Council of Procedural Specialists Submission

Review of the National Registration and Accreditation Scheme for Health Professions

The Council of Procedural Specialists (COPS) draws the attention of the Review to the following defects in the National Registration and Accreditation Scheme (NRAS).

1. Lack of direct accountability.

The regulatory model created by the NRAS, namely a series of so-called National Boards ‘in partnership’ with the Australian Health Practitioner Regulation Agency (AHPRA), in effect means that responsibility for registration and discipline of some 600,000 health professionals has been transferred from direct Ministerial responsibility to an unelected health bureaucracy, which reports to nine Health Ministers (6 States, 2 Territories, 1 Federal) via an advisory council. The effect of this structure is to put AHPRA and NRAS beyond the reach of direct parliamentary scrutiny.

2. Mandatory reporting.

The NRAS has imposed a mandatory (legal) obligation on medical practitioners (replacing an ethical obligation) to report colleagues to disciplinary boards, if there is ‘reasonable belief’ that another health practitioner’s behaviour constitutes notifiable conduct (practising intoxicated with drugs or alcohol, sexual misconduct, impairment, or significant departure from professional standards which places the public at risk).

The adverse effects of this mandatory obligation include: deterring doctors from seeking help from other health professionals (who may be obliged to report them); reporting for motives of professional rivalry rather than public interest; and the injustice of holding a registered health practitioner guilty of professional misconduct if he or she did not come to a ‘reasonable belief’ that a disciplinary committee, in retrospect, ruled they should have.

Mandatory reporting blurs the law and ethics. As Prof Paul Komesaroff, Director of the Monash Centre for Ethics in Medicine and Society explains, “The question of mandatory regulation raises additional questions. It is widely argued that self-regulation is ineffective in controlling doctors’ behaviour and that there is simply no alternative to enforceable codes of conduct. Against this is the view that if a decision is compulsory it loses its ethical content, precisely because it is of the nature of ethics that decisions involve uncoerced reflection and dialogue. Mandatory control of behaviour inevitably leads to a loss of ethical capacity, which ultimately will produce more harm than good. Accordingly, many leading codes of ethics emphasise the importance of their voluntary nature, along with rigorous argument and reliable evidence.”¹

3. No hierarchy of national boards.

The Council of Procedural Specialists is most concerned over the current court case in the Supreme Court of Queensland (Optometry Board of Australia (OBA) versus The Royal Australian and New Zealand College of Ophthalmologists (RANZCO) and the Australian Society of Ophthalmologists (ASO)). This case highlights a major flaw in the NRAS, namely the lack of hierarchy in decision making concerning clinical standards (i.e. an essential component of risk management is absent).

Officially, National Boards are presented as independent standard setting agents. In reality, they make no decisions, write no reports, or issue any guidelines which are not approved ‘in partnership’ with AHPRA. In reality, AHPRA is ‘the Board’ and the National Boards are its sub-committees.

Whilst there is clearly, in the public’s mind, a hierarchy of expertise and qualifications in regard to clinical experience and scopes of practice, the NRAS assumes (for ideological reasons) that all boards are equal and all health professionals have the same level of expertise. Hence, boards are free to change the scope of practice for their members provided they receive AHPRA approval. This alone should be of major concern to legislators. It has substantially increased unnecessary risk to public safety by creating confusion as to what are acceptable clinical standards.

COPS notes that the Australian Health Ministers’ Advisory Council has included 28 questions in the consultation paper which relate to broadening the role AHPRA and the NRAS. COPS does not support a wider role for AHPRA or the NRAS and requests that the current deficiencies as outlined in this submission be addressed.

Dr Gary Speck AM
Chairman
Council of Procedural Specialists
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Contact Details:
Council of Procedural Specialists
PO Box 12 Arncliffe NSW 2205
(02) 9567 7329