



Submission
Senate Community Affairs Legislation Committee Inquiry:
Health Practitioner Regulation (Consequential Amendments) Bill 2010

1. Background on the National Registration and Accreditation Scheme for the health professions

The Council of Australian Governments (COAG) agreed on 14 July 2006 to establish a national registration scheme for health professionals and a national accreditation scheme for health education and training. COAG subsequently agreed to establish a single national scheme, with a single national agency encompassing both the registration and accreditation functions. At the COAG meeting on 26 March 2008, the Prime Minister and all Premiers and Chief Ministers signed an Intergovernmental Agreement (IGA) to implement the National Registration and Accreditation Scheme for the health professions (the Scheme) by 1 July 2010.

The NRAS will address the current inconsistencies in registration standards between states and territories. Patient safety will be improved by recording registration details on a single system accessible across Australia. A strong state and territory presence will enable the agency to respond quickly to threats to patient safety.

The legislative framework