Australian Health Ministers’ Advisory Council  
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To whom it may concern

Review of the National Registration and Accreditation Scheme for health professions

Australian College of Nursing (ACN) is pleased to submit comment on the review of the National Registration and Accreditation Scheme for health professions. ACN is the national professional organisation for all nurse leaders. ACN is an advocate for the nursing profession, advancing the skills and expertise of nurses to provide leadership in their contribution to the policy, practice and delivery of health care. ACN is a membership organisation with members in all states and territories, health care settings and nursing specialties. ACN’s membership includes many nurses in roles of influence, including senior nurses, organisational leaders, academics and researchers. ACN is also the Australian member of the International Council of Nurses headquartered in Geneva.

ACN consulted with its members about the Scheme. This consultation elicited many responses and ACN hopes that this submission provides valuable feedback to inform the review of the Scheme.

Please do not hesitate to contact me for further discussion of ACN’s submission. We look forward to the outcomes of this review.

Yours sincerely

Adjunct Professor Debra Thoms FACN (DLF)  
Chief Executive Officer

10 October 2014
Submission to the Review of the National Registration and Accreditation Scheme for health professions

Due date: 10 October 2014

Australian College of Nursing (ACN) is pleased to provide input to the review of the National Registration and Accreditation Scheme for health professions (the National Scheme). This paper discusses the National Scheme’s regulation of the nursing profession. ACN is the national professional organisation for all nurse leaders with members in all states and territories, health care settings and nursing specialties. ACN is also the Australian member of the International Council of Nurses headquartered in Geneva.

General Comments

Australian College of Nursing (ACN) strongly supports the National Registration and Accreditation Scheme for health professions. In ACN’s view the Scheme’s national reach has delivered consistency in fundamental aspects of professional regulation such as registration, accreditation of undergraduate nursing education and professional standards. The National Scheme also facilitates greater nurse workforce mobility across jurisdictional borders. However, for this review ACN takes the opportunity to suggest improvements to the National Scheme.

In preparing this submission ACN has found that many nurses have a poor understanding of the National Scheme and the distinctive functions carried out by its various bodies. ACN believes this poor understanding to be caused by the National Scheme’s complex structure, which includes a variety of bodies such as the Australian Health Practitioner Regulation Agency (AHPRA), the Nursing and Midwifery Board of Australia (NMBA), the Australian Nursing and Midwifery Accreditation Council (ANMAC) and various state boards and councils. This complex structure has also led to nurses being unable to make direct contact with the NMBA where they understand the responsibility for the regulation of nurses sits. For example, since the commencement of the National Scheme nurses have found it difficult at times to access information and advice related to their registration and associated matters.

In ACN’s view nurses should be provided with clear information as to their first point of contact for enquiries. State and Territory offices should have their phone, fax numbers and email addresses published on the internet directing nurses to their State/Territory office for all enquiries. AHPRA’s public profile should be less prominent, as is appropriate considering its supportive function for the National Boards.

In this submission ACN responds to the review’s consultation questions under themes rather than in numerical order. The numbering of questions in the consultation paper’s body of discussion diverges from the numbering of questions on pages 66-67. This submission adheres to the numbering of questions on pages 66-67.
Theme: Accountability and Governance

Question 1

Should the Australian Health Workforce Advisory Council be reconstituted to provide independent reporting on the operation of the National Scheme?

ACN does not support a reconstitution of the Australian Health Workforce Advisory Council (AHWAC). ACN is not convinced that independent reporting through the proposed AHWAC will improve the National Scheme’s accountability for its operations. Instead, ACN considers that the Australian Health Practitioner Regulation Agency (AHPRA) should be provided with Key Performance Indicators (KPIs) that reflect AHPRA’s performance on its six key objectives. In addition to AHPRA reporting on its KPI performance to the Australian Health Workforce Ministerial Council (AHWMC), the agency’s operational accountability may be improved by its future annual reports providing more detailed information. ACN agrees with Report No 2 by the Parliament of Victoria’s Legislative Council which recommended that AHPRA include the following information in its annual reports:

- total staff employed by the agency including a breakdown of staff allocation for each office and broad function/unit;
- a breakdown of the number of meetings held for each National, State and Territory Boards and their committees;
- detailed breakdown of income and expenditure for each National Board; and
- cost analysis of the Agency Management Committee, and each State and Territory AHPRA office.

ACN believes AHPRA’s annual reports should also include the cost of other associated entities such as the NSW Nursing and Midwifery Council.

