Speech Pathology Australia’s Submission to the

Review of the National Registration and Accreditation Scheme (NRAS) for health professions

10 October 2014
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Introduction and Background

Speech Pathology Australia welcomes the Review of the National Registration and Accreditation Scheme for Health Professionals (the National Scheme). The National Scheme plays an important role in protecting patient health and safety in Australia and acts as a community recognised ‘signpost’ that health practitioners in this county are suitably trained, qualified and monitored to provide safe and high quality health care to the Australian public.

We believe it is a timely opportunity to examine the operations of the National Scheme and are pleased that the Review is being carried out by an Independent Reviewer on behalf of the Australian Health Workforce Ministerial Council (AHWMC).

We also believe the Review provides an opportunity to consider the shortcomings of the National Scheme in protecting patient health and safety from health professions that have not been registered. We believe that proposed changes to the governance structure of the National Scheme for professions that have low regulatory workloads – provides an opportunity to increase the breadth of coverage to include further professions whilst at the same time still extracting significant cost efficiencies from the restructuring of the National Scheme.

Speech Pathology Australia contends that the National Scheme should provide a continuum of regulation across evidence based health professions that recognises the different profiles of risk of the varied professions. The National Scheme should include structures to oversee the health and safety of practices by high regulatory load professions, low regulatory workload professions and self-regulating professions.

Our submission to the Review provides information about the speech pathology profession, our history of advocating for inclusion in the National Scheme, and comment on specific consultation questions asked in the Discussion paper that are most relevant from the perspective of a non-registered profession. Whilst we recognise that this submission does not constitute an ‘application’ for inclusion in the National Scheme, we suggest that with sufficient information about the current risks to patient health and safety posed by speech pathology practitioners and in light of the inadequacies in current self-regulation structures, that the Independent Reviewer will seek to recommend to AHWMC to have speech pathology reconsidered for inclusion in the National Scheme. We ask this to be considered in light of proposed changes to the governance structures for low-regulatory workload professions.

The Speech Pathology Profession and the National Scheme

Speech Pathology Australia is the peak professional body representing speech pathologists in Australia – dating back to 1949. At present, Speech Pathology Australia provides professional support services to in excess of 5200 practising speech pathologists in Australia. This is estimated to cover 65 per cent of all practising speech pathologists in Australia. Speech Pathology Australia is governed by a Board of Directors at the national level with branch committees operating at state and territory levels. In addition, there are a range of special interest groups (member communities) supported by the Association in relation to specific areas of practice or clinical interests.

For a number of years, Speech Pathology Australia has pursued registration of the speech pathology profession under the National Scheme on behalf of speech pathology practitioners in Australia. Previously, the speech pathology profession was a partially-registered profession – with practitioners regulated in the state of Queensland. In 2008 a formal joint-submission was made by Speech Pathology Australia and the Speech Pathologists Board of Queensland for inclusion in the National Scheme which was subsequently rejected by NRAS. Again in 2011, SPA unsuccessfully requested re-consideration of the profession’s inclusion in NRAS.
Feedback to our Association from NRAS indicated that estimates of the risk to patient safety posed by speech pathology practice were not outweighed by the cost-benefits associated with regulation through the current funding model and structure of the NRAS. In addition, Occupational Therapy was assessed as having a similar risk profile to the speech pathology profession by NRAS (even with the recognition that speech pathologists do perform invasive practices), but was considered cost-effective to include in the National Scheme. It is assumed that this was because Occupational Therapists were already registered in more states and territories of Australia than speech pathologists. There is a lack of clarity, transparency and consistency regarding the thresholds of risk needed for inclusion in the National Scheme.

In the absence of national registration and in the presence of real risks to patient health and safety, Speech Pathology Australia has worked alongside other non-registered allied health professions to establish the National Alliance of Self-Regulating Health Professions (NASRHP) to facilitate the development of a National Framework for Self-Regulation for Health Professionals. Where possible, this framework attempts to mirror that required by the National Scheme in relation to monitoring and systematic mechanisms for quality and safety in the delivery of health care by these professions. Despite these increased efforts, there remain intractable problems with monitoring and regulating the quality and safety of our professional practice that cannot be resolved in a voluntary system and public safety can only be protected through a mandated, legislatively required registration system.

Very recently, speech pathology services have been investigated with a federal inquiry by the Senate Community Affairs References Committee into the prevalence of speech, language and communication disorders and speech pathology services in Australia. The final (and bipartisan) report from the Committee recommended a range of improvements that should be made to improve the health outcomes for Australians with communication and swallowing difficulties and to improve access to speech pathology health services in Australia. These recommendations also detailed considerable work that needs to be undertaken by governments to support the sustainability of the speech pathology profession. We believe that including speech pathology in the National Scheme will facilitate much of this work and provide a basis of enumerating basic information about the profession upon which to base further workforce supports, planning and policy development.

About the Speech Pathology Profession

Speech pathology is a health occupation that requires a four year undergraduate degree or a two-year graduate entry Master degree to become qualified to practice. Speech pathologists provide health care services to a range of adult and paediatric client groups, who have specific communication and/or swallowing impairments derived from a variety of developmental and acquired aetologies.

Communication and swallowing difficulties can arise from a range of conditions and may be present from birth (e.g., cleft palate, Down Syndrome or Autism Spectrum Disorder), emerge during early childhood (e.g., stuttering, severe speech sound disorder), or during adult years (e.g., traumatic brain injury, stroke and head/neck cancers) or be present in the elderly (e.g., dementia, Alzheimer’s disease, Parkinson’s disease).

Communication disorders encompass difficulties with speech (producing spoken language), understanding or using language, voice, fluency (stuttering), and pragmatics (the social use of language), or a combination of areas. Swallowing problems (dysphagia) affect the ability to safely swallow food or liquids and can lead to medical complications including malnutrition, chest infections/pneumonia and death. Difficulties in communication and swallowing can occur in isolation or the patient may have difficulties in more than one area. For example a patient following a stroke may have speech, expressive and/or receptive language, and swallowing difficulties.

The prevalence of communication and swallowing disorders in Australia is unknown due to the absence of a national mechanism for data collection and monitoring. Health Workforce Australia in its recent report on the speech pathology workforce noted that despite the number of potential data sources that

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1 The Senate Community Affairs References Committee: Final Report Prevalence of Different Types of Speech, Language and Communication Disorders and Speech Pathology Services in Australia, September 2014.
exist, each has substantial limitations in providing a complete picture of demand for speech pathology services in Australia\textsuperscript{2}. This lack of national information was acknowledged in the aforementioned Senate Inquiry to be a significant barrier to addressing demand and workforce improvements. A number of key recommendations were made by the Senate Committee to direct the Australian Government to progress work on improving incidence and prevalence statistics\textsuperscript{3}. Conservative estimates presented to the Senate Committee indicate there is in excess of 1.1 million Australians have a communication disorder and one million have a swallowing disorder (see Appendix A for calculations).

Speech pathologists provide health services that span the spectrum of health care from assessment, identification and diagnosis, treatment and intervention to individual patients, education and support to carers, patient advocacy and public health and research activities.

Speech pathologists provide health services in a variety of metropolitan, regional, rural and remote settings, including hospitals, rehabilitation services, mental health services, community health services, general practices, educational facilities (kindergartens, primary and secondary schools), specialist disability services, juvenile justice facilities and aged care residential facilities. Speech pathologists provide health services across state and territory and federally funded and operated settings (through public funded employment) and increasingly, health services are provided by privately employed speech pathologists. Most often these private practices have a solo practitioner, or very small team (2-3) of speech pathologists.

There are limited specific data on speech pathology practitioners in Australia. National databases that collect information about the speech pathology profession include Speech Pathology Australia’s member database, the Australian Census occupation data, and the ABS Labour Force Surveys. These data sources provide a fragmented and incomplete representation of the current speech pathology profession and this limitation was recognised by the aforementioned Senate Committee and Health Workforce Australia in their recent reports. Speech Pathology Australia’s membership database is the most reliable (but incomplete) record of speech pathologists in Australia.

As of September 2014, Speech Pathology Australia has 5525 practising members (currently working in public or private sector in Australia). This figure does not include all speech pathologists working in Australia as membership of Speech Pathology Australia is voluntary.

There is no definitive data on the percentage of speech pathologists in Australia who are members of Speech Pathology Australia. It is possible to determine an estimate by comparing the total number of speech pathologists registered with the Speech Pathologists Board of Queensland (prior to the disbanding of the Board in 2013) with the total number of Association’s practising members in Queensland. A longitudinal analysis of Speech Pathology Australia’s figures compared with those registered in QLD indicated a ‘coverage’ rate of membership of Speech Pathology Australia between 60-70\% of the total number of speech pathologists working in Queensland. As of the closure of the Board in December 2012 however, the figures indicate membership of the Association only accounted for 57\% of speech pathologists working in QLD\textsuperscript{4}. It is assumed that the same trend in coverage would be evident in other states and territories in Australia, with some likely slight elevation in coverage.

Speech Pathology Australia’s total number of practising members as at September 2014 is 5525. If we surmise that Speech Pathology Australia members make up approximately 65 per cent of the total workforce then there are approximately 8508 speech pathologists working in Australia in 2014. Notably 2983 and (35 per cent) of these practitioners are not bound by the self-regulatory functions of


\textsuperscript{3} The Senate Community Affairs References Committee: Final Report Prevalence of Different Types of Speech, Language and Communication Disorders and Speech Pathology Services in Australia. September 2014 p. xi.

