practitioner's departure from acceptable standards.

If a practitioner has formed a reasonable belief **during the practice of their profession**, that a professional colleague's conduct is notifiable conduct and fails to report to the Board in these circumstances, this may be considered a professional conduct issue by the Board.

A practitioner is exempt from reporting in certain circumstances, including, if they form a reasonable belief that a professional colleague's conduct is notifiable conduct whilst: employed by an insurer that provides professional indemnity insurance; if they are a legal practitioner and form the belief whilst providing legal services; if they form the belief in the course of exercising functions as a member of a quality insurance committee; or if they reasonably believe that the notifiable conduct has already been reported to the National Agency.

#### **What Tribunal will hear complaints against health practitioners?**

Each State and Territory will nominate an appropriate Tribunal in their jurisdiction to hear complaints against health practitioners. There will be a common set of findings the Tribunals can make but the specific arrangements for the Tribunal, including its composition, will be specified in the legislation of each State and Territory.

#### **If a complaint has been lodged but not finalised prior to the new scheme coming into effect, will the process have to start again?**

No. If a complaint has been received but the board has not started dealing with that complaint prior to the legislation coming into effect, the complaint will be dealt with under the provisions of the legislation. If a process has started for dealing with the complaint, that process will continue and the complaint will be dealt with by the national board or alternative State based system under the provisions of the earlier legislation.

#### **Can complaints be made about matters that pre-date the new scheme?**

Yes. Complaints made after commencement of the scheme on 1 July 2010 about matters that pre-date the legislation will be actioned if the complaint could have been actioned under the State or Territory legislation in place at the time the matter occurred.

### **3.5 Privacy and information sharing**

#### **How will my personal information and privacy be protected under the new arrangements?**

The slightly modified version of the Commonwealth's Privacy laws will apply for the purposes of the national scheme, to provide a legal framework for the collection, holding, use and disclosure of personal information under the national scheme.

A duty of confidentiality with financial penalty for breaches is to apply to all persons who administer the National Law. Only those staff and officers who have specific responsibilities for the administration and operation of the national scheme will have access to registration records and only to the extent necessary to carry out their statutory responsibilities. In addition, controls for specific authorised access will be put in place for confidential or sensitive personal information that may be collected in the case of a complaint or investigation about professional performance, health or conduct.

#### **Under what circumstances will the board be able to share my personal information?**

The National Boards and the AHPRA will be required under the National Law to keep your personal information confidential unless another law authorises its disclosure for a specific purpose, or it is required for a Tribunal hearing, or your consent is obtained for that release. However, this confidentiality requirement does not apply if the information is already available to the public through for example, the national register.

#### **Will my personal information be able to be shared with anyone else outside the board/AHPRA without my consent?**

The National Law provides controls over the sharing of personal information about registrants. Information can only be shared with outside agencies or persons to the extent set out in the legislation. The National Law provides for disclosure of identifying information to a number of agencies, such as Medicare Australia and the Department of Immigration and Citizenship, and international health regulatory authorities, but only for specific purposes and with protections in place. In the future, it is also expected that there will be sharing of information with statutory bodies set up by the Commonwealth to administer the new healthcare provider identification arrangements needed to support electronic health records and communications.

#### **What will be published about me on the public register?**

The National Law sets out the information that must be made public on the national registers. The information that is required by the public to identify you as a registered and qualified person to practise your profession, including, for some professions, specialties or endorsements, and any restrictions or conditions that are placed on your practice by a board or a Tribunal. A personal mailing address or details related to your personal health will not be provided or published on the public register.

#### **Will I be required to provide information related to workforce planning?**

No. Submitting workforce data will not be mandatory. Data that is required for workforce planning purposes will be sought from you at the time you register or renew your registration. However, it will not be mandatory for you to provide this information in order to renew your registration. The AHPRA will collect and de-identify any information to be used for workforce

planning purposes, before forwarding the de-identified data to the Australian Institute of Health and Welfare for workforce planning. The release of this information to Commonwealth, State and research agencies, the boards and the public will be managed through protocols agreed by the Ministerial Council.