07 October 2014

Mr Kim Snowball  
Independent Reviewer  
*Review of the National Registration and Accreditation Scheme for health professions*  
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Dear Mr Snowball

**Re: Review of the National Registration and Accreditation Scheme for health professions**

Thank you for your invitation to make a submission in relation to the above report.

The Australian and New Zealand College of Anaesthetists (ANZCA), including the Faculty of Pain Medicine, is committed to high standards of clinical practice in the fields of anaesthesia and pain medicine. As the education and training body responsible for the postgraduate training programs of anaesthesia and pain medicine for Australia, New Zealand and parts of Asia, we believe in ongoing continuous improvement and strive to ensure our programs represent best practice and contribute to a high quality health system.

The National Registration and Accreditation Scheme (NRAS) for health practitioners commenced on 1 July 2010. The NRAS was established by state and territory governments through the introduction of consistent legislation in all jurisdictions to achieve six key objectives:

- protection of public safety  
- facilitation of workforce mobility  
- facilitation of high-quality education and training  
- facilitation of assessment of overseas-trained health practitioners  
- promotion of access to health services  
- development of a flexible, responsive and sustainable workforce

Further to the objectives of the National Scheme it has guiding principles that state it must achieve a balance between safety and quality through protection of title, without restricting competition or limiting access to health services.

ANZCA understands that your review was established to examine the extent to which the implementation of the National Scheme and the regulation of the professions under the National Scheme is meeting these objectives and guiding principles.

ANZCA remains supportive of the move from a state-based registration system to a nationally consistent registration scheme. Overall the introduction of the new scheme has been positive and some key benefits of the new scheme include:

- Greater workforce mobility.  
- Decreased fees for those professionals who previously had to register in multiple jurisdictions.  
- Improved public accountability through consistent reporting of notifications across all registered health professions.
However some concerns still remain regarding the ability of AHPRA and the Board to appropriately respond to notifications and complaints in a reasonable timeframe. This issue is further explored in the specific feedback section below.

**Question 1.** Should the Australian Health Workforce Advisory Council be reconstituted to provide independent reporting on the operation of the National Scheme?

*Response:*

No.

ANZCA notes that the paper more broadly, and this question in particular, is written in a way that assumes that a reconstituted Australian Health Workforce Advisory Council will be established.

ANZCA is unconvinced that a reconstituted Australian Health Workforce Advisory Council would be sufficiently independent from health ministers to provide independent reporting. The NRAS Review Consultation fails to adequately describe the type of reporting that would be undertaken through this council. It is not clear what reporting, in addition to the reporting that AHPRA currently provides within its annual report, is suggested by this question. AHPRA should be providing information to the public and registrants on the operation of the scheme (and appropriately resourced to do this) rather than establish a new ‘regulator of the regulator’.

**Question 2.** Should the Health Workforce Advisory Council be the vehicle through which any unresolved cross-professional issues are addressed?

*Response:*

No.

The NRAS Review Consultation fails to adequately describe the powers that this Council would have to resolve unresolved issues. Therefore ANZCA is unable to support the reestablishment of this committee.

Cross-professional issues (particularly as they relate to expanded scope of practice) are an ongoing tension within the registered professions. A principle based approach to how these issues are to be managed is a body of work that should be initiated by the Standing Council on Health (SCoH) / Health Workforce Ministerial Council (HWMC).

**Question 3.** Should a single Health Professions Australia Board be established to manage the regulatory functions that oversee the nine low regulatory workload professions?

*Response:*

No.

The current system of regulation in Australia is complex for consumers. It is likely that an amalgamation of the nine low regulatory workload professions into a single Health Professions Australia Board would further confuse consumers. The current system of having ‘named’ boards provides clarity as to which professions are included or not included in the scheme.

It is difficult to see how a single Health Professions Australia Board could manage the complexity of the multiple professions, and how they operate across eight different jurisdictions – both publicly and privately. The comparison to the United Kingdom is not a valid comparator due to the fact that the HCPC (Health and Care Professions Council) regulates professionals who predominately work for the single public National Health Scheme (NHS).
**Question 4.** Alternatively, should the nine National Boards overseeing the low regulatory workload professions be required to share regulatory functions of notifications and registration through a single service?

*Response:*

Yes

A sharing of the back office regulatory functions of notifications and registration through a single service for the low workload professions is worth pursuing. It would allow streamlining of processes, and minimise the legal and financial risks to the Boards involved.

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

*Response:*

Yes.

Any efficiencies achieved through back office integration should be returned to those professions through decreased fees.

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

*Response:*

Yes

As a general principle only those professions which can demonstrate a scientific evidence base for their practice, or a sufficient role in patient care beyond provision of a technical service, should be considered for entry into the National Scheme.

However caution needs to be applied if professions intend to use the regulatory process as a means of obtaining legitimacy and status within the health system. The cost of regulation is substantial, and therefore this needs to be carefully assessed against the risk to the public from not being regulated.