\textsuperscript{4} Documentation indicates that as of December 2012, the QLD Board had 1579 registrants and SPA had 900 QLD members – this equates to SPA having 57\% of all speech pathologists in QLD as members at that point in time. SPA is unable to source any evidence to suggest that similar rates of coverage would not hold true across other states and territories of Australia. We conceive that there may be slight variations in membership coverage rates in some states and that membership coverage may have increased nationally throughout 2013 and 2014 to a degree, but again, quantifiable evidence is not available to provide a more accurate estimate of membership coverage because there is no reliable information on the total number of speech pathologists in Australia. SPA believes the most realistic estimates based on these calculations would be that in 2014 SPA membership covers 65\% of all speech pathologist in Australia, and as of September 2014, SPA has 5525 practising members – thus there are an estimated 8508 practising speech pathologists in Australia.
Regulatory Structures for Low Regulatory Workload Professions

The Discussion Paper presents an analysis of the operations of the National Scheme in regards to high and low regulatory workload professions. Two options for restructuring the National Scheme in relation to governance of the lowest regulatory workload professions are offered for feedback.

Speech Pathology Australia welcomes the pragmatic approach taken to considering cost-efficiencies for lower regulatory workload professions in the National Scheme.

Speech Pathology Australia contends that the National Scheme should provide a continuum of regulation across evidence based health professions that recognises different profiles of risk of the varied professions. The National Scheme should include structures to oversee the health and safety of practices by high regulatory load professions, low regulatory workload professions and self-regulating professions.

Speech Pathology Australia supports both the proposed options as pragmatic means to ensure regulation and public protection at a reduced cost in the Scheme – provided that profession specific input is retained for certain functions of the Scheme.

Were the speech pathology profession to be reconsidered for inclusion in the National Scheme, we would anticipate that speech pathology would be considered a low regulatory workload profession.

We believe that if either of the options for restructuring are recommended, that profession specific input is retained for a number of key areas of the National Scheme. Speech Pathology Australia recommend that profession specific input is critical for:
- Establishing the entry level standards
- Setting and reviewing the profession’s scope of practice
- Management and resolution of complaints
- A profession representative on the Board
- Accreditation of university courses
- Assessment of overseas trained practitioners.

Speech Pathology Australia considers that cost savings achieved through restructuring the governance arrangements for the low regulatory workload professions should be returned to registrants through lower fees.

Eligibility for Professions Seeking Entry into NRAS

The Discussion Paper asks for feedback on if future proposals for professions to be included in the National Scheme should continue to require achievement of a threshold based on risk to the public and associated cost benefit analysis.

Speech Pathology Australia strongly supports the objectives of the National Scheme to protect patient safety. As such, we support a continued requirement for assessment of a threshold risk of harm to patient health and safety to be made before regulating a health profession in the scheme.

However, we advocate that there should be an a priori assumption that all health professions should be included in the National Scheme and then arguments/applications should be made for excluding professions. We believe this approach indicates to the Australian public that the National Scheme is the central protective mechanism and it is only when a profession can demonstrate that they do not pose a risk to public health and safety are they excluded from the regulatory requirements of the National Scheme.
We believe that the current criteria are inadequate to make a considered assessment of the risk to health and safety posed by health care. In our feedback below, we draw attention to additional considerations about the context of care provision that are likely to influence the severity of risk or likelihood of risks to patient health and safety that we believe are not adequately covered in the current criteria. Consideration must be given to the possibility of severe or catastrophic outcomes for a consumer (death or serious injury) based on the practice of the profession, not just how frequent it is likely to occur. There is a significant and meaningful difference in 'risk' profile for a profession that might have more notifications of issues that lead to relatively temporary or minor injury and those professions that have very few notifications – but where those notifications may relate to major injury or catastrophic outcomes (death). All ‘risk’ is not equal for these professions and the National Scheme needs to consider this.

Speech Pathology Australia advocates that any profession where there is a documented, evidence based risk of death occurring from the practice of that profession should by default be included in the National Scheme.

Information is provided here in brief so that the Reviewer can understand the application of the criteria to a profession like speech pathology and evaluate the impact of a cost-benefit analysis under a new (less costly) governance structure for low-regulatory impact professions.

Speech Pathology Australia considers it to be a failure of the current National Scheme that even if a risk to patient health and safety has been demonstrated (as we believe it has with the scope of practice for speech pathologists), that the profession is not required to be statutorily regulated because it is seen as too costly for the Scheme. We understand a need for economic considerations and fiscal responsibility of the Scheme, but this should not come at the expense of protecting patient health and safety.

The criteria established by the Health Professions Regulatory Advisory Council (HPRAC) in Ontario Canada⁵ for regulation of a profession is a useful model to consider for the National Scheme. HPRAC ask that professions demonstrate first and foremost a risk of physical and/or mental harm to patient of their practice. A focus is made not only of frequency of occurrences of harm but on the severity of harm that can occur. Only once this risk of harm has been demonstrated, are professions considered in terms of additional criteria that relate to practitioner autonomy, educational requirements, scope of practice and evidence base, existing regulatory mechanisms, leadership in prioritising public interest over professional interest, health system impact, intra-professional collaborative practices, labour mobility, impact on access to care, human resource productivity and health outcomes. Applicants are also asked to present a viable business plan to demonstrate that the profession is able to support the full costs and responsibilities of regulation. These eligibility criteria are more comprehensive than those required for the Australian National Scheme and consider regulation of a profession in light of the professions role and responsibilities in the broader health system.

It is the view of Speech Pathology Australia that because the current eligibility criteria for the National Scheme fail to take into account effects of inclusion/exclusion of a profession on the broader health system that the National Scheme will not be able to achieve its objectives to promote access to health services and to develop a flexibly responsible and sustainable health workforce.

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⁵ Health Professions Regulatory Advisory Council (HPRAC) Regulation of a New Health Profession Under the Regulated Health Professions Act (RHPA), 1991, Criteria and Process. Available at [http://hprac.org](http://hprac.org)
Criterion 1: It is appropriate for Health Ministers to exercise responsibility for regulating the occupation in question, or does the occupation more appropriately fall within the domain of another Ministry?

Speech pathologists are recognised internationally, and nationally as health care professionals. In Australia, most speech pathologists work in health sector settings such as hospitals, rehabilitation services. Increasingly, speech pathologists are providing health services in non-health sector settings such as aged care residential facilities, disability service settings, early childhood intervention settings and educational facilities (such as kindergartens and schools). Information from the ABS Census, 2011 indicates that 36 per cent of speech pathologists worked in hospitals and 42 per cent work in other allied health services (for example private practice), with an additional 12 per cent providing services in non-health settings (such as education and training)\textsuperscript{6}.

The Certified Practising Speech Pathology (CPSP) program of Speech Pathology Australia is the foundation of speech pathology as a self-regulated health profession. The CPSP credential is recognised by government funding programs and practising membership is required for recognition by Medicare and the Department of Veteran Affairs and also by private health funds so that patients can access rebates for payments for evidenced based speech pathology health services.

The overwhelming majority of the patients that speech pathologists work with have additional needs with direct connections with one or more health issues, health professions, or health services. This connection might be associated with the cause of their communication or swallowing difficulties, other needs or diagnoses, or other medical and health specialists who they may see through hospitals, community health services, or private consultation services.

The Health Ministers are the most appropriate to exercise responsibility for regulating the speech pathology profession. Because speech pathologists deliver health services in a number of health and non-health settings and in a public or private capacity, it is important that the Health Ministry categorically take responsibility for regulating the safety and quality of the profession’s care in order to effectively minimise risks to public health safety that may occur in speech pathology care provided in settings under the jurisdiction of other ministerial portfolios (such as education, aged care or juvenile justice).

Internationally, the speech pathology profession is registered as a health profession:

- In South Africa, under the Speech/Language and Hearing Professions in the Health Professions Council of South Africa\textsuperscript{7}
- In the United Kingdom, under the Health and Care Professions Council\textsuperscript{8}
- In America, 47 of the 50 states and one district require speech pathologists to be registered. Many of these are through the relevant health department; others are through administrative departments such as the Department of Consumer Affairs.
- In Ireland, speech pathologists are registered under a multi-profession regulatory body called the Health and Social Care Professionals Council\textsuperscript{9}.
- In Canada, six of the thirteen provinces and territories require speech pathologists to be registered; five through the relevant health department and one through the Department of Justice. Canada is currently working towards a national process of speech pathology registration.
- In Germany, the speech pathology profession is regulated under national legislation (LogopG) which is enforced at a state level with the capacity for the title of ‘Logopaede’ to be withdrawn if the Practitioner is found to be in breach of professional standards.

We consider this criterion to be appropriate to include in the eligibility criterion for the National Scheme. However, it is important to consider if the profession is registered in other comparable countries where practitioners share a similar scope of practice, location of practice and profile of risk.