The inclusion of information on AHPRA’s financial resource allocation and achievements against its objectives would improve the agency’s transparency and that of the scheme in total.

Question 2

Should the AHWAC be the vehicle through which any unresolved cross-professional issues are addressed?

The National Law protects health professional titles but not health professionals’ scopes of practice. Thus most barriers to the resolution of cross-professional issues do not arise from the regulation that underpins the National Scheme. ACN believes that each health profession has a body of knowledge and skills which is distinct to the profession. It is acknowledged that a degree of that knowledge and skills may overlap with other health professions. Many cross-professional issues arise when health professions fail to acknowledge this overlap in knowledge and skills. However, areas of overlap in professional knowledge and skill provide opportunity for health care reform particularly when considering new models of care.

Rather than creating another layer of bureaucracy, ACN considers broad engagement between the professions to be a better way to resolving cross-professional issues and achieving reform of health care delivery. This engagement could be facilitated by the Australian Health Ministers Advisory Council (AHMAC) forming an independent working group that includes the professions relevant to the cross-professional issues needing resolution. Such direct engagement avoids inserting an additional agent into discussions which may complicate negotiations, making the resolution of cross-professional issues unnecessarily cumbersome.

Issues that arise out of other legislation that may impact the practice of specific health professional groups such as the jurisdictional Poisons and Therapeutic Acts often reflect not only professional but jurisdictional views and differences and
it is unclear how a body such as AHWAC could effectively impact in these situations given the limited success that various Commonwealth bodies have had to date. It is suggested that issues of this nature are best handled through AHMAC and the Standing Council on Health.

**Question 8**

Should a reconstituted AHWAC be the vehicle to provide expert advice on threshold measures for entry to the National Scheme to the Health Workforce Ministerial Council?

ACN believes that under the National Scheme an Advisory Council or National Committee could be formed to advise the AHWM on threshold measures for health professions’ entry to the National Scheme as and when required.

**Question 21**

Should the proposed reconstituted AHWAC carry responsibility for informing regulators about health workforce reform priorities and key health service access gaps?

The purpose of the regulation of health professionals is to ensure safety of the public. ACN does not agree with the regulatory boards being used as vehicles for the reform agenda of governments. Health workforce reform priorities are not the responsibility of the boards. Rather reform should be undertaken within existing regulatory frameworks. The view that it is health professional regulation that is preventing workforce reform is limited. Certainly there is a need for health professional regulators to be informed of key workforce issues and many other important health issues relevant to their responsibilities. Health professional regulation should not be driven by government agendas but be driven by the objective of protecting the safety of the public from possible risk.

The National Law does not protect health professionals’ scope of practice and thus it does not constitute a major barrier to the introduction of new professional roles and models of care. ACN is of the view that the identification of service gaps and the reform of health care delivery are important if health care is to be sustainable in the future. ACN believes that a suitable existing agency should be tasked with supporting the reform of Australia’s health workforce and health service delivery. This agency should identify gaps in health service delivery and priorities for health workforce reform through conducting health services research, including health workforce modelling. The agency should also develop policy approaches to closing service gaps and reform of the health workforce. ACN does not hold a specific view about where the responsibility for these roles should be placed, although much of this now resides within the Commonwealth Department of Health. ACN considers it to be important that a national view is taken and that there are clear strategies for implementation identified which reflect effective engagement with the relevant professions and service providers.

ACN is taking the opportunity here to include general comments regarding the NMBA’s statutory objective of facilitating service access and developing a flexible and responsive health workforce. Universities have developed undergraduate degrees that combine nursing with another health profession qualification, such as psychology, paramedicine or midwifery. Nurses who are also qualified psychologists, paramedics or midwives may hold a part-time job in each profession, particularly in rural and remote areas where no full-time workload may exist for a nurse, paramedic, psychologist or midwife. ACN believes that the NMBA should provide clear guidance for those nurses who practice across more than one profession regarding the interpretation of the relevant standards set by the NMBA with respect to continuing competence and CPD.
Theme: Future Regulation of Health Practitioners

Question 3
Should a single Health Professions Australia Board be established to manage the regulatory functions that oversee the nine low regulatory workload professions? Estimated cost savings $11m per annum.

Question 4
Alternatively, should the nine National Boards overseeing the low regulatory workload professions be required to share the regulatory functions of notifications and registration through a single service. Estimated cost savings $7.4m per annum.

