Submission in response to the Consultation Paper August 2014
“Review of the National Registration and Accreditation Scheme for health professions”

October 2014
Introduction

The Pharmacy Guild of Australia (the Guild) is the national peak pharmacy organisation representing community pharmacy. It strives to promote, maintain and support community pharmacies as the most appropriate primary providers of health care to the community through optimum therapeutic use of medicines, medicines management and related services.

The Guild supports the national accreditation and registration of health professionals, and is pleased to respond to the Review of the National Registration and Accreditation Scheme for Health Professions Consultation Paper. The Guild agrees that regulation should not interfere with the day to day practice of health professionals but, at the same time, it should make sure that the community is protected against unprofessional practice. Consumers should be confident that health professionals are properly trained, qualified and competent to treat them.

Overview

The Guild notes the guiding principles for the national scheme, as set out in section 3 of the Health Practitioner Regulation National Law:

3 Objectives and guiding principles

(1) The object of this Law is to establish a national registration and accreditation scheme for—
   (a) the regulation of health practitioners; and
   (b) the registration of students undertaking—
       (i) programs of study that provide a qualification for registration in a health profession; or
       (ii) clinical training in a health profession.

(2) The objectives of the national registration and accreditation scheme are—
   (a) to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered; and
   (b) to facilitate workforce mobility across Australia by reducing the administrative burden for health practitioners wishing to move between participating jurisdictions or to practise in more than one participating jurisdiction; and
   (c) to facilitate the provision of high quality education and training of health practitioners; and
   (d) to facilitate the rigorous and responsive assessment of overseas-trained health practitioners; and
   (e) to facilitate access to services provided by health practitioners in accordance with the public interest; and
   (f) to enable the continuous development of a flexible, responsive and sustainable Australian health workforce and to enable innovation in the education of, and service delivery by, health practitioners.

It is clear that the national scheme is designed to create consistent course accreditation and registration standards.

From the Guild perspective, a national registration scheme requires nationally consistent:

- accreditation standards;
- approved programmes of study;
- registration standards; and
- codes and guidelines, particularly codes of conduct.
It also requires a single national register, maintained centrally.

This design satisfies the workforce mobility goals behind the implementation of the national scheme and is broadly delivered by the current national law. That said, the scheme is to be enacted through the ‘applied law’ model of instituting a national scheme. However, the ‘template’ passed by the Queensland Parliament has not been universally adopted in a number of areas, such as in the investigation of practitioners.

Moreover, as the Reviewer has noted:

*It is however, very clear to me that the National Scheme got off to a shaky start and to some extent this has influenced perceptions about it right up to the current day.*

Paragraph 1.33 of the *Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions* makes clear that pharmacy premises and ownership issues are the responsibility of the states and territories.

Every Australian State and Territory has recently passed legislation with regard to these issues as the national registration and accreditation scheme has been established – appropriate given the responsibilities of states and territories in ensuring that drugs and poisons are stored in a safe manner and lawfully dispensed in an ethical manner.

Moreover, these issues are also the subject of discussion in the context of the National Commission of Audit and the National Competition Policy (Harper) Review.

*Given these considerations, it is imperative that the Review of the National Registration and Accreditation Scheme for health professions not make recommendations that lead to “mission creep” but rather solely concentrate on issues that improve the way in which courses are accredited and health practitioners registered.*

To this end, the Guild makes the following comments in response to the questions posed in the Consultation Paper:

**Accountability**

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

The Guild is supportive of independent reporting on the operation of the National Scheme and independent advice to the Ministerial Council, provided that Australian Health Workforce Advisory Council is free to consult broadly in order to formulate advice and opinions.

There is a need for some form of ‘clearing house’ to deal with cross professional issues that arise, as illustrated by the example below:

A firm sought staff, including pharmacists and nurses, to provide (amongst other things):

   (a) general health checks to customers;
   (b) engage in general health discussions; and
   (c) provide assistance and advice on product related questions from customers in aisles of supermarkets.
An ACT based Guild officer noticed in a Canberra supermarket a woman in a white coat, standing in front of a display promoting particular health products.

The Guild officer noted that the woman was providing advice about the medicines and their indications, although could not pronounce the active ingredients, such as phenylephrine and guaiphenesin, or give an accurate description of how they work.

The Guild has concerns that consumer health safety can be impacted by this practice. More generally, the Guild also believes the class of advice proposed to be provided is quite inappropriate in a supermarket setting.

It is also clear that if advice is given by people with limited training and experience and without appropriate supervision, this clearly increases the chance of detriment to the consumer.

Finally, this particular ‘advice’ model is clearly an intention to influence a consumer to purchase a particular brand of product.

To encourage anyone, either a registered health professional or not, to recommend a product in a commercial display without due consideration of the health requirements of the consumer or whether an alternative product may be more appropriate is regarded by the Guild as dangerous generally, and in the case of a registered health practitioner a display of either unprofessional conduct or professional misconduct.