**Question 7.** Should the National Law be amended to recognise those professions that provide adequate public protection through other regulatory mechanisms?

*Response:*

No.

ANZCA believes that this would give health care workers undue status and credibility. It would also add unnecessary layers to the arrangements for dealing with complaints about these practitioners. The state based health care complaints entities, consumer laws and the courts all offer sufficient protection for dissatisfied consumers without this further layer of red tape.

**Question 8.** Should a reconstituted Australian Health Workforce Advisory Council be the vehicle to provide expert advice on threshold measure for entry to the National Scheme to the Health Workforce Ministerial Council?

*Response:*

No.

The Australian Health Ministers’ Advisory Council should perform this function.
Question 9. What changes are required to improve the existing complaints and notifications system under the National Scheme?

Response:

ANZCA has noted some lack of timeliness in this area of function, and notes that justice delayed is justice denied.

It is important for the health professional to have any concerns speedily dealt with, at the same time if the concerns are sustained, then it is important for public protection that appropriate action is taken, including changes to the registration status.

There are substantial improvements needed within the complaints and notifications system. These relate to clarity of purpose, communication, support for the complainant but importantly the professional about whom the complaint is made, a requirement to be able to resolve the concern through more than one avenue and dominantly through conciliation / mediation rather than an adversarial system and particularly timeliness.

Communication and support is vital. This is both for the public who have raised the concern and the practitioner about who the concern is made. These complaints are often devastating to both parties. Everything should be done to reduce this stress and the time over which any investigation lasts.

There needs to be a substantial move from the adversarial and legally based system that is currently evident to one that is focused on conciliation and rapid resolution wherever possible. There is no doubt that the concerns, aggravation and angst of complaints is magnified enormously when delays are multiplied and the process becomes adversarial.

It is noted in the Reviewer’s consultation document that Ontario Canada appears to achieve the benchmark in resolving complaints with a required completion at 150 days. Extensions can be allowed but only for specific reasons. None of the complaint mechanisms within Australia be they state based, co-regulatory or through AHPRA come close to achieving this type of benchmark. This is substantially increasing the costs of the system and is the one area that with reform will substantially reduce costs.

ANCZCA would strongly support the development of KPIs in this area.

Question 10. Should the co-regulatory approach in Queensland, where complaints are managed by an independent commissioner be adopted across all States and Territories?

Response:

No.

ANZCA is concerned that the principle of a nationally consistent approach to registration and accreditation is being eroded by the jurisdictions. ANZCA’s view is that it would be premature to adopt a new model for complaints handling without allowing enough time to see if the Queensland model delivers a more effective and efficient process.

If this co-regulatory approach was to be introduced, it is vital that there is an understanding between the independent commissioner and the health professional board about how such complaints are dealt with.

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

Response:

Unsure.
ANZCA is unable to respond without further clarification as to how this new model would operate. While there is merit in making complaints and notifications simpler for the public a single entry point could be more expensive and this could not be supported.

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

**Response:**

Yes. However, these KPIs need to meet international benchmarks. Currently this appears to be Ontario Canada with resolution of complaints within 150 days. The KPIs need to be publicly reported at regular intervals by publication on the AHPRA website.

**Question 13.** Is there sufficient transparency for the public and for notifiers about the processes and outcomes of disciplinary processes? If not, how can this be improved?

**Response:**

No.

ANZCA believes that AHPRA needs to develop plain language guidelines for members of the public. It is often up to medical colleges and professional associations to explain this process to consumers which may put them in a conflicted position with respect to supporting their members. As a matter of natural justice notifiers should have no more right to information than that which appears on the public register.

However the public and notifiers are just one side of the equation. It is critical that medical practitioners who are the subject of a complaint or notification are also provided with appropriate information as to the expected timeframe for dealing with the matter. It is unacceptable for matters to be dragged out for over two years. The process lacks transparency from the registrant’s perspective.

The information that AHPRA provides the Specialist Medical Colleges regarding the basis for decisions on restricting practice rights for their members is currently very limited. This makes internal decision making regarding roles, responsibilities and endorsement of these affected members very difficult.

**Question 14.** Should there be more flexible powers for the National Boards to adopt alternative dispute resolution, for instance to settle matters by consent between the Board, the practitioner and the notifier?

**Response:**

With respect to complaints – Yes

Alternative dispute resolution is an appropriate vehicle by which complaints could be settled expeditiously. This is particularly so for those consumers who are simply looking for an opportunity to have their concerns heard and their dispute settled with the help of a third party.

With respect to notifications - No

The notifier (particularly in the case of mandatory notification) should have no standing in the disciplinary hearing. Their role is simply to bring a matter to the attention of the relevant Board and to let the investigative processes proceed. Disciplinary action is not a matter of negotiation between the registrant and the notifier.

**Question 15.** At what point should an adverse finding and the associated intervention recorded against a practitioner be removed (from the public register)?