\textsuperscript{6} Health Workforce Australia, ‘Australia’s Health Workforce Series, Speech Pathologists in focus’, July 2014 p. 13
\textsuperscript{7} http://www.hpcsa.co.za/PBSpeech
\textsuperscript{8} http://www.hpcpuk.org/aboutregistration/professions/
\textsuperscript{9} http://www.coru.ie/
Criterion 2. Does the activity of the occupation pose a significant risk of harm to the health and safety of the public?

Speech pathologists work with patients who by the nature of their communication and swallowing problems, can be physically, psychologically and almost always, socially vulnerable. The following discussion documents specific risks to patient health and safety posed by different clinical areas of practice in speech pathology – demonstrating that whilst we believe that speech pathology is likely to be a low regulatory profession if included in the National Scheme– ‘low risk’ does not equate to ‘no risk’.

This criteria for inclusion into the scheme requires professions to demonstrate risk to patient health and safety through objectively measured incidences of risk such as through coroner’s cases, trend analysis, complaints etc. Health professions that have experienced previous registration status with state and territory boards are equipped with data on complaints dealt with by those boards, and as such are positioned well to demonstrate risk to patient health and safety to the National Scheme. Registration establishes monitoring and complaints systems that allow for robust and comprehensive evidence of risk and protection associated with a health profession.

The ability for the speech pathology profession to demonstrate risk to patient health and safety in the Australian context is hampered by a significant and pervasive lack of data regarding the profession’s practices and patient groups across national data collections. For example advice from the National Coronial Information Service (NCIS) indicates that there have been coronial inquiries associated with care of a person who was receiving speech pathology services (for dysphagia or swallowing difficulties), however data in NCIS is not coded in such a way as to identify a causal link between cause of death and the speech pathology clinical care that was provided. Furthermore there is no system to monitor or report adverse events, near misses or other clinical abnormalities across the speech pathology profession. Some of these may be captured in facility specific processes for adverse events management (hospitals for example) but it is unclear if and how speech pathology involvement is recorded. If this information does exist, data is not reported publicly.

In the absence of robust, reliable and national data on adverse events associated with speech pathology care, information from the following sources has been used;

- Peer reviewed studies demonstrating risk in clinical procedures,
- Use of expert evidence provided by nationally and internationally recognised speech pathologists
- Complaints information from the Speech Pathology Board of Queensland (to 2013) (however, only related to one state in Australia)
- Complaints information from the complaints management process operated by Speech Pathology Australia (however, relates only to matters raised by patients/carers or other speech pathologists about current Speech Pathology Australia members and which can be considered in the context of the Association’s Code of Ethics)
- Information provided from professional indemnity insurers for speech pathologists (however, relates only to matters brought by policy holders to the attention of their insurers).

The demonstrated risks to patient health and safety from speech pathology care relate to the following issues:

a) the use of intrusive and invasive techniques used in the practice of speech pathology that can cause a serious or life threatening danger

Many aspects of speech pathology practice involve activities which are considered to be physically intrusive and physically invasive. Such procedures pose an increased and specific risk to patient safety. Most of these activities are considered by Speech Pathology Australia to be areas of advanced practice and should not be undertaken by those without additional and specialist training. Harm is likely to be minimised if a patient’s response to an adverse event during these activities is appropriately monitored by an appropriately trained speech pathologist. When speech pathologists fail to comply with required competency and practice standards, and/or fail to perform within an agreed scope of practice when performing physically intrusive procedures, the likelihood of these risks occurring and causing harm to patients increases from ‘unlikely’ to ‘almost certain’. It is important to note that an estimated 35 per cent of speech pathologists (or 2983 practitioners) are not members of our Association, and as such our
recommendations that these areas of practice should be considered ‘advanced’ holds little influence on their practice.

Use of assessment and therapy processes that are physically intrusive for patients is now common place in speech pathology practice. Each of the assessment and therapy techniques detailed here is considered an intrusive technique. All are recognised by Speech Pathology Australia and other health professionals with whom speech pathologists work alongside, as being within the speech pathology scope of practice.

**Fibreoptic Endoscopic Evaluation of Swallowing (FEES):** involves passing a small, flexible tube with a light and lens on the end down through a person’s nose so that their swallowing can be watched directly. FEES presents a number of physical risks to people having this procedure, including involuntary sustained closure of the vocal cords, which prevents breathing (laryngospasm), acute nose haemorrhage (epistaxis) and fainting (syncope). The incidence of epistaxis was 1 in 1,340 (0.07%) in recent clinical studies\(^\text{10}\). Standard and additional infection control precautions need to be undertaken by practitioners. Speech pathologists often work with otolaryngologists when using FEES. Before using the FEES procedure themselves, speech pathologists should complete a formalised training program and achieve competence in the theory and practice of the technique. However, there is no formalised regulation of this process. FEES is considered an advanced and specialised area of practice and newly graduated speech pathologists do not have the skills to use this technique. Speech pathologists involved in the independent passing of the nasendoscope is considered an extended scope of practice to be undertaken within a given workplace’s clinical governance and credentialing framework. For specific evidence of risks to patients when speech pathologists fail to comply with practice standards in FEES, please refer to Appendix C.

**Tracheostomy Management.** A tracheostomy involves the creation of a small opening in the front of the neck into the trachea and may be needed when someone has a blockage in their airway, is unable to protect their airway, needs to be ventilated for a long time, or needs removal of secretions from their airway. To provide easy access to the lungs, a hollow tube (a tracheostomy tube) is placed in the opening. People from infancy to old age can need a tracheostomy. Risks and potential complications can arise for people who have a tracheostomy. Speech pathologists who fail to comply with practice standards for tracheostomy management pose a serious risk to patient safety including compromised airway protection and inadequacy of the patients’ airway. The consequences can be catastrophic for patients, including death. Standard and additional infection control precautions need to be undertaken by Practitioners performing these processes. Again, Speech Pathology Australia considers tracheostomy management to be an advanced scope of practice and is not appropriate for a newly graduated speech pathologist to undertake this work.

Investigation of Speech Pathology Australia membership database indicates that 446 members self-report working in the clinical speciality of tracheostomy—with 52 per cent of these members reporting to work in private practice\(^\text{11}\). It is unclear the degree to which these practitioners working in private practice are operating within robust clinical governance arrangements for tracheostomy management. Training usually takes place within individual workplaces, with each service determining the type and amount of training needed, as well as the process for making sure professionals are competent. There are no consistent mechanisms to determine competence in tracheostomy management by speech pathologists in Australia.

For specific examples of risks to patients when speech pathologists fail to comply with practice standards in tracheostomy management, please refer to Appendix D. Advice from senior speech pathologists working within acute hospital settings to Speech Pathology Australia indicates that the most common risk of Tracheostomy management, where a cuff deflates, occurs on a weekly basis (within major metropolitan hospitals) and is reported through individual hospital incident management systems. Collated data regarding the incidence of this risk occurring in Australian hospitals was unable to be sourced for this submission.


\(^\text{11}\) Data is based on self-reported clinical area and may involve practitioner who work across multiple sectors including a combination of public and private practice.
Tracheo-oesophageal Voice Restoration: When a person has cancer or sustains a severe injury to their voice box (or larynx) they may need to have their larynx surgically removed. Their airway is permanently redirected to create a permanent opening in their neck to allow them to breathe. This surgical procedure is called a total laryngectomy, and removes a person’s ability to communicate verbally. There are a number of options for giving someone a voice after they have had a total laryngectomy. One of these options is called tracheo-oesophageal speech. Tracheo-oesophageal voice restoration involves the surgical creation of a communication (or puncture) between the trachea and oesophagus. Once this puncture has been made, a speech pathologist inserts a one way valve into the puncture. The patient is then able to shunt air from their lungs, through the valve and into their throat, thereby giving the person a means of producing sound which they can use to speak. Standard and additional infection control precautions need to be undertaken by Practitioners performing these processes. The needs of people who use tracheo-oesophageal speech are routinely supported by speech pathologists and otolaryngologists in hospitals and community health centres. The speech pathologist is the professional most frequently involved in managing all aspects of tracheo-oesophageal speech rehabilitation. When speech pathologists fail to comply with practice standards for tracheo-oesophageal voice restoration, the likelihood of the following risks being realised and causing harm to patients increases significantly:

- Aspiration of food, fluids and stomach contents through the fistula into the lungs
- Tissue trauma, bleeding and discomfort from insertion of catheters, shunts, measuring devices and tracheo-oesophageal valves. This might include damage to the trachea, damage to the fistula or oesophagus, breaching of the tissue space between the trachea and the oesophagus
- Infection of the fistula or mediastinum
- Accidental placement of catheters, prostheses and introducers into the oesophagus or trachea
- Fainting (syncope)
- Adverse reactions to adhesive preparations used with the tracheostomy valve
- Adverse reaction to local anaesthetic

Supporting the needs of people who use tracheo-oesophageal speech is considered by Speech Pathology Australia to be an advanced skill and requires specialist skill development beyond initial training. This is usually carried out in individual workplaces. There are no consistent mechanisms to determine competence in Tracheo-oesophageal Voice Restoration management by speech pathologists in Australia. For specific examples of risks to patients when speech pathologists fail to comply with practice standards in tracheo-oesophageal voice restoration, please refer to Appendix E.