It is not clear that the current national laws relating to advertising or holding out as being a health professional cover this practice.

Given that the company proposed the service to be provided by either pharmacists or nurses, it is important that some mechanism should exist to:

(a) determine the consumer protection risk of this form of practice; and then
(b) provide a forum to ensure that the codes and guidelines of both the pharmacist and the nursing and midwifery professions are aligned to ensure that the mischief of promoting particular products under the guise of providing professional advice and services is dealt with consistently.

A body such as the Australian Health Workforce Advisory Council could be reconstituted to consider and advise on such issues.

Whilst the Guild is supportive of AHWAC, we believe that the costs associated with the AHWAC should be funded by governments and not from practitioner fees.

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

Further clarification is needed on what is an ‘unresolved’ issue or what authority the Health Workforce Advisory Council would have over regulators to comply with their decision.
**Future for regulation of health practitioners in Australia**

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

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? Estimated cost saving $7.4m pa.

Whilst the Guild acknowledges the rationale behind the proposal, the final Review should note that perceived regulatory cost reductions should not be the driver of a single Health Professions Australia Board for all 14 regulated professions.

The five boards recognised as being responsible for professions that could have potential impact on community safety are continually considering matters that touch on consumer safety, based on the knowledge of the profession possessed by the board members.

It is this expertise that sustains the support amongst the professions for a national scheme of registration.

To diminish that knowledge by having one board administering all regulated professions runs the risk of regulatory failure due to an absence of in-depth knowledge about the specifics of the particular profession when making decisions.

**Irrespective of what the Review decides on ‘low regulatory workload professions’, it should reiterate that for other professions the public interest is served through the supervision of regulated professions by boards with specific knowledge about the particular profession.**

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

The Guild supports this in principle.

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?

Yes. The focus should be on the protection and the potential risk to the public and the threshold based on risk should be consistent for all professions to be included in the National Scheme.

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

The Guild would need further information about any proposed amendments to respond to this question.
8. Should a reconstituted Australian Health Workforce Advisory Council be the vehicle to provide expert advice on threshold measures for entry to the National Scheme to the Health Workforce Ministerial Council?

The Guild is not able to make that judgement at this time.

**Complaints and Notifications**

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

Streamlining of the complaints and notification system is required. The Guild supports the delegation of the complaints handling function to a local panel where there is State and regional expertise. It is appropriate that complaints and disciplinary matters are heard and resolved at state and territory level with links to existing health complaints infrastructure.

The Guild notes that jurisdictions have deviated from the national template with respect to serious professional misconduct investigations. Given that states and territories are ultimately responsible for the quality of health services provided in their jurisdictions, it is theoretically acceptable for jurisdictions to use different complaints and notification systems to deal with failings in professional service, so long as:

- any sanctions that are applied are placed on the national register (so consumers know about the sanction); and
- the terms of the sanction are enforced in all jurisdictions participating in the national scheme of health professional registration.

There should be a clear statement that it is a notifications scheme and that the role of the notifier is limited to bringing concerns to the attention of the regulator. Processes and procedures that achieve a balance of suitable timeframes and adequate resources is essential. The Guild believes that the parties involved (the Boards, AHPRA and Health Complaints Entities) should work together to improve the process of triaging complaints and notifications. Performance measures around timeframes would ensure a tightly managed system.

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

The co-regulatory approach in Queensland was implemented on 1 July 2014 and therefore there has been insufficient time to assess this approach at this time.

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

On balance, it would probably assist consumers if there was a single entry point for complaints and notifications. The new Queensland system is probably ‘best practice’ in this regard. A national database could provide the opportunity to have information in one place and ensure monitoring progress of a notification/complaint could be achieved with ease.

It would also avoid duplication in the preliminary assessment and investigation of matters and gives notifiers access to alternative dispute resolution/conciliation where the Health Complaints Entities have determined the matter is serious.
12. Should performance measures and prescribed timeframes for dealing with complaints and notifications be adopted nationally?

The Guild supports performance measures as well as timeframes being adopted nationally. Performance measures would provide information about capacity and efficiency. National timeframes would assist to streamline the process and provide national consistency and should be part of a continuous improvement process. It has been reported to the Guild that matters coming before a professional standards panel have generally occurred up to 18 months prior and it has been difficult for the practitioner to respond appropriately after that amount of time.

It is important to have consistency across all jurisdictions. There is a need for similar outcomes from similar notifications irrespective of origin. This could be achieved by States or Territories referring to and monitoring case outcomes in other jurisdictions where appropriate.

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

While there are a number of publications for both notifiers and practitioners available, the process and the documentation will benefit from regular review for improvement as required to ensure the appropriate balance between transparency for the public and the rights of practitioners.

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

Health Complaints Entities are set up to provide dispute resolutions therefore they are the most appropriate vehicles to settle matters by consent between parties. However, if the national boards are able to adopt alternative approach and if this leads to a reduced timeframe in dispute resolution process, it may be worth considering.

