

# FORUM OF AUSTRALIAN HEALTH PROFESSIONS COUNCILS

## Response of the Forum of Australian Health Professions Councils to the Exposure Draft of the Health Practitioner Regulation National Law

### **Preamble**

The Forum of Australian Health Professions Councils (the Forum) is a coalition of the ten Councils concerned with accreditation in each of the regulated health professions. It comprises the:

Australian Dental Council  
Australian Medical Council  
Australian Nursing and Midwifery Council  
Australian Osteopathic Council  
Australian Pharmacy Council  
Australian Physiotherapy Council  
Australian Psychology Accreditation Council  
Australian and New Zealand Podiatry Accreditation Council  
Council on Chiropractic Education Australasia  
Optometry Council of Australia and New Zealand

The Forum welcomes the opportunity to comment on the exposure draft of the Health Practitioner Regulation National Law (Bill B) and appreciates the recent opportunity provided to the Forum to discuss the contents of Bill B with members of the National Registration and Accreditation Implementation Project Team. The Forum congratulates the Team on the efforts to accommodate the issues raised during the consultation process on the national registration and accreditation scheme (NRAS) in the content and wording of Bill B.

Several of the issues raised by the Forum and the individual Councils during the consultation process were addressed in the Australian Health Workforce Ministerial Council Communiqué of 8 May 2009. However, as the NRAS is such an important change to the regulation of the health professions and is of such complexity that the provisions of the National Law must be as clear as possible and there are a number of issues which need further clarification in the Bill.

This submission constitutes a consensus response of the Forum. It is confined to the general issues below that are common to all the health professions, and in the main concentrates on the matters related to accreditation, accreditation standards and accreditation functions. Each of the member organisations will be making separate submissions on issues more germane to their profession, and what is said here cannot be seen to override the views expressed by the member councils in their individual submissions.

### **Issues**

#### **1. Definition of Accreditation Standards (Clause 6)**

The definition of accreditation standard in this draft of the legislation is considered by the Forum to be too narrow as it does not adequately reflect the objectives and principles of the NRAS (and the legislation), or that education and training programs provide for safe practice on graduation and throughout a practitioner's professional life. The aim of accreditation is to ensure that a program of education and training has the appropriate objectives and resources and has the conditions to reasonably allow for the achievement of those objectives. Accreditation bodies through well conducted accreditation processes have access to

information about education and training in the profession across the institutions and the challenges that confront it. Accreditation processes can contribute to ongoing improvement in the quality of health profession education in line with health needs and practices and scientific developments. The current definition in the legislation does not reflect these important aspects of accreditation.

It is suggested that the following would be a more appropriate definition of *accreditation standard*:

'for a health profession, means a standard used by an accreditation authority to assess whether a program of study for the health profession and the institution that offers the program, provide graduates with the necessary knowledge, skills and professional attributes to practise the profession in Australia safely and effectively both on graduation and throughout their professional career; and to guide continuous improvement of the program'.

Such a change to the definition in Clause 6 would require redrafting of Clause 59 (c).

## **2. Independence of the Accreditation Function**

Throughout the consultation period the Forum has maintained that the accreditation functions of the professions must be independent. The 8 May Communiqué states 'that the accreditation function will be independent of governments' except allowing for the Ministerial Council to 'have powers to act ... where it believes that changes to an accreditation standard, including changes to clinical placement hours or workplace and work practice, would have a significantly negative effect.'

### **2.1 Intervention by Ministerial Council in Accreditation Standards (Clause 10)**

The stated aim of the Health Practitioner National Law is the 'protection of the public'; 'facilitating high quality education and training' and 'supporting continuous development of a flexible, responsive and sustainable workforce and enabling innovation in education and service delivery'. The legislation as drafted provides for the Ministerial Council to give direction to a National Board if 'in the Council's opinion, the accreditation standard will have a substantive and negative impact on the recruitment or supply of health practitioners to the workforce'. The Forum believes that the grounds for the Ministerial Council to give direction to the National Board in relation to an accreditation standard should not rest solely on workforce recruitment matters but rather should rest on whether or not an accreditation standard will have a negative impact on public safety, taking into account the quality of the graduates of the education and training programs as well as the number i.e. on meeting the objectives and guiding principles of the national registration and accreditation scheme as set out in Clause 4 (1).

The draft of the legislation does not make it clear whether the Ministerial Council reserve power in relation to an accreditation standard applies only to the changing of an accreditation standard (or presumably the introduction of a new accreditation standard) or whether it could be exercised in relation to existing accreditation standards.