Neuromuscular Electrical Stimulation (NMES): has been used as a therapeutic tool to treat muscular and neuromuscular injury/disorders by other health professionals, such as physiotherapists. NMES involves the transcutaneous delivery of electrical stimulation via electrodes. Specialised equipment is required including a stimulus generator, a power source, control unit and electrodes. It is emerging as a potential treatment tool for speech pathologists intending to treat dysphagia and facial paralysis. However, strict guidelines regarding contraindications for the procedure mean that failure to comply with practice standards could result in serious harm to patients such as: fainting (syncope); dislodgement of superficial indwelling metal implants; possible complications if used during pregnancy; and possible cardiac complications if used on patients with an indwelling stimulator (e.g. pacemaker, deep brain stimulator).

b) The use of equipment, materials (including dangerous substances) and processes which could cause a serious threat to health and safety

Speech pathologists regularly use diagnostic equipment in investigations of swallowing problems that pose a significant threat to health and safety. A videofluoroscopy swallow study (VSS) (also known as a modified barium swallow MBS) is an x-ray procedure that is taken over time and videoed, rather than as a ‘snap shot’ on a single image. A VSS is used to assess a person’s swallowing by asking them to eat and drink food that has a radio-opaque contrast (such as barium) in it. The radio-opaque contrast is illuminated when exposed to ionizing radiation, as occurs during an x-ray. This enables the path of the food/drink to be visualized during swallowing, along with the corresponding movement of anatomical structures. In many healthcare settings, VSS is per Dysphagia treatment and management formed jointly

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by a speech pathologist and radiographer and/or radiologist, working together. In most contexts, the
speech pathologist is responsible for directing the procedure and indicating when the fluoroscopic
screening equipment is to be activated.

Given that VSS assessments involve the use of food containing barium, there are potential risks to the
public if food safety practices are not adhered to. Currently, speech pathologists are required to follow
the food safety practices defined by their health service and by state and national organisations such as
Food Standards Australia and New Zealand. Despite this, the correct interpretation and monitoring of
speech pathology compliance with these standards is unclear.

For specific examples of risks to patients when speech pathologists’ failure to comply with practice
standards, when performing VSS, please refer to Appendix F.

Exposure to ionizing radiation can have negative biological effects, not only on the patient but also on
staff who are in the range of the scatter of the ionizing radiation. Although information is available about
the amount of exposure a member of the public experiences during x-ray procedures, there is no reliable
information about the amount of radiation exposure to speech pathologists conducting VSS
assessments. Individual workplaces, States and Territories take different approaches to monitoring
speech pathologists’ exposure to radiation. Wearing a lead apron during the procedure is standard
across Australia; however, wearing additional protection such as a thyroid collar, glasses, and gloves
varies considerably despite evidence that a thyroid collar will substantially reduce the exposure dose.\footnote{See McLean, D., Smart, R., Collins, L., and Varas, J. (2006) ‘Thyroid dose measurement for staff involved in modified barium
swallow exams’ Health Physics, 90(1): 38-41.}

c) The ways in which failure of a speech pathologist to practice in evidence-based ways can
pose a serious threat to health and safety

There are two areas of common practice that pose significant threat to patient health and safety in the
practice of speech pathology. These include speech pathology care of dysphagia (swallowing
difficulties) and medication management for these patients.

Swallowing disorders, or dysphagia, includes difficulties with sucking (especially for newborns and
infants), managing saliva, chewing food, clearing food and drink from the mouth and throat, and most
critically - protecting the airway. There are many situations that might contribute to someone
experiencing dysphagia including premature birth, certain congenital disabilities (e.g. cerebral palsy,
Down Syndrome), acquired disabilities or disease (e.g. multiple sclerosis), a structural abnormality (e.g.
cleft palate), an injury (acquired brain injury) or an illness (most notably, stroke or cancer of the head and
neck).

People who have dysphagia are at increased risk of mortality and morbidity due to aspiration of food
and fluid into the lungs, chest infections and pneumonia, dehydration and poor nutrition. They are also at
risk of compromised long-term nutritional, hydration, oral hygiene and social needs. Infants and children
who have dysphagia are at specific risk of growth retardation and impaired intellectual, emotional and
academic development.

Timely and appropriate management of dysphagia reduces medical complications and dependence on
alternative feeding options such as feeding tubes, intravenous hydration, and subcutaneous fluids, and
enables more active participation in rehabilitation processes due to improved nutritional status.

Speech pathologists are recognised as specialists in the management of dysphagia and involvement in
this work has been one of the biggest areas of development in the profession in the past twenty years.
Today, dysphagia management is one of the largest clinical needs in the field of speech pathology.
Demand for dysphagia management is expected to grow exponentially with the ageing of the Australian
population over the next twenty years.

Dysphagia treatment and management is performed by speech pathologists in many settings including
hospitals, community based health services, disability services and residential aged care facilities.
Investigation of Speech Pathology Australia membership database indicates that 2098 members self-report
working in the clinical speciality of dysphagia – with 51.7 per cent reporting to work in private
practice\textsuperscript{14}. It is unclear the degree to which these practitioners working in private practice are operating within robust clinical governance arrangements for dysphagia management.

Speech pathologists are skilled in assessing whether children and adults can swallow their usual diet safely. This requires a detailed understanding of normal and disordered anatomy and physiology, as well as expertise in clinical bedside assessment and instrumental evaluation of swallowing, which may include modified barium swallow assessments and fibre optic evaluation of swallowing (FEES).

For those infants, children, and adults who are assessed as not being able to eat safely, speech pathologists focus on ensuring their nutritional needs can be met and their overall health maintained through providing:

- therapy and training in the use of swallowing strategies and techniques;
- exercise techniques that target the physiology of the muscles involved in swallowing
- food and fluid texture modifications; and
- education of the patient, family and other professionals who care for and work with the patient.

When dysphagia is not identified (delayed or missed diagnosis) or is not treated appropriately through following recognised best practice and defined clinical procedures and standards in each of these areas, affected individuals are at greater risk of medical complications and death. Appendix B details the risks of patients with dysphagia when speech pathologists fail to comply with practice standards and the evidence base upon which speech pathology practice for these patients is based.

Dysphagia offers additional clinical complexity when it comes to the patient’s ability to swallow solid form oral medications. Speech pathologists consult on the ability of patients to safely swallow medications and may be involved in advising on changing the form of medicine for administration to a patient. Changing the form of administration of a medicine (crushing, dispersion etc) can alter the medicines stability, effectiveness or toxicity. This is particularly true for modified-release medications. Speech Pathology Australia previously collaborated with the Society for Hospital Pharmacists of Australia in the development of the authoritative guide on these issues ‘Australian Don’t Rush to Crush Handbook: Therapeutic options for people unable to swallow solid oral medicines’ (2011). It is important to remember, that whilst speech pathologist are not medication prescribers and should work within a multidisciplinary team for patients with dysphagia, it is likely to only be in hospital settings that there are robust clinical governance processes to ensure safety in medication administration. These clinical governance processes are likely to be less robust (or in place at all) within private practice, residential aged care facilities and in aged care services provided in the home.

Speech pathologists are also involved in administration of medications in a number of other clinical presentations. For example, with Laryngectomy patients, the use of vaso-constrictors and xylocan sprays or in administering (or recommending) anti-fungals for fungal stoma infections. Generally, speech pathologists will advise on medication use within a clinical setting with a medical practitioner providing medication to a speech pathology clinic for clinical use. Some jurisdictions are trialling the extension of prescribing rights to a range of allied health professions including speech pathology - thus, appropriate regulation of these professions is critical to both support this workforce innovation and to protect the health and safety of the public.

The inadequacies of this criterion for assessing risk of speech pathology practices

Whilst Speech Pathology Australia agrees that a threshold threat to patient health and safety is needed to justify inclusion into the National Scheme, we believe that this criterion is inadequate to assess these risks for some professions. We believe that the focus of the criterion is inadequate to assess risk for these reasons:

- A focus is made on physical health and safety. We believe mental health impacts of health services are largely not considered in this criterion.

\textsuperscript{14} Data is based on self-reported clinical area and may involve practitioner who work across multiple sectors including a combination of public and private practice.
• The criterion calls for a ‘serious’ risk to health and safety. Beyond the obvious death or permanent injury or disability, the definition of ‘serious’ is ambiguous.

• A focus is on immediate or short term consequences directly (and demonstrated to be causally) related to the health intervention/activity.

• The criterion does not consider the context in which the health intervention occurs and the relation this has on the profile of risk.

In recent years, there has been a significant shift in the location of speech pathology service delivery from previously majority government funded positions to the private sector. In 2011, Australian Bureau of Statistics data indicate that 57.1 per cent of speech pathologists are now working in private practice\textsuperscript{15}. This is supported by more recent information from Speech Pathology Australia’s membership demographics – indicating a further retraction of the public funded speech pathology workforce. Whilst speech pathologists working in hospital settings will practice within a robust clinical governance framework within their specific hospital. These clinical governance processes are likely to be less robust (or in place at all) within private practice, residential aged care facilities and in aged care services provided in the home. As indicated previously, there is evidence that a significant number of speech pathologists who work in private practice report to work in the clinical specialty areas of tracheostomy management and dysphagia management.

• The evaluation only considers effects directly attributable to the health intervention and fails to evaluate risks and opportunity costs associated with poor management, mis-management or delayed diagnosis.