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

The Guild believes allegations and unproven matters should not be published. Disciplinary sanctions should be published on the public register while they are current i.e. until the practitioner returns to full practice.

The Guild has been informed that there have been occasions when practitioners have been instructed to engage a mentor for a period of time before being able to return to practice. Finding a mentor has proved difficult and perhaps providing funding towards a pool of peers who are able to provide this service would help to facilitate the process. This may be another matter for the reconstituted Australian Health Workforce Advisory Council to consider.

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

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

The example provided by the Guild earlier illustrates a need to re-examine whether title protection and advertising provisions of the National Law offer appropriate protection to consumers against unqualified people providing regulated services.
Consumers suffer from information asymmetry when it comes to making decisions about the provision of health services.

The fact that some jurisdictions are introducing additional ‘practice protections’ (e.g. South Australia’s decision on birthing practices) is evidence that the consumer protection goals of the National Law could be better served by considering an increased use of practice protection rather than the current scheme.

The Guild therefore suggests the final report of the Review recommend a specific review of whether Division 10 of Part 7 of the National Law satisfactorily protects the interests of consumers.

This could be an issue for a reconstituted Australian Health Workforce Advisory Council to consider.

In the meantime, as discussed above, jurisdictions are implementing their own practice protection measures. The Guild regards it as unlikely that these jurisdictions will remove these provisions.

Moreover, as States are still ultimately responsible for the safe provision of health services to their communities it is possible that further health services could be restricted to specific professions over time to answer recommendations made by coroners, as occurred in the South Australian example.

This imposes on a health professional and their employer a need to understand the licensing requirements in each jurisdiction and ensure they do not carry out work they are not licensed or qualified to do, a circumstance similar to the arrangements that apply to a driver’s licence, where a licence in one jurisdiction entitles the bearer to drive anywhere in Australia although the licensee must be aware of, and comply with, any local laws.

It is also a situation that would arise in a ‘mutual recognition’ licensing model.

This means that the websites operated by National Boards and the National Agency must make extremely clear the jurisdiction specific practice protection provisions that are implemented for the information of both health professionals and consumers.

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?

The final consultation report on the National Code of Conduct should identify what legislation is needed to support the proper implementation of the Code to protect the public from risk of harm from unregistered health practitioners.

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?

The Guild believes that it is important that health practitioners seek early treatment for health conditions and they should not be deterred for any reason. There should be national consistency in mandatory reporting rules.
Other Topical Areas

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, responsive and sustainable health workforce, and innovation in education and service delivery?

The Guild believes that the Pharmacy Board of Australia (PharmBA) and the Australian Pharmacy Council (APC) meet the statutory objectives and guiding principles of the National Law. The PharmBA and the APC ensure the requirements are maintained as outlined through both accreditation of academic facilities and pharmacy qualification; and through the accreditation of Continual Professional Development organisations.

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

If the AHWAC were to carry this responsibility they would require a membership with sufficient expertise. It is also important to ensure the workforce remains skilled in areas of need, and key workforce reform priorities as identified are reflected within training (initial and ongoing through CPD).

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

There are different standards for accreditation for different professions and hence specific requirements may apply as relevant to the specific profession.

The Guild agrees that multi-disciplinary training is important to develop inter-professional collaboration and shared learning for better patient outcomes. A review of the Pharmacist Competency Framework is currently being undertaken and the Framework will be broadened to include the ability to adapt to changes in the profession and health care needs.

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

Guidance on minimum requirements for pharmacy programs is provided through specialised industry advisors. Although universities are responsible for the construct of their programs, the accreditation via the Australian Pharmacy Council (APC) ensures that specific learning domains are addressed throughout the course. The APC Accreditation Colloquium held recently had relevant stakeholders discussing the matching of course content and focus of pharmacy programs as well as the actual conduct of the profession.
24. How effective are the current processes with respect to assessment and supervision of overseas trained practitioners?

The Australian Pharmacy Council has effective processes for consideration and assessing requirements for overseas trained pharmacists. It is appropriate and necessary for these pharmacists to have a period of supervised practice and an examination as the Australian pharmacy and medicine regulation environment is different to other countries. This ensures these pharmacists practise safely within the limits of the law.

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

There is not sufficient information provided to determine what precisely is meant by merit. However, the Guild is of the view that the appointment of a Chairperson of a National Board must be a practitioner of that board.

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?

The Guild believes that within pharmacy, there is clear delineation between the Pharmacy Board of Australia and Australian Pharmacy Council, although increased communication within the sector would improve meeting of the objectives of the National Law.

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

There is sufficient oversight for decisions made by the Australian Pharmacy Council.

28. The Review seeks comment on the proposed amendments to the National Law.

The proposed amendments to the Health Practitioner Regulation National Law appear sensible from the perspective of improving the operation of the National Scheme. Further amendments could also be considered to strengthen the s136 of the National Law in relation to directing or inciting unprofessional conduct.