**Response:**
For medical practitioners, adverse findings in relation to matters proven on the basis of rules of evidence, a rigorous evidence base and due process, comparable to those applying in court proceedings can be permanently published. There needs to be more discussion about where this is published.

ANZCA believes that in the interest of natural justice allegations and unproven matters should not be published.

Proven adverse findings that have been determined after rigorous investigation and due process, can be permanently published on the Medical Board of Australia website.

Disciplinary sanctions such as suspensions, conditions and undertakings should be published on the public register while they are current i.e. until the Board has permitted the practitioner to return to full practice.

Question 16. Are the legislative provisions on advertising working effectively or do they require change?

Response:

ANZCA is unable to provide a considered response to this issue as the NRAS Review Consultation does not provide sufficient detail on the key issues of concern regarding advertising.

Question 17. How should the National Scheme respond to differences in States and Territories in protected practices?

Response:

ANZCA believes that a fundamental principle with respect to a national scheme should be a move towards harmonisation of practice across the country. This will facilitate workforce mobility and decrease the training burden on education providers.

Question 18. In the context of the expected introduction of a National Code of Conduct for unregistered health practitioners, are other mechanisms or provisions in the National Law required to effectively protect the public from demonstrated harm?

Response:

ANZCA does not have an opinion on this issue.

Question 19. Should the mandatory notification provisions be revised to reflect the exemptions included in the Western Australian and Queensland legislation covering health practitioners under active treatment?

Response:

ANZCA believes that a fundamental principle with respect to a national scheme should be a move towards harmonisation of processes across the country. Therefore the Western Australia model of exempting treating practitioner from mandatory reporting should be introduced nationally.

Question 20. To what extent are National Boards and Accrediting Authorities meeting the statutory objectives and guiding principles of the National Law, particularly with respect to facilitating access to services, the development of a flexible, responsible and sustainable health workforce and innovation in education and service delivery?

Response:

Having one registration scheme for the country has facilitated the movement of health professionals across the country, and to that extent it has met those objectives and guiding principles.
ANZCA does not agree that the National Boards and Accrediting Authorities should have a role in workforce reform. The College has consistently expressed this view since before the establishment of the scheme.

**Question 21.** Should a reconstituted AHWAC carry responsibility for informing regulators about health workforce reform priorities and key health service gaps?

*Response:*

No

ANZCA does not support the reconstitution of Australian Health Workforce Advisory Council, and as per Question 20 does not support an active role by the regulators in health workforce reform.

The most appropriate body to undertake this work would have been Health Workforce Australia (HWA) which was established because the Council of Australian Governments (COAG) recognised that without strategic and coordinated reform, the ability to balance health workforce demand with health workforce supply would not be met and the challenges would not be overcome.

ANZCA does not believe that AHWAC would be sufficiently independent to undertake this role.

**Question 22.** To what extent are Accrediting Authorities accommodating multidisciplinary education and training environments with coordinated accredited processes or considering future health practitioner skills and competencies to address changes in technology, models of care and changing health needs?

*Response:*

ANZCA does not have an opinion on this issue.

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

*Response:*

ANZCA recognises a number of health professions have strategically moved towards implementation of advanced degrees - a trend that has been labelled as "credentialing creep." In Australia it is still possible to undertake both undergraduate and post graduate entry level qualifications in Medicine. The higher education marketplace will determine the viability of these programs and it is unclear why the regulators would need to step in to ensure that these bachelor degrees remain.

The role of the regulator is to assure the public that educational programs continue to meet minimum standard. There is no public interest in increasing this power to dictate the type of qualification that must also be met.

**Question 24.** How effective are the current processes with respect to assessment and supervision of overseas trained practitioners?

*Response:*

The current arrangements for assessment and supervision of overseas trained medical practitioners have been developed through extensive consultation with stakeholders, including employers and they are effective. The MBA’s established processes are the most appropriate avenues for monitoring the standards and their operation.

**Question 25.** Should the appointment of Chairperson of a National Board be on the basis of merit?

*Response:*
Yes

All appointments should be on the basis of merit. ANZCA believes that this has been the case with respect to the Medical Board of Australia but is unable to comment on the appointment process for other Boards.

**Question 26.** Is there an effective division of roles and functions between National Boards and accrediting authorities to meet the objectives of the National Law? If not, what changes are required?

**Response:**

Yes

The Australian Medical Council is appropriately discharging their functions under the national law. The separation of functions between the AMC and the Medical Board of Australia works well and should not be amended.

ANZCA would strongly resist any attempts to remove the accrediting function from the AMC or subsume the AMC into the AHPRA organisational structure.

**Question 27.** Is there sufficient oversight for decisions made by accrediting authorities? If not, what changes are required?

**Response:**

Yes

ANZCA does not have any concerns about the oversight arrangements for the Australian Medical Council.

Thank you for the opportunity to provide this feedback. Should you require any further information, please contact Jonathon Kruger, General Manager, Policy, via email jkruger@anzca.edu.au or telephone +61 3 8517 5341.

Kind Regards

[Signature]

Genevieve Goulding
President