This criterion for inclusion into the National Scheme focuses on demonstrating risks to health and safety. The usual methods of demonstrating risk through evidence of adverse events, coronial inquiries, epidemiological data etc are by their nature focusing on relatively immediate adverse results of speech pathology intervention or care. Whilst immediate adverse events do occur, they occur less frequently than in many other health professions and in isolation this would indicate that the speech pathology profession is likely to be a low regulatory workload profession.

What is not considered are adverse medium to longer term outcomes associated with delayed, or misdiagnosis and/or mis-management by speech pathology practitioners. This is particularly problematic for very young children whose language is not developing along typical developmental lines. The early years of a child’s life provide a critical window of physiological, neurological and developmental opportunity whereby early intervention for disorders of communication can be most effective and have the most sustained long term benefits. The evidence of efficacy differs depending on the type of intervention, type of communication difficulty and age of the child. A plethora of evidence regarding different early childhood speech pathology issues was provided to the Senate Inquiry into the prevalence of different types of speech, language and communication disorders and speech pathology services in Australia – demonstrating the importance of speech pathology intervention in the early years of a child’s life in order to remediate presenting problems and prevent negative health and social outcomes from untreated communication disorders. For example, the Australian Stuttering Research Centre presented evidence to the Senate Committee of clinical trials demonstrating efficacy in treating stuttering in 6 year old children and describing research that demonstrated that the prevalence of psychiatric problems in adult stutters had their basis in childhood stuttering\textsuperscript{16}. The Senate Committee concluded:

‘It is clear from the evidence before the committee that failing to treat childhood speech, language and communication disorders contributes to significant lifelong problems. These include limited employment options often leading to periods of unemployment, a dependence on welfare, the psychological and emotional distress to the sufferer and their family and carer, and in many cases interactions with the justice system. Accordingly, diagnosing and addressing speech, language and communication problems in childhood are crucial to an individual’s wellbeing and to

\textsuperscript{15} \textit{Health Workforce Australia} (2014) Australia’s Health Workforce Series: Speech Pathologists In Focus. July. HWA

Speech pathologists who do not follow evidence-based practice and profession developed clinical guidelines when working with very young children may fail to provide effective care and in doing so, reduce the chances for that child to be successfully treated at a later date or to minimise the chances of the child developing co-morbid mental health conditions.

Advice from Guild Insurance to Speech Pathology Australia indicates that these issues are of increasing importance in claims made against policy holding speech pathologists in relation to services provided to young children. These tend to take the form of complaints relating to diagnosis and the impact this has on the eligibility of the child to access government disability funding (which acts as the gateway to various other health and disability services for the child) such as the Helping Children with Autism Package or the Better Start for Children with Disability funding.

The current criteria for inclusion focus on adverse risks to patient health and safety directly and immediately related to the health care provision. Speech Pathology Australia sees very little consideration that risk to health and safety can extend beyond the immediate time period, and the effects of an incompetent or impaired practitioner at a clinically critical time period in a treatment process can have health and wellbeing repercussions that impact on a child for their lifetime.

**Criterion 3: Do existing regulatory or other mechanism fail to address health and safety issue?**

There are a number of ad hoc systems of quasi-regulation and monitoring of speech pathology practice in Australia. A professional standard of care is established by codes of ethics and professional conduct, defined clinical competencies, scopes of practice and credentialing, and jurisdictional licensure laws such as statutory legislation. Examples of these mechanisms include:

- standards and guidelines required of members of Speech Pathology Australia
- clinical standards and practices of individual organisations
- clinical supervision requirements of individual organisations
- training and credentialing processes of individual organisations
- universal precautions relating to infection control
- food safety requirements
- legislation relating to radiation use
- organisational, State, and Territory requirements relating to exposure to radiation.

In the absence of national registration and in the presence of real risks to patient health and safety, Speech Pathology Australia has strengthened its self-regulation processes and worked alongside other non-registered Allied Health professions to progress work in establishing the National Alliance of Self-Regulating Health Professions (NASRHP) to facilitate the development of a National Framework for Self-Regulation for Health Professionals.

Although several existing mechanisms each contribute something to addressing health and safety issues relevant to speech pathology, these mechanisms are inadequate to protect patient health and safety for a number of reasons:

1. None of the mechanisms successfully apply to all speech pathologists.

Speech Pathology Australia acts as a quasi-regulator in the absence of registration with the National Scheme however there are approximately 2983 speech pathologists in Australia who are not members and are not governed by the guidelines and requirements of the Association (and in the future of those outlined in a National Framework for Self-Regulation for Health Professionals). We know from the operations of the Queensland Board that serious complaints do occur. The following information provides details of the complaints received by the Board over a number of years prior to its closure. Information for 2008 to 2013 is not complete and only details complaints that were found to be in breach and where conditions were imposed on practitioners (rather than all complaints investigated by the Board).

2005/2006 1 complaint (all complaints investigated by Board)
2006/2007 2 complaints (all complaints investigated by Board)
2007/2008  12 complaints (all complaints investigated by Board)
2008/2009  4 complaints (where conditions were imposed)
2009/2010  2 complaints (where conditions were imposed)
2010/2011  2 complaints (where conditions were imposed)
2011/2012  7 complaints (where conditions were imposed)
2012/2013  3 complaints (where conditions were imposed) – not complete 12 month period.

Of note is the increasing frequency of these complaints (keeping in mind this was only for practitioners in one state of Australia).

2. Self-regulation does not provide sufficient statutory authority to restrict practice where a practitioner is found to be unqualified, incompetent or impaired.

Members of Speech Pathology Australia are asked to uphold the well-defined standards of the profession as outlined in the Associations’ Code of Ethics (2010), Competency-Based Occupational Standards (2001), Scope of Practice (2003), Principals of Practice (2001), Parameters of Practice (2007) and various clinical guidelines and position papers associated with various clinical areas\(^\text{17}\). However, Speech Pathology Australia holds no statutory power to place restrictions on practice if its complaints process were to find a practitioner incompetent, guilty of professional misconduct or impaired to practice. Evidence provided by the Speech Pathology Board of Queensland indicated 19 speech pathologists who that Board determined to require restrictions on their practice as of December 2012. These restrictions ranged from restriction practice to a particular patient group, requirements for clinical supervision of their practice, requirements for particular professional development to be undertaken, requirements for ongoing mental health treatment (for two impaired practitioners) and the suspension of a speech pathologist from practising due to criminal activity. In 2014, these speech pathologists continue to practice without any oversight or regulation of their practice as Speech Pathology Australia lacks any legislative authority to enforce restrictions on their practice.

3. There is known variability in requirements for clinical standards, professional practices, clinical supervision requirements, training and credentialing requirements for individual organisations.

In hospital settings where speech pathologists work, there is usually a robust and established clinical governance system that provides protection for public safety. However, there is an increasing retraction of public funded speech pathology positions (particularly with the implementation of the NDIS) and the profession has seen a significant shift into private practice over the past three years. Increasingly the profession is faced with issues of how to support new graduate entering private practice (in the absence of any publicly funded graduate positions). Support for newly graduated private practitioners was highlighted in recommendations made in the aforementioned Senate Inquiry as a specific area of need.

In terms of risk management, there are no requirements for clinical governance systems in private speech pathology practice and health care is provided without any legally required quality and safety oversight.

Advice from Guild Insurance indicates that in 2014, the majority (89.5 per cent of 2802 policy holders) of policy holders with professional indemnity and public liability insurance for speech pathology practice were in private practice. Whilst only a small number of claims are made each year by policy holders, claims usually relate to issues classified as those concerning disciplinary boards, complaints, coronial inquiries or professional misconduct.

4. Complaints mechanisms for the profession are considered to be the best available, but inadequate to meet the needs of patients seeking to make a complaint about the conduct of a speech pathologist.

Speech Pathology Australia has a strong internal complaints management system. The Ethics Board is a
subcommittee of the Board of Directors and is delegated by the national board to manage and investigate
complaints made against members. Speech Pathology Australia has a Code of Ethics (significantly revised
in 2010) that is aspirational in nature and includes values and standards based on ethical principles. We
have a publicly available set of procedures that are revised regularly (using feedback from complainants
and respondents involved in the process).

Speech Pathology Australia receives an increasing number of inquiries regarding the practice of individual
speech pathologists. Through a process of facilitated problem solving, almost all of the inquiries are
investigated and managed with only the most serious progressing to a formal complaint considered by the
Ethics Board. These are the types of complaints that would be reported through the National Scheme were
speech pathology to be a registered profession. These are complaints that relate to professional practice
and ethics that is within scope for the Profession’s Code of Ethics. Data regarding formal complaints
considered by the Speech Pathology Australia Ethics Board include:

<table>
<thead>
<tr>
<th>Year</th>
<th>Complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>1 complaint</td>
</tr>
<tr>
<td>2007</td>
<td>2 complaints</td>
</tr>
<tr>
<td>2008</td>
<td>2 complaints</td>
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<td>2 complaints</td>
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<td>2010</td>
<td>3 complaints</td>
</tr>
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<td>2011</td>
<td>9 complaints</td>
</tr>
<tr>
<td>2012</td>
<td>7 complaints</td>
</tr>
<tr>
<td>2013</td>
<td>9 complaints</td>
</tr>
<tr>
<td>2014 year to date</td>
<td>8 complaints as of end of September</td>
</tr>
</tbody>
</table>

As indicated, Speech Pathology Australia has over the past six years, received increasing numbers of
inquiries that are referred to the Ethics Board as formal ‘complaints’. Analysis of the nature of these
complaints indicates concerns regarding the professional practice and conduct of individual members of
Speech Pathology Australia and which relate to matters that are considered within the scope of the
profession’s Code of Ethics. The vast majority of complaints relate to practitioners working within private
practice.