Question 5
Should the savings achieved through shared regulation under options 1 or 2 be returned to registrants through lower fees?

ACN acknowledges that a single Health Professions Australia Board overseeing the nine professions with a low regulatory workload may generate significant savings. However, ACN believes that prior to undertaking this re-structure a careful analysis should be undertaken as to the effect a single board may have on (1) public safety, (2) professional issues and (3) the economic impact on the professions involved. Further, the combined board will probably require profession-specific committees to support its regulatory function. These committees require support which comes at a cost. In ACN’s view a cost-benefit analysis should be undertaken to establish whether the combined board does indeed deliver the cost savings and efficiencies envisaged. Any savings should be used to implement improvements to notification processes if required and to lower registration fees.

ACN stresses that the large health professions, such as nursing, midwifery and medicine will continue to require their own National Boards. These professions contain such a great number of professionals that regulating them under one Board may overwhelm the combined Board’s ability to effectively protect the public.

Question 6
Should future proposals for professions to be included in the National Scheme continue to require achievement of a threshold based on risk to the public and an associated cost-benefit analysis?

ACN is of the view that the professions seeking inclusion in the National Scheme should demonstrate a threshold of risk to the public and provide a cost-benefit analysis supporting their inclusion.
Theme: Complaints and notifications

Question 9

What changes are required to improve the existing complaints and notifications system under the National Scheme?

Transparency of notification management process:

AHPRA’s management of notifications needs to balance the protection of health professionals’ privacy with achieving accountability through transparent notification management processes. AHPRA’s current processes are designed to strongly protect the privacy of the notifier and health professional involved. ACN believes that concerns for privacy should not entirely override the need for transparency in the management of notifications. Transparency is essential if the health professions and the public are to have confidence in the integrity of the process and trust in the Boards’ effectiveness in protecting the public. ACN considers that the process for managing notifications can be made more transparent through measures such as:

1. the KPIs AHPRA introduced to identify the time taken for each step in the process;
2. improved communication with notifiers through the periodic provision of information to notifiers about the status, progress and outcome of their notification;
3. communication with the health professional involved at every step of the process; and
4. the utilisation of alternative dispute resolution processes such as conciliation as these approaches facilitate process transparency for both notifiers and the health professional.

Time taken to manage a notification:

ACN is of the view that the current process of managing notifications takes too long. AHPRA should research international best practice standards regarding the optimal time required to manage notifications. If such standards exist AHPRA should implement steps to achieve these standards. Overall, ACN is of the view that the time taken to manage a notification should be as short as possible to reduce the stress the process causes for the notifier and health professional involved. These KPIs should be applicable nationally whether or not there is a co-regulatory system in a jurisdiction or not.

AHPRA’s key performance indicators:

ACN welcomes the development of KPIs for AHPRA’s management of notifications. However, ACN considers that Diagram 1: AHPRA’s Key Performance Indicators for management of notifications would benefit from:

1. a layout that clearly identifies the flow of the steps involved in the management of notifications;
2. use of a consistent unit of measurement for time (either days OR months);
3. consistency of timeframes indicated in the diagram. For example, the Investigation box shows a timeframe of 18 months (or 540 days) for completion of all investigations. However, the steps making up the complete management process shown at the bottom of the diagram add up to only 210 days or 7 months (30 days Triage, 60 days Assessment, 60 days Action, 60 days Outcome); and
4. inclusion of explanatory notes that define some of the terms used in the diagram such as Panel or Tribunal.
ACN supports in principle the adoption of a co-regulatory approach across all States and Territories because this approach offers administrative and procedural benefits such as:

- a single entry point;
- reduced duplication in assessment and investigation; and
- access to alternative dispute resolution.

Further, co-regulation enables a health professional’s conduct and/or practice to be viewed in the context of her/his workplace because Health Complaints Entities (HCE) take a health system view. The taking into account of a health professional’s work environment is likely to result in a more comprehensive evaluation of her/his performance and a fairer outcome for the health professional. The separation of HCEs’ assessment and investigation processes from AHPRA’s determination of any regulatory intervention mirrors judicial processes which separate jury from judge to ensure justice.

However, for a number of reasons ACN does not support all aspects of the co-regulatory approach used in Queensland.

1. In Part 3 Background Paper the consultation document states on page 86 that under the Queensland co-regulatory approach one of the Health Ombudsman’s functions is to ‘oversee the performance of the National Boards and AHPRA in their health, conduct and performance roles’. ACN believes that because the National Boards and AHPRA are national bodies their oversight must remain with the AHWMC.

