

31st October 2018

NRAS Review Implementation Project Secretariat
Health and Human Services Regulation and Reform
Department of Health and Human Services
GPO Box 4057
MELBOURNE VIC 3001

To whom it may concern,

Re: Potential Reforms to the Health Practitioner Regulation National Law

Medical Deans Australia and New Zealand (Medical Deans) appreciates the opportunity to review and provide comment on the proposed changes to the Health Practitioner Regulation National Law, as outlined in the consultation paper “Regulation of Australia’s health professions: Keeping the National Law up to date and fit for purpose”.

As the national peak body representing Australia’s 20 medical schools, having an effective, efficient and responsive system for the regulation of health professionals and their practice is vital. The establishment of the National Regulation and Accreditation Scheme has provided our members with crucial guidance to their work delivering high-quality, socially accountable, relevant and responsive medical education to produce the medical graduates needed for Australia’s future health workforce.

In terms of the reforms proposed in the consultation paper, some questions relate to aspects that are best addressed by others. We have therefore limited our responses to those that either directly affect our schools and students, or relate to aspects that Medical Deans feels are relevant to all stakeholders working in this area.

Governance of the National Scheme

Section 3.1

We fully agree with the recommendation detailed in section 3.1 to include explicit reference to cultural safety for Aboriginal and Torres Strait Islander peoples within the National Scheme’s objectives and guiding principles, and believe that this could make a substantial contribution to improving access to and the delivery of culturally safe care and to reducing the health inequities for Australia’s First Peoples. We therefore support the proposal to add an additional objective and guiding principle and support the suggested amendments.

Section 3.2

Medical Deans supports merit-based appointments. However to properly and fully deliver on all aspect of the role, it is necessary that any Chair of a National Board has the requisite understanding,

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expertise and credibility in the relevant profession. Having the trust of both the profession and the public, detailed knowledge of the relevant profession, and the authority to engage with other expert stakeholders is fundamental to the role of a Chair and should not be compromised. We therefore do not support the proposed change to remove the requirement for the Chair to be a practitioner member.

We note the statement in the consultation paper that there have been times where no practitioner-member has been willing to take on the Chair role. It is important that the underlying reasons for this reluctance are explored, identified and resolved. This should be undertaken in consultation with the profession, not only to gain their input, but also to promote the importance of this role and motivate people to step forward.

In addition, whilst we support the inclusion of one or more non-discipline members in panels, we do not support the proposal that the Chair can be from any discipline. This would almost certainly result in recommendations that are neither meaningful nor feasible within that discipline context and undermine the credibility and validity of the regulation process as a whole.

Section 3.3

In terms of strengthening linkages, one area that could be considered is strengthening the longitudinal connections between notification of a medical student and any subsequent postgraduate notifications, as we understand that this doesn't always happen.

We are aware of discussions taking place in a number of jurisdictions about the move for medical schools to provide information on students to the organisation who will be employing them during their internship, with the aim for them to better understand the new interns' needs and therefore being able to better respond to and support them. Whilst we recognise and support the aim of this development, it is important to acknowledge and address the valid concern from students that the disclosure of information – which would include information on mental health issues or difficulties experienced during medical school – could in fact harm not help them and their career. Unless there is a strong level of confidence that this will not be the case, this concern – whether real or perceived – means there is a substantial risk that this would impact students disclosing these issues at all.

Whilst we acknowledge that these are largely self-reporting, graduates do already have opportunities for flagging concerns – including during registration. Any automatic or mandatory sharing of personal information between organisations needs to be carefully thought through and undertaken with appropriate student consent so that there are no unintended adverse consequences as a result. Experience from overseas indicates that this can take up to a decade to be successfully implemented; a timeframe which needs to be expected and reflected in the discussions and plans.

Section 4.3

With reference to section 4.3, Medical Deans' comments refer solely to the context of graduates of medical schools applying for provisional registration.

Medical graduates transitioning into clinical practice as interns are already closely supervised and managed. They must demonstrate their suitability for general registration at the conclusion of the intern year.

The period of time between finalisation of grades and determination of eligibility to graduate from university and commencement of employment as an intern is tight – typically a matter of weeks. Issues can arise in the lead-up to this period that may have implications for provisional registration. These may, for instance, include mental health concerns, substance use issues and occasionally physical impairments.

Such matters are generally considered and dealt with in advance. Both medical schools and state and territory boards of the Medical Board of Australia provide advice to prospective graduates to that effect.

Nonetheless, there are instances where the limited time that is available to give notice and undertake an assessment when an issue is identified may result in the commencement of internship being delayed, sometimes needlessly. This has an impact both on the graduate and the employing hospital.

A capacity for the Board to accept a voluntary undertaking from an applicant (in lieu of imposing a condition) would provide an alternative in some of those cases and would avoid unwarranted disruption. Voluntary undertakings might include, for instance, evidence of engagement in a program of treatment, drug screening or special supervision arrangements. Subject to due process, where an undertaking has been breached it would seem appropriate for the Medical Board to refuse to renew registration.

Section 4.4

With reference to section 4.4, reporting of professional negligence settlements and judgement, Medical Deans' defers to the views of other stakeholders as the proposed reforms would almost always affect generally registered practitioners rather than students on a clinical placement.

Section 5.4.1

With regard to the section on the 'show cause' process, we support the proposed change that would oblige a National Board to afford a show cause opportunity in all instances, to support procedural fairness and alignment with both current practice and emerging law.

Section 5.6.1

With regard to section 5.6.1, right of appeal of a caution, we support changing the National Law so that cautions can be appealed, so they are consistent with other decisions made by National Boards.

Again, we appreciate the opportunity to provide feedback to this review to ensure that the National Law continues to evolve and improve, and continues to support the provision of high quality, safe care to patients and provide a fair, rigorous and responsive approach to the regulation of all health professions and professionals.

Should you wish to discuss any of these comments, please contact Medical Deans CEO Helen Craig at hcraig@medicaldeans.org.au or on (02) 8084 6557.

Yours sincerely

A handwritten signature in black ink, appearing to be 'RM', written in a cursive style.

Professor Richard Murray

President

Medical Deans Australia and New Zealand