The increase in complaints is assumed to be indicative of increased public and professional awareness of
the important role and contribution of professional boards and regulatory processes in relation to resolving
complaints about health professionals and in protecting public health and safety.

Additional inquiries to the Speech Pathology Australia ethics process were either resolved through a
process of facilitated problem solving (the vast majority of inquiries), or referred to a state based health
complaints commission.

Members of the Association who are found to be in breach of the Code of Ethics can have their
membership suspended or cancelled by the Association. Whilst the Association publishes the names of
individual practitioners who have found to be in breach of the Code of Ethics, it has no authority to limit
such individuals from practising. Notably, there are an estimated 2983 speech pathologists (non-members)
practising in Australia to whom this ethic complaints process does not apply.

Given the disparity in complaints number between those received by the Queensland registration board (for
one state only), and those received by Speech Pathology Australia nationally, it is reasonable to assume
that only a small proportion of complaints against speech pathologists are received by the Association.
This may reflect a perception by the public that the Association lacks independence, neutrality or statutory
authority to effectively investigate and respond to complaints about speech pathologists.
It is the view of Speech Pathology Australia, that as individual, disconnected measures, existing regulatory mechanism fail to offer effective protection to the public and practitioners in an integrated way within the context of the overarching purpose and accepted practices of the profession.

Existing governance and regulatory mechanisms fail to provide the public with satisfactory assurance that speech pathologists deliver consistently safe and high quality health care services. Although the speech pathology profession has done a great deal in recent years to introduce measures to optimise public health and safety, the absence of a unifying framework, that is universally applicable to all practitioners, means that these efforts are fragmented, fail to provide comprehensive coverage, and lack appropriate statutory powers to provide effective public protection.

**Criterion 4: Is regulation possible to implement for the occupation in question?**

Regulation of speech pathologists in Australia is possible – with the previous existence of the Speech Pathology Board of Queensland providing operational evidence of this possibility. Speech pathologists in the UK, USA, Canada and Ireland work within a similar scope of practice, and the inherent risks to patient health and safety posed are recognised and protected against through the aforementioned statutory regulation processes.

Speech pathology is a well-defined health profession in Australia with services dating back to 1931. Speech pathologists are university trained health professionals who are specialists in the assessment and treatment of a wide range of communication and swallowing disorders that may be present from birth through to old age. The contemporary role and focus of the speech pathology profession is both well-defined and readily understood by those within the profession and their other professional partners. This role is consistently reflected in documents produced by Speech Pathology Australia, including the Code of Ethics (2010), Competency-Based Occupational Standards – CBOS (2011), Scope of Practice (2003 and under review), Competency Assessment in Speech Pathology – COMPASS™ (2011) and Parameters of Practice (2007). It is also reflected in the educational qualifications undertaken by speech pathologists, the process of accrediting university degrees, and the focus of continuing professional development programs.

The speech pathology profession is built on the principals of evidence based practice and involves the integration of a large body of knowledge from several disciplines, including the biomedical sciences, linguistics, psychology, neurosciences, education, and mental health. This body of knowledge is both taught and assessed through undergraduate Bachelor’s degree programs and graduate-entry Masters programs within universities across Australia and internationally. Additionally, continuing professional development programs developed and offered by Speech Pathology Australia, other organisations, and individual professionals, reflect the capacity for the required knowledge and skill base of the field to be taught and assessed in a range of contexts.

Speech Pathology Australia is recognised by the Department of Education, Employment and Workplace Relations, as the professional body representing speech pathologists in Australia. As such, it is acknowledged as both an accreditation authority for university speech pathology degree programs and an assessing authority for those who have overseas qualifications.

All Bachelor and Master level entry programs in Australia are accredited or are in the process of being accredited by Speech Pathology Australia using CBOS (2011). University speech pathology programs accredited by Speech Pathology Australia have demonstrated that their graduates have attained entry level competencies as described by CBOS (2011). There are currently 8 accredited Bachelor level speech pathology programs offered across Queensland, New South Wales, Victoria, South Australia, and Western Australia. A further 8 accredited Master level entry programs are available across these same 5 states. Individuals who graduate from any of these accredited university programs qualify for practising membership of Speech Pathology Australia.
Whilst this criterion is appropriate to assess a profession for involvement in the National Scheme, it does fail to consider the profession in light of how that profession interacts with the broader health system. A more nuanced consideration is needed of the scope of practice of the profession, any cross-over with other professions, the specific clinical skills and expertise the profession provides and if any other profession deals with similar clinical issues and the potential for trans-disciplinary practice and how this may be affected by inclusion/exclusion in the National Scheme.

**Criterion 5: Is regulation practical to implement for the occupation in question?**

The hearings of the aforementioned Senate Inquiry provided a formal avenue for speech pathologists across Australia (including those who are not members of Speech Pathology Australia) to provide evidence to political leaders regarding their profession. Issues relating to registration of the profession (whilst out of scope for the terms of reference for the inquiry) were raised repeatedly in the public hearings by speech pathologists – all with the view that the profession should be registered in order to provide basic protection of public health and safety\(^\text{18}\). Speech Pathology Australia is confident that registration for the profession in the National Scheme is supported by the absolute majority of practitioners in Australia.

In seeking national registration, the profession has articulated a commitment to improving this situation in the public interest, rather than occupational self-interest. The profession is robust in numbers (larger in number than some currently registered professions) and as result believes that national registration can be achieved in a cost efficient way.

A restructure of the governance arrangements for the low regulatory workload professions in the National Scheme (under Options One or Two proposed in the Consultation Paper) would largely remove any practical barriers to including speech pathology in the Scheme. It is anticipated that this restructure, by taking advantage of economies of scale would provide a context in which it is practical (and cost effective) to include additional professions.

**Criterion 6: Do the benefits to the public of regulation clearly outweigh the potential negative impact of such regulation?**

Speech Pathology Australia is aware that it appears counter-intuitive for a professional organisation representing a health profession to actively and persistently seek further legislated regulation and accountability measures for its members. Speech Pathology Australia’s Board of Directors has considered this carefully over a number of years including the likely impact of inclusion in NRAS on membership of the Association, the anticipated safeguards involved in pursuing a framework of self-regulation and the increasingly concerning changes to scope and location of practice of speech pathology in Australia that pose an increasing risk to patient health and safety by our practices.

The implementation of NRAS over the past three years, and the current Review process has highlighted aspects of the National Scheme that have negatively impacted on the professions currently registered. Information about these impacts has been sought by Speech Pathology Australia (particularly from other registered Allied Health professions with a similar risk profile) over the past three years as part of our ongoing process of evaluating how inclusion in NRAS would affect individual speech pathologists, the speech pathology profession and the quality and safety of health care we provide. Our request for inclusion of the speech pathology profession in NRAS is made with an informed and considered view of the potential benefits and negative implications of registration on the profession.

Speech pathologists in Australia almost unanimously support the inclusion of our profession into NRAS with a view that these additional regulations will minimise the risk to patient safety posed by speech pathology practices. Speech pathologists believe that the benefits to the public of regulation of our profession clearly outweigh any potential negative impacts of this regulation on individual practitioners, our profession and our scope of practice.

\(^{18}\) See transcripts of public hearings in Sydney, Melbourne, Canberra and Brisbane for evidence relating to support for registration of speech pathology
http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Speech_Pathology/Public_Hearings

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It is the view of Speech Pathology Australia that this criterion relates to the cost effectiveness of registering a profession. Whilst it is recognised that there needs to be careful consideration around the cost of including any profession, the evaluation of the criterion for a profession has been dependent on the structure and funding paradigm of the National Scheme. A more efficient, lower cost and streamlined structured National Scheme would of course yield more favourable cost benefit results for any of the professions. It is the view of Speech Pathology Australia that if the National Scheme is restructured in line with Options One or Two proposed in the Consultation Paper, than a re-consideration of the risks posed by speech pathology practice would conclude it to be ‘practical’ to register the profession as one of the lower regulatory workload professions.

Alternative Regulatory Functions for Non-Registered Professions

The Discussion Paper posed the question of if the National Law be amended to recognise those professions that provide adequate public protection through other regulatory means.

In the event that the Independent Reviewer does not recommend that speech pathology be re-considered for inclusion in the National Scheme, Speech Pathology Australia agrees that the government afford greater recognition to the professional body’s existing self-regulatory role. This should be enacted in the National Law as recognition that public health and safety is protected by robust self-regulatory mechanisms within the profession.

In cases where the profession can demonstrate robust self-regulation mechanisms, the relevant professional title/s should be protected and practitioners should be required to be credentialled under the profession’s self-regulation framework in order to be eligible to practice in Australia. This would therefore accommodate members and non-members of Speech Pathology Australia and would allow for comprehensive collection of workforce data for all speech pathologists working in Australia.