2. Further, on page 86 one listed function of the Health Ombudsman in Queensland is to ‘report on the performance of the Health Ombudsman’s functions and the performance of the National Boards and AHPRA in their health, conduct and performance roles.’ This statement does not make clear to whom the Queensland Health Ombudsman will be providing the performance reporting. More importantly though, ACN does not believe that it is appropriate for the Queensland Health Ombudsman to report on the health, conduct and performance roles of the National Boards and AHPRA because they are national bodies. ACN believes that National Boards and AHPRA should attend to their own performance reporting and continue to report to the AHWMC.

3. ACN also disagrees with the Queensland Health Ombudsman being able to take following action as stated on page 87: ‘take immediate action to deal with a matter by suspending or imposing conditions on a registered health practitioner’s registration, or by prohibiting or imposing restrictions on the practice of another health practitioner.’ ACN strongly holds the view that suspending the registration or imposing conditions on a registered health practitioner’s practice is a matter for the relevant National Board. National Boards are the bodies holding the appropriate expertise to judge the professional performance of the practitioners registered under the National Law. National Boards already have processes in place that ensure the taking of swift action if this is required to protect the public. If the Review considers that some National Boards are lacking the ability to take swift action, then the requirement for structures which support National Boards’ ability to rapidly intervene can be enshrined under National Law. KPIs can further support National Boards’ swift intervention where such action is required.

4. On page 87 in Part 3 Background Paper the description of the Health Ombudman’s functions explains that ‘The Health Ombudsman may refer a health service complaint or other matters concerning a registered health practitioner to AHPRA unless a practitioner may have behaved in a way that constitutes professional misconduct or where a ground may exist for the suspension or cancellation of a registrant’s registration. Under
these conditions, the Health Ombudsman must deal with the above serious matters.’ As stated under point three above, ACN is of the view that the responsibility of dealing with serious professional misconduct which may require intervening in a health professional’s ability to practice must remain with the National Boards. For this reason, ACN also disagrees with the provision under the Queensland co-regulatory approach that only notifications about a health professional’s conduct or skill of a less serious nature be referred to AHPRA.

5. Under the Queensland co-regulatory approach the Health Ombudsman may take immediate action without having to comply with a show cause process if this course of action is judged necessary to protect the public (p.87). ACN considers that the show cause provision in the regulatory system provides an important check and balance which safeguards health practitioners from any unwarranted action against their professional standing and livelihood. ACN does not agree with the removal of the show cause process under the Queensland co-regulatory approach.

ACN is of the view that the design of a national, co-regulatory approach requires further consultation with the health professions and the community. ACN would like to see a national approach to co-regulation that does not exclude the National Boards from considering serious matters or diminish checks and balances put in place to ensure justice and fairness in any intervention in health professionals’ practice.

In ACN’s view the design of the national co-regulatory approach should also pay heed to:

- Ensuring national consistency in the outcomes of notification processes across the eight States and Territories. Consistency of outcomes is important because it fundamentally underpins the justice and fairness of the notification management processes.
- Reducing the complexity inherent in a process involving multiple agencies at the jurisdictional and national levels. Careful process design by the jurisdictions and agencies involved in implementing a co-regulatory approach may reduce red tape, cost and time delays.
- The harmonisation of KPIs between AHPRA and the State and Territory HCEs could ensure performance expectations are clear for all agencies involved.

Question 11
Should there be a single entry point for complaints and notifications in each State and Territory?

ACN supports a single point of entry in each State and Territory as it will provide clarity to the public where notifications and complaints are to be lodged.

Question 12
Should performance measures and prescribed timeframes for dealing with complaints and notifications be adopted nationally?

ACN believes that under a co-regulatory arrangement the HCE’s in the different States and Territories should adhere to the same performance measures and prescribed timeframes for dealing with complaints and notifications. Uniformity in performance expectations would ensure reasonable consistency in the timeliness of complaint/notification handling and in complaint/notification outcomes for notifiers and health professionals.
Question 13

Is there sufficient transparency for the public and for notifiers about the process and outcomes of disciplinary processes? If not, how can this be improved?