### **2.2 Appointment of Accreditation Entity (Clause 60)**

The appointment of the external accreditation entity initially has been undertaken by the Ministerial Council and the draft of the legislation provides for this to continue (on the basis of a recommendation by the National Board). The Forum believes that a distinction should be made in the legislation between the transitional arrangements where, in the main, the accreditation functions have been assigned to the existing accreditation entities by the Ministerial Council, and the provisions of the legislation for the appointment of an external accreditation entity. Members of the Forum assert that the National Board is the body most appropriate to appoint the external accreditation entity; this would strengthen the independence of the accreditation function

### **2.3 Non External Accreditation Entity (Clauses 60 and 62)**

In the transitional arrangements for the majority of the professions the accreditation functions have been assigned to an external entity. The Forum submits that the establishment of a committee of the National Board for the accreditation function for any of the health professions under the scheme potentially provides for a less than independent accreditation authority for that profession as not only is the appointment made by the National Board but the committee is also directly responsible to the National Board. The appointment of an external accreditation entity should be the preferred course of action and the Forum believes that the accreditation committee structure should only be applied 'until such time as an external accreditation entity is appointed'.

### **2.4 Composition and Chairmanship of the National Board (Clause 45)**

While appreciating that the size and consequent cost of a National Board must be in proportion to the size of the profession, the Forum maintains that the composition of the National Board must take into account the issues and perspectives that arise in all parts of Australia and therefore asserts that the provisions of the legislation in pre-determining the composition of the Board on jurisdictional lines may fail to take into account matters pertinent to a particular profession. Further, it is asserted that appointments to the National Board should be based on selection of the best candidates rather than being driven by a formula that reflects predominantly jurisdictional interests.

The Forum believes that the membership of the National Board should be in a position to make a recommendation to the Ministerial Council on the appointment of the Chair of the National Board.

## **3. Accreditation Functions**

### **3.1 Role of the National Board in Accreditation Standards (Clause 49)**

The legislation provides for the National Board to 'approve' the accreditation standards submitted to it by the accreditation authority. The Forum suggests that it is more appropriate for the National Board to 'accept' or 'endorse' the accreditation standards of the accreditation entity, thus reinforcing the independence of the accreditation function.

### **3.2 Assessment of Overseas Trained Practitioners (Clauses 59, 71 and 77)**

In relation to those overseas qualified health practitioners the definition of 'accreditation function' (Clause 59) includes provision for 'assessing authorities in other countries ..... to decide whether the programs of study accredited by the authorities give persons who complete the programs the necessary knowledge and clinical skills to practise the profession in Australia' or 'overseeing the assessment of the knowledge and clinical skills of overseas trained health practitioners' seeking registration in Australia. The words 'and professional attributes' should be inserted in each of part (c) and (d) in keeping with the definition of an accreditation standard. The term 'overseas qualified' may better reflect the group of practitioners to whom reference is being made as there are Australian qualified practitioners who undertake part of their training overseas.

It is unclear in Clauses 59, 71 and 77 whether the accreditation authority must undertake each of these functions or whether the accreditation functions in relation to international graduates could be split and if so the circumstances under which the functions might be assigned to different entities.

### **3.3 Accreditation with Conditions (Clauses 66 and 67)**

The draft legislation provides for the accreditation authority to 'accredit a program of study if the authority believes the program meets an approved accreditation standard' or 'to refuse to accredit a program of study'. The draft legislation does not therefore appear to allow for the all important accreditation of an education and training program with conditions (a grading of accreditation, a listing of what is to be achieved with an agreed timeline for the achievement of the conditions). The existing accreditation bodies work on the basis of providing 'conditional' or 'provisional' accreditation or accrediting for shorter periods and requiring regular reporting from an institution on progress in specific areas. This approach allows for a program to be established, changed or developed within a reasonable time frame and within prescribed limits, encourages a collegial approach to accreditation developed by the existing bodies, particularly with those institutions undergoing change, and encourages continual improvement.

Monitoring of the approved courses of study is part of the regular accreditation function of the existing accreditation bodies, however the legislation should allow for the imposition of conditions if an institution is not maintaining the quality of its program to allow an appropriately limited period of time for the program to respond to the accreditation requirements rather than the revocation of the accreditation in the first instance.

### **3.4 Withdrawal of Accreditation**

The Forum believes that the inclusion of the provision of a category of 'accreditation withdrawn' or 'accreditation revoked', rather than simply no longer including a program on the list of approved programs, would be a strong motivator of institutions and importantly a very useful educational tool for the public.

### **3.5 Publication of Accreditation Findings (Clause 67)**

The Forum maintains that in the interests of transparency and best practice the accreditation findings for accreditation decisions (including conditional) should be published under all circumstances, not just when there is an adverse finding.

## **Contacts**

For further discussion on the matters raised in this submission please contact:

Chair: Professor Joan McMeeken  
Deputy Chair: Emeritus Professor Gina Geffen  
Forum Secretariat: Ms Peggy Sanders