This model of formal recognition and endorsement of the regulatory functions of those health professions that provide adequate public protection through self-regulatory mechanisms is supported by those professions (including speech pathology) represented through the National Alliance of Self Regulating Health Professions (NASRHP). The submission by NASRHP to the Independent Review details the mechanisms in which the National Scheme could provide this recognition without increasing the regulatory workload within the National Scheme.

The Registered/Non-Registered Professions Divide and the Impact on the Ability of NRAS to Achieve Objectives

Whilst it is recognised that the National Scheme was not established to provide credibility to any particular health profession, it was also not intended to undermine the public confidence in individual health professions. Unfortunately, in the three years since the National Scheme has been operating, there have been a number of negative, unintended consequences that have acted to create a professional divide between health professions that are registered and those that are not.

It is the experience of Speech Pathology Australia members that there is a general lack of understanding of what ‘registration’ of a health practitioner means to the general public and within the health sector. The common (mis)conception is that registered practitioners are those providing high quality and safe care, and by default, those that are not registered are somehow less evidenced based, less effective and practising to lesser standards of quality. Whilst it may not be the intent of the Scheme, the reality is that in the minds of consumers, registration through the National Scheme acts as the major signpost that a health practitioner provides high quality and safe health care.

It is commendable that the National Scheme, in such a short time of operation has conveyed to the public and the health sector that it is the authoritative national body on health and safety regulation in Australia. The centralising of the registration process for many different professions across multiple jurisdictions is operating well. However, in creating this body and process, the government should have
Responsibilities for managing unintended outcomes that have negative impacts on non-registered professions and act as a barrier to multi-disciplinary innovation in service delivery and workforce reform.

Some examples where opportunities have been restricted to registered practitioners with the Australian Health Practitioner Regulation Agency include:

- Training and education scholarships (for example, Windermere Foundation PhD scholarships for 2015 are restricted to allied health practitioners who are registered).
- Legislative protections. For example, the Victorian Government introduced the Justice Legislation Amendment (Confiscation and Other Matters) Bill 2014 in August 2014 which creates an offence of assaulting a registered health practitioner in the course of providing care or treatment, including all 14 registered health practitioner groups.
- Innovation in health care. Recent work by Health Workforce Australia on prescribing pathways restricts these pathways to registered practitioners only.
- Employment opportunities for practitioners (for example, positions being restricted to applicants from registered health professions). This has even occurred in public funded positions where hospital human resource departments and health-specific recruitment agencies are unaware that speech pathologists are not registered and have requested proof of registration before an application for a speech pathology position would be considered.

Whilst it may not have been the intent of the National Scheme to create a professional divide between registered and non-registered practitioners, this has occurred and it has implications for the ability of the National Scheme to meet its own objectives. Key objectives of the National Scheme are to provide access to health services and to develop a flexible, responsible and sustainable workforce.

We believe the ability for the National Scheme to meet these objectives is hampered in a number of ways given the current climate of division between registered and non-registered professions. Non-registered professions are unable to benefit from cross-professional collaborations, improvements that are born out of the operations of the National Scheme. Issues of workforce sustainability and innovation that may be developed through the National Scheme (particular in relation to any reforms that are made) are unlikely to benefit those health professions not included in the scheme.

We contend that one solution to the negative unintended consequences of creating a division or tiered hierarchy between health professions is for the National Scheme to formally recognise and endorse the regulatory functions of specific evidence based professions. Ideally this would be through recognition in the National Law of the adequacy of the self-regulation of the speech pathology profession and the protection of title. We believe that the only way in which this growing divide can be adequately bridged is through a mechanism that brings self-regulating professions into ‘the fold’ of the National Scheme – without necessarily requiring the National Scheme to regulate through registration. Less formal mechanisms of acknowledging self-regulatory professions are unlikely to adequately address the misconceptions currently experienced in the health care system.

Complaints and Notifications

The Discussion Paper seeks specific feedback on options to improve the complaints and notification process of the National Scheme. It is anticipated that professions currently registered will provide detailed feedback on the operational impact of this part of the National Scheme. Brief comments are provided here in relation to principals of complaints management that Speech Pathology Australia urges the Independent Reviewer to consider when making his recommendations.

Speech Pathology Australia believes that a health complaints process needs to be as transparent, efficient and consumer-friendly as possible. There needs to be one entry point into the complaints system for consumers for any complaint they have about any health care provider. We believe this is what consumer groups are also advocating for.

We believe that a consequence of the current climate of division between registered and non-registered professions has created additional barriers for consumers to report complaints. In the current environment, consumers with a complaint about the conduct of a speech pathology practitioner need to either report through a state based health complaints process or through the ethics complaints process
of Speech Pathology Australia. This is a different process than that required for most other health professions (those that are registered with the National Scheme).

This places the onus on the consumer to know and understand if the practitioner belongs to a ‘registered’ health profession and in the case of speech pathology practice, understand how a complaint might be lodged given that the profession is not registered.

We believe that considerable work needs to be undertaken with the National Scheme, non-registered and self-regulating professions and jurisdictional health complaints bodies to identify and define complaints pathways so that they are clear, agreed to by all bodies and most importantly, facilitate ‘easy’ complaints notification by patients and/or their families.

There is an additional layer of complexity if the complaint relates to an instance of care where a multidisciplinary team provided care. There are a number of clinical presentations where a multidisciplinary or trans-disciplinary care team environment is best practice. For example in dysphagia management where a ‘registered’ Physiotherapist and a speech pathologists have worked together. Consumers should not be required to pursue two different complaints processes for the same health incident because some of the health practitioners involved belong to registered/non-registered professions.

In the case of a complaint coming through the Speech Pathology Australia process, whilst the issue might be considered by the Ethics Board, the lack of statutory authority for the Association to impose restrictions on the practice of an individual Practitioner undermines the value of the process for the consumer.

The current situation is an unacceptable process of health complaints reporting and management for speech pathology consumers.
Recommendations

It is requested that the Independent Review consider the following recommendations:

1. That Options One or Two be recommended to restructure the National Scheme’s registration and accreditation requirements for low regulatory workload professions (providing there are appropriate mechanisms to retain profession input into specific functions).

2. That the current eligibility criteria for inclusion into the National Scheme be altered to reflect firstly, a risk to public safety (including physical, sensory and mental health) and then secondly, impact on the profession and on the wider health system.

3. That the profession of speech pathology be reconsidered for inclusion in the National Scheme.

4. That the National Law be amended to provide a formal authorisation/endorsement of the adequacy of the regulatory functions of the self-regulating professions and the protection of title for these professions.
Appendix A: Calculations of Prevalence of Communication and Swallowing disorders in Australia by Speech Pathology Australia

Evidence base for the statement of over a million Australians experiencing difficulty with communication in 2014.

- 19,800 = 1/3 of people with stroke have aphasia (RCSLT, 2009) and there are over 60,000 strokes every year (National Stroke Foundation, 2012). However...
- 11,880 = 60% of these are age 65 and over (AIHW, 2004) so remove 60% of 19800 from analyses of adults over 65 years
- 612,931= 20% of adults over 65 years (3076539- 11880)= 3064659) have voice problems (Golub, Chen, Otto, Hapner, & Johns, 2006)
- 64,600= Australians with Autism (Australian Bureau of Statistics, 2009)
- 20,202= 6.9% of 3 year olds (292796- Census 2006) have speech or language problems (Law, Boyle, Harris, Harkness, & Nye, 2000)
- 570.86= 20% of four year olds (285430- Census 2006) have language impairment (expressive or receptive) (Reilly et al., 2010)
- 314,51= 11% of (285923) five year olds have speech or language delay (Law et al., 2000)
- 163,306 people = 0.72% of the population estimated to have fluency problems (Craig, Hancock, Tran, Craig, & Peters, 2002)
- 182,467= 6% of school children (counted 6-16 years and removed overlap with prevalence stats above for 3-5 year olds = 3041112) who have voice problems (Carding, Roulstone, & Northstone, 2006)

Total= 1151843

Evidence base for the statement of over a million Australians experiencing difficulty with swallowing that may require help from a speech pathologist in 2014.

1,134072 Australians have difficulties swallowing that may require help from a speech pathologist.