In ACN’s view the notifications management process is confusing for notifiers, health professionals and the public alike because:

1. at least four entities at the national and jurisdictional levels are involved;
2. the referral processes between the four entities AHPRA, National Boards, State and Territory Boards and State and Territory HCEs, and in the case of NSW Health Professional Councils are unclear;
3. the reason why a certain entity accepts responsibility for dealing with a complaint/notification is not clear. The consultation paper on page 82 gives the reason why either a HCE or AHPRA/National Boards manage a notification as: ‘whichever system proposes the most serious action will take on the matter’. This statement does not identify clear criteria for the allocation of notifications to the entity best equipped to deal with the nature of the complaint/notification;
4. the legislation underpinning complaints/notifications in New South Wales and Queensland differs from that of the other States and Territories; and
5. Western Australia and Queensland have exemptions to mandatory notifications which do not exist in the other States and Territories.

ACN suggests in the response to question 9 measures which can be taken to improve the transparency of the notification management process. Further, ACN proposes a review of the National Law provision under which communication of the outcome to notifiers must be limited to the information available on the National Board’s register. The information placed on the register is minimal and does not give notifiers a full account of the National Board’s (1) management of the notification (2) course of action selected and (3) the reasons for the outcome chosen. In ACN’s view it is important that the National Boards demonstrate to notifiers that they comprehensively dealt with the notification and chose a course of action to alleviate any risk to the public.

Question 14

Should there be more flexible powers for National Boards to adopt alternative dispute resolution, for instance to settle matters by consent between the Board, the practitioner and the notifier?

ACN supports that National Boards be given the power to adopt alternative dispute resolution. Alternative approaches to dispute resolution offer greater transparency of process for all involved particularly if they include all parties coming together to discuss the notification at hand. The notifier and health professional are likely to emerge from this process more satisfied with the decided outcome and any resulting course of action because they were involved in the decision making process. However, AHPRA needs to ensure that HCEs’ conflict resolution processes dealing with notifications are implemented with a high degree of consistency across the jurisdictions.

Question 15

At what point should an adverse finding and the associated intervention recorded against a practitioner be removed?

Entry on the register of an adverse finding against a practitioner protects the public by alerting the practitioner’s employer(s) and actual or potential health service consumers of any potential risk(s). ACN is of the view that an adverse finding should be removed at the point in time when the Board considers the health practitioner no longer poses a risk to
the public. In many cases this would mean that the entry would be removed as soon as the health practitioner had completed the intervention required by the National Board. Ideally, the National Boards should publish on their websites a schedule identifying the in-principle conditions health practitioners have to meet for the adverse finding and intervention to be removed from the register.

Question 19

Should the mandatory notification provisions be revised to reflect the exemptions included in the Western Australian and Queensland legislation covering health practitioners under active treatment?

Western Australia and Queensland exempt health practitioners from making a mandatory notification if they form the belief that a health practitioner or student they treat may be impaired or has engaged in misconduct. The purpose of the exemption is to enable health professionals to seek treatment without fearing the loss of their livelihood. ACN considers the system of mandatory notifications to be an important factor in ensuring public safety but questions whether mandatory notifications should be based on the deemed risk to the public rather than a blanket requirement.

The consultation paper assumes that in jurisdictions with an exemption more practitioners may seek treatment resulting in a discernibly lower rate of notifications relative to jurisdictions without exemptions. ACN notes that the Australian data presented in the consultation paper do not provide reliable information whether exemptions caused the number of notifications to drop. ACN recommends that prior to an Australia-wide introduction of these exemptions a review of the national and international evidence be undertaken. This review should ascertain whether exemptions from mandatory notifications (1) have the desired effect of encouraging health professionals to seek treatment; and (2) offer to the public the protection required.

Theme: Other topical areas

Question 16

Are the legislative provisions on advertising working effectively or do they require change?

ACN believes that the Guidelines for advertising regulated health services developed by the National Boards and released in May 2014 significantly improved the clarity regarding the legislative requirements on advertising. However, ACN believes that the requirement for health professionals to take reasonable steps to remove any testimonials from websites not directly associated or under the control of the health practitioner constitutes an unreasonable burden for the practitioner. ACN recommends that AHPRA undertake further consultation with the National Boards and the health professions to review in particular the regulation of testimonials on social media sites under the National Law.

Question 22

To what extent are Accrediting Authorities accommodating multidisciplinary education and training environments with coordinated accreditation processes or considering future health practitioner skills and competencies to address changes in technology, models of care and changing health needs?