- Based on: 5% of Australians have moderate-severe dysphagia (Eslick & Talley, 2008)

References


### Appendix B: Risks to Patients When Speech Pathologists Fail to Comply with Practice Standards

- **Dysphagia**

<table>
<thead>
<tr>
<th>RISK</th>
<th>IMPACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Inappropriately advised to take diet and fluids that are more</td>
<td>• Malnutrition</td>
</tr>
<tr>
<td>difficult to swallow—such that food/drink is more difficult to</td>
<td>• Dehydration</td>
</tr>
<tr>
<td>swallow—such that food/drink is more difficult to swallow</td>
<td>• Aspiration pneumonia</td>
</tr>
<tr>
<td>• Inappropriately advised to take diet and fluids that are more</td>
<td>• Airway obstruction/asphyxiation</td>
</tr>
<tr>
<td>likely to be aspirated</td>
<td>• Requires medical intervention +/- hospitalisation</td>
</tr>
<tr>
<td>• Inappropriately advised to forego oral intake due to perceived</td>
<td>• Death</td>
</tr>
<tr>
<td>difficulties swallowing, with delay in providing alternative</td>
<td>• Legal action taken</td>
</tr>
<tr>
<td>nutrition and hydration</td>
<td></td>
</tr>
<tr>
<td>• Undergoes unnecessary surgical procedure for the placement</td>
<td>• Requires medical intervention +/- hospitalisation</td>
</tr>
<tr>
<td>of a feeding tube</td>
<td>• Increased length of stay due to surgical complication</td>
</tr>
<tr>
<td>• Inappropriately advised to participate in a therapy program e.g.</td>
<td>• Legal action taken</td>
</tr>
<tr>
<td>patient with motor neurone disease advised to perform strengthening</td>
<td></td>
</tr>
<tr>
<td>exercises</td>
<td></td>
</tr>
<tr>
<td>• Not referred for medical assessment following the identification</td>
<td>• Swallowing and respiratory function compromised</td>
</tr>
<tr>
<td>of an oral lesion during clinical examination</td>
<td>• Requires medical intervention +/- hospitalisation</td>
</tr>
<tr>
<td>• Ingests food/fluid provided by speech pathologist which has</td>
<td>• Legal action taken</td>
</tr>
<tr>
<td>been contaminated with bacteria</td>
<td></td>
</tr>
<tr>
<td>• Acquires healthcare-associated infection through</td>
<td>• Requires medical intervention +/- hospitalisation</td>
</tr>
<tr>
<td>person-to-person or environment-to-person contamination (e.g.</td>
<td>• Death</td>
</tr>
<tr>
<td>cross-infection between patients as a result of speech pathologist</td>
<td>• Legal action taken</td>
</tr>
<tr>
<td>failing to comply with hand hygiene practice standards)</td>
<td></td>
</tr>
<tr>
<td>• Sustains injury as a result of inappropriate manual handling</td>
<td>• Requires medical intervention +/- hospitalisation</td>
</tr>
<tr>
<td>practice</td>
<td>• Increased length of hospital stay</td>
</tr>
<tr>
<td></td>
<td>• Legal action taken</td>
</tr>
</tbody>
</table>
Key References:

Atherton, M, Bellis-Smith, N, Cichero, JAY, Suter, M. (2007). Texture modified foods and thickened fluids as used for individuals with dysphagia: Australian standarised labels and definitions. Nutrition and Dietetics. 64 (Supp 2.): S53-S76.


Appendix C. Risks to Patients When Speech Pathologists Fail to Comply with Practice Standards When Performing Physically Intrusive Procedures - Fiberoptic Endoscopic Evaluation of Swallowing (FEES)

<table>
<thead>
<tr>
<th>RISK</th>
<th>IMPACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Epistaxis (nose haemorrhaging)*</td>
<td>• Significant bleeding requiring cauterisation or hospital admission</td>
</tr>
<tr>
<td>• Laryngospasm*</td>
<td>• Acute respiratory difficulties</td>
</tr>
<tr>
<td>• Syncope collapse (such as vasovagal response)</td>
<td>• Loss of consciousness</td>
</tr>
<tr>
<td></td>
<td>• Sustains injury during the episode</td>
</tr>
<tr>
<td></td>
<td>• Requires medical intervention +/- hospitalisation</td>
</tr>
<tr>
<td>• Inaccurate interpretation of findings resulting in inappropriate</td>
<td>• Aspiration pneumonia</td>
</tr>
<tr>
<td>recommendations for diet and fluids, and/or inaccurate, ineffective</td>
<td>• Airway obstruction/asphyxiation</td>
</tr>
<tr>
<td>therapy program</td>
<td>• Requires medical intervention +/- hospitalisation</td>
</tr>
<tr>
<td>• Food/drink contaminated</td>
<td>• Death</td>
</tr>
<tr>
<td></td>
<td>• Legal action taken</td>
</tr>
<tr>
<td>• Acquires healthcare-associated infection through person-to-person</td>
<td>• Requires medical intervention +/- hospitalisation</td>
</tr>
<tr>
<td>or environment-to-person contamination (e.g., through failure to</td>
<td>• Death</td>
</tr>
<tr>
<td>appropriately clean and disinfect related equipment</td>
<td>• Legal action taken</td>
</tr>
<tr>
<td>• Personal injury</td>
<td>• Requires medical intervention +/- hospitalisation</td>
</tr>
<tr>
<td></td>
<td>• Increased length of hospital stay</td>
</tr>
<tr>
<td></td>
<td>• Legal action taken</td>
</tr>
</tbody>
</table>

*Includes risks associated with nasendoscopy (insertion of the scope) which may be completed by a medical practitioner or a speech pathologists. No information is available regarding the prevalence of speech pathologists conducting nasendoscopy independently.

Key References


The Royal College of Speech and Language Therapists. Guidelines for endoscopic evaluation of the vocal tract. 1999.


### Appendix D. Risks to Patients When Speech Pathologists Fail to Comply with Practice Standards When Performing Physically Intrusive Procedures - Tracheostomy Management

<table>
<thead>
<tr>
<th>RISK</th>
<th>IMPACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Cuff of tracheostomy tube is inappropriately deflated, resulting in saliva, food and fluid entering the lungs</td>
<td>• Aspiration pneumonia</td>
</tr>
<tr>
<td>• Placement of a speaking valve with cuff inflated on a tracheostomy tube</td>
<td>• Requires medical intervention +/- hospitalisation</td>
</tr>
<tr>
<td>• Syncope collapse (such as vasovagal response) during management of a tracheostomy tube</td>
<td>• Patient cannot exhale, resulting in over-inflation of airways/asphyxiation</td>
</tr>
<tr>
<td>• Loss of airway due to tracheostomy tube occlusion or accidental decannulation. Clinician fails to understand actions required</td>
<td>• Requires medical intervention +/- hospitalisation</td>
</tr>
</tbody>
</table>

- **Loss of consciousness**
- **‘Code Blue’ status**
- **‘Code Blue’ or emergency status requiring medical intervention**
- **Death**
- **Legal action taken**

### Key References


### Appendix E. Risks to Patients When Speech Pathologists Fail to Comply with Practice Standards When Performing Physically Intrusive Procedures - Tracheoesophageal Voice Restoration after Laryngectomy

<table>
<thead>
<tr>
<th>RISK</th>
<th>IMPACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incorrect sized tracheoesophageal voice prosthesis inserted</td>
<td>• Unable to communicate</td>
</tr>
<tr>
<td></td>
<td>• Aspiration of food/fluid causing aspiration pneumonia, malnutrition, death</td>
</tr>
<tr>
<td>Failed attempt to insert tracheoesophageal voice prosthesis/catheter/shunt/sizing device causes tissue trauma; creates a false tract/fistula</td>
<td>• Bleeding</td>
</tr>
<tr>
<td></td>
<td>• Discomfort</td>
</tr>
<tr>
<td>Failed attempt to insert tracheoesophageal voice prosthesis/catheter/shunt/sizing device creates a false tract/fistula</td>
<td>• Surgical procedure required to repair</td>
</tr>
<tr>
<td></td>
<td>• Increased risk of aspiration via the tract/fistula</td>
</tr>
<tr>
<td>Syncope collapse (such as vasovagal response) during insertion of tracheoesophageal voice prosthesis</td>
<td>• Loss of consciousness requiring hospital admission</td>
</tr>
<tr>
<td>Foreign body falls into trachea and unable to be retrieved</td>
<td>• Lung infection</td>
</tr>
<tr>
<td></td>
<td>• Surgical procedure required to retrieve</td>
</tr>
<tr>
<td>Adverse reaction to adhesives used to secure tracheoesophageal puncture not identified</td>
<td>• Local infection</td>
</tr>
</tbody>
</table>

**Key References**


### Appendix F. Risks to Patients When Speech Pathologists Fail to Comply with Practice Standards When Performing Physically Intrusive Procedures - videofluoroscopy swallow study (VSS)

<table>
<thead>
<tr>
<th>RISK</th>
<th>IMPACT</th>
</tr>
</thead>
</table>
| • Inaccurate interpretation of findings resulting in inappropriate recommendations for diet and fluids, and/or inaccurate, ineffective therapy program | • Aspiration pneumonia  
• Airway obstruction/asphyxiation  
• Requires medical intervention +/- hospitalisation  
• Death  
• Legal action taken |
| • Syncope collapse (such as vasovagal response)                      | • Loss of consciousness requiring hospital admission                   |
| • Food/fluid contaminated with bacteria                               | • Hospital admission may be required to manage                         |
| • Acquires healthcare-associated infection through person-to-person or environment-to-person contamination (eg. cross-infection between patients as a result of failing to comply with hand hygiene practice standards) | • Requires medical intervention +/- hospitalisation  
• Death  
• Legal action taken |
| • Excessive ionising radiation exposure causing malignancy           | • Requires medical intervention +/- hospitalisation  
• Side effects/complications associated with complex treatment required for more extensive disease (as compared to disease that is identified as an early stage malignancy)  
• Increased length of hospital stay  
• Permanent disability  
• Death  
• Legal action taken |

### Key References


Kim, H.M., Choi, K.H., & Kim, T.W. (2012). Patients' radiation dose during videofluoroscopic swallowing studies according to underlying characteristics. *Dysphagia*, Published online 09 September 2012.