ACN is aware that Accrediting Authorities are making progress in support of multidisciplinary education and are establishing coordinated accreditation processes. However, there is opportunity for further work to be undertaken on areas where there is potential knowledge and skill overlap between professions that could be addressed together. A multidisciplinary education setting and coordination between accreditation authorities could also support this approach. Various strategies are being put in place by education providers that also enable different health professionals to work together and enhance their understanding of the scope and roles of various different health professionals.
ANMAC does have strategies in place to stay abreast of the new skills and competencies health practitioners require through:

- a system of site visits to universities by teams that include practicing clinicians, and
- engagement with practicing clinicians in developing and reviewing standards and as part of standing accreditation committees.

While a system is in place that ensures accreditation processes consider future nurses' skills and competencies, it will only be effective if clinical changes carry over into the clinical practice setting.

Question 23
What relationship, if any, is required between regulators and educational institutions to ensure the minimum qualification for entry to professions remains available?

Regulators do not have leverage to ensure that the minimum qualification for entry to nursing remains available in educational institutions. The availability of courses is at the discretion of education providers and is generally influenced by such factors as financial viability, demand, availability of staffing, infrastructure supports, and availability of clinical placements. Government policy and funding are the two factors that will have the greatest influence on whether courses are available for entry to nursing.

Question (This question is not included on the list on pp. 66-67)
How effective are the current processes with respect to assessment and supervision of overseas trained practitioners?

ACN is aware that for the nursing and midwifery professions steps are being taken that will improve and hopefully resolve previous problems with the processes for the assessment and supervision of nurses trained overseas. The adequacy of English language testing continues to present challenges although it is also understood that further work is being undertaken to improve the language testing for migrant nurses.

However, ACN considers that nurses migrating from non-OECD countries tend to require extensive orientation and supervision to enable them to practice in the way nurses are expected to practice in Australia. This orientation involves learning about the Australian health care system and key performance issues for nurses, such as time management and the delivery of total patient care.

ACN believes that the cultural orientation of overseas trained practitioners requires better assessment. Health practitioners whose assessment indicates that their cultural background diverges significantly from that in Australia should be offered education about Australian cultural customs and norms in health care. Cultural education needs to make migrant nurses familiar and comfortable in using with the direct and assertive communication style used in Australian health care. This includes making sure migrant nurses can meet the absolute requirement for nurses to effectively question or challenge clinical orders if they consider them to be potentially unsafe or inappropriate for the care of a patient.

Question 24
Should the appointment of the Chairperson of a National Board be on the basis of merit?

ACN considers that the Chairperson of a National Board should be appointed on the basis of merit. Further, ACN is of the view that members of both the National and State Boards should also be appointed by merit. ACN notes that the review is seeking feedback whether the National Law should continue to require the chairs of the National Boards to be a health
care professional. ACN most strongly takes the position that the chair of the NMBA should be a nurse or midwife to ensure the National Board has a chair with in-depth understanding of the issues under discussion.

ACN also notes that the NMBA’s current composition provides the midwifery profession with insufficient representation. ACN agrees with the Australian College of Midwives’ submission to the review of the National Scheme that there is currently a lack of contemporary practicing midwives on the NMBA who can judge midwives’ practice. This lack of midwife specific representation has led to the NMBA having a limited understanding of the role of the midwife and resulted in the Board’s inability to facilitate standards supportive of innovation in service delivery. For further exploration of the challenges and potential solutions for the midwifery profession ACN refers to the submission by the Australian College of Midwives.
**Question 28: ACN’s comments to proposed changes to the National Law**

**Abbreviations:** NL = National Law

**Note:** The Australian Capital Territory (ACT) version of the National Law was used for comparison.

<table>
<thead>
<tr>
<th>Amendment already approved by Ministers</th>
<th>Topic</th>
<th>Page (Consult. paper)</th>
<th>Current situation</th>
<th>Page (ACT NL)</th>
<th>What is the proposed change?</th>
<th>ACN’s comment to the proposed changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Freedom of Information</td>
<td>pp. 60-61</td>
<td>The NL does not currently take into account reforms to freedom of information legislation.</td>
<td>N/A</td>
<td>It is proposed that the National law should remove references to old entities that no longer exist (e.g., Office of the Privacy Commissioner) and be amended in line with current freedom of information laws.</td>
<td>ACN supports that the National Law is brought in line with current freedom of information laws.</td>
<td></td>
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<tr>
<td>2 Tabling regulations</td>
<td>p. 61</td>
<td>The situation with regard to tabling regulations in Parliament made under the National Law is currently complex and varies between the States and Territories.</td>
<td>N/A</td>
<td>It is proposed that the procedures and rules for tabling legislation should be streamlined and simplified.</td>
<td>ACN supports that procedures and rules for tabling legislation be simplified.</td>
<td></td>
</tr>
<tr>
<td>3 Statutory protection when reporting serious</td>
<td>p. 62</td>
<td>At the moment, health practitioners who provide</td>
<td>N/A</td>
<td>It is proposed that if a health practitioner</td>
<td>ACN supports that health professionals</td>
<td></td>
</tr>
<tr>
<td>Amendment already approved by Ministers</td>
<td>offences to police</td>
<td>information to the police may be criminally or civilly liable. For example, they may be sued for defamation if the information turns out to be untrue or unprovable.</td>
<td>believes a crime has been committed, they should be protected under the law if they provide this information to police. For example, they should be protected from being sued.</td>
<td>who learn about a crime in the course of their work as a health professional and report this crime to police be protected from legal liability. ACN notes that the consultation paper does not make clear whether the condition ‘in the course of their work as a health professional’ applies to the proposed amendment.</td>
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<tr>
<td>4 COAG Standing Council (alignment with new Ministerial Council system)</td>
<td>p. 62</td>
<td>Currently, the Australian Health Workforce Ministerial Council (AHWMC) approves registration standards, new registration types, etc.</td>
<td>N/A</td>
<td>It is proposed that the Standing Council on Health (SCOH) should assume the role of the AHWMC. Amendments to the NL are needed to recognise the SCOH.</td>
<td>ACN supports the change proposed to recognise the Standing Council on Health.</td>
<td></td>
</tr>
<tr>
<td>Amendment already approved by Ministers</td>
<td>5 Amendments to sections 149, 151, 167 and 177 relating to notifications</td>
<td>pp. 62-63</td>
<td>There is currently a lack of clarity about how the National Boards should handle the assessment of notifications made to a Board and communication with health practitioners who are the subject of notifications.</td>
<td>Various</td>
<td>Section 149: National Boards must consider and decide if a notification could be made to a health complaints entity. National Boards must do one of four things after this assessment: 1) take no further action; 2) refer the matter to another entity; 3) consult with a health complaints entity on matters that be addressed by either bodies; or 4) undertake an investigation or deal with the matter in an appropriate way.</td>
<td>Section 151 It is proposed to explicitly clarify that Boards do not need to take action in some</td>
</tr>
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</table>
It is proposed that the Boards must notify health professionals and notifiers of important milestones in the notification review process (amendments to sections 167, 177, 180).

Sections 167, 177 and 180: ACN supports that a Board’s communication with notifiers and health care professionals at particular milestones in the notification management process is enshrined in the National Law.

<table>
<thead>
<tr>
<th>Amendment already approved by Ministers</th>
<th>6 Time-frames for taking proceedings for offences</th>
<th>p. 64</th>
<th>The NL does not specify a standard time-frame for alleged offences under the Act to be taken to court.</th>
<th>N/A</th>
<th>It is proposed that the Board should have 24 months to take an offence to court.</th>
<th>ACN would prefer if any proposed timeframe for beginning court proceedings would be based on evidence or best-practice guidelines.</th>
</tr>
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<tbody>
<tr>
<td>AHPRA proposal</td>
<td>7 Commencement of registration</td>
<td>p. 64</td>
<td>At the moment, registration commences on the date of various</td>
<td>The Board would like to have the flexibility to</td>
<td>ACN supports that the Board has the</td>
<td></td>
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<tr>
<td>AHPRA proposal</td>
<td>8 Multiple registration subtypes including limited registration</td>
<td>p. 64</td>
<td>Currently, an individual cannot hold some types of registration concurrently (such as full and limited registration in the same profession).</td>
<td>p. 61</td>
<td>There are no proposed amendments, only a description of the problem(s).</td>
<td>ACN supports that individuals can obtain limited registration in a different sub-type within the profession if the individual requires the limited registration in order to undertake further education in their profession.</td>
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<tr>
<td>AHPRA proposal</td>
<td>9 Contraventions of undertakings</td>
<td>p. 64</td>
<td>If a practitioner fails to comply with conditions on registration, the Board can refuse to renew the practitioners registration.</td>
<td>p. 91</td>
<td>It is proposed that if a practitioner fails to comply with conditions or an undertaking (e.g., to get further education,</td>
<td>ACN supports that a practitioner who fails to comply with a condition or undertaking can be</td>
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</table>
| AHPRA proposal | 10 Actions following suspension | p. 64 | 1) Currently, there is no avenue for the Board to end a suspension imposed under Section 156 of the NL.  
2) There is also no requirement for the Board to set a review period when suspending a practitioner under Section 191(3)(b) of the NL (i.e., when suspending a practitioner due to an impairment).  
3) There is currently no clear guidance on how the Board should handle a practitioner’s renewal of registration during a period of suspension or the subsequent application for various | etc.), the Board should be able to refuse to renew their registration. | refused renewal of their registration. | ACN is of the view that amendments to fix the issues listed in column ‘Current situation’ would clarify the situation with regard to the Board’s actions following suspension and that such clarification is highly desirable. |
<p>| AHPRA proposal | 11 Information on the Register | p. 65 | Section 226: The Board can decide to exclude certain information from the public register on the grounds of privacy and/or potential harm to the health practitioner. | p. 181-182 | It is proposed that the Board should be able to exclude information where other people (besides the practitioner) may be adversely affected by the publication of information. | ACN supports the proposed amendment to s226(2)(a) and (b). ACN further suggests that the proposed amendment to Section 226 may also include a requirement that the public interest be considered i.e., if the release of the information is in the broad public interest, perhaps it should be released even if it may adversely affect one particular individual. |
| AHPRA proposal | 12 Conditions on registration | p. 65 | The Board can impose conditions on registration at specific points in time: when registration is granted or renewed and | p. 107-110 | Part 7 of NL: It is proposed that the Board should also have the power to accept an undertaking from a | ACN supports the changes to part 7 of the NL because this amendment gives Boards a greater range |</p>
<table>
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<tr>
<th>when an individual is re-applying for registration.</th>
<th>registrant instead of imposing conditions.</th>
<th>of action for dealing with health professionals about whom the Board received a notification.</th>
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<tr>
<td>The review considers the inclusion of a review period in s 125 and s 126 when conditions are amended.</td>
<td>Co-regulatory issues under s 125(2)(b), 126(3)(b) and 127(3)(b) – the content of the proposed amendment is difficult to decipher.</td>
<td>s125 and s 126: ACN supports the amendment because setting of a review period adds much needed structure to the notifications management process.</td>
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<td>s125(2)(b), s126(3)(b) and s127(3)(b) ACN makes no comment as the content of the proposed amendment</td>
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<td>AHPRA proposal</td>
<td>13 Abrogation of the right against self-incrimination</td>
<td>p. 65</td>
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<tr>
<td>AHPRA proposal</td>
<td>14 Notice requirement at section 180</td>
<td>p. 65</td>
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*Schedule 5, Clause 2.

At law people are generally not required to provide information that will incriminate them. For this reason ACN supports that the variant clause be included in all the State and Territory versions of the NL.
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<tr>
<th>AHPRA proposal</th>
<th>15 Appealable decisions</th>
<th>p. 66</th>
<th>Currently, there are no consistent rules about the length of time a health professional has to appeal decisions made by a Board under the National Law.</th>
<th>p. 162-164</th>
<th>It is proposed that a nationally consistent provision be included which gives health practitioners 28 days to lodge an appeal from the date they receive notice of the reasons for the Board’s decision.</th>
<th>ACN welcomes the provision which gives health practitioners 28 days to make an appeal to the Board because it provides for national consistency under the NL.</th>
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<tr>
<td>AHPRA proposal</td>
<td>16 Obtaining information from other government agencies</td>
<td>p. 66</td>
<td>AHPRA believes that currently there is some ambiguity about the ability of investigators to seek information from other government agencies.</td>
<td>N/A</td>
<td>It is proposed that the NL should be amended to remove any doubt that investigators can seek information from other government agencies.</td>
<td>ACN supports this proposed amendment because being able to access information from government agencies is important to the success of investigations.</td>
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<td>AHPRA proposal</td>
<td>17 Notice of a decision to take action</td>
<td>p. 66</td>
<td>The NL currently specifies that Boards must notify</td>
<td>p. 134</td>
<td>It is proposed that a Board’s decision to take</td>
<td>ACN supports this proposed amendment</td>
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<td></td>
<td>employers of the decision to take action against a registered health practitioner.</td>
<td>action against a registered health practitioner is communicated not just to employers but to all places where the practitioner practices.</td>
<td>because it results in better protection of the public.</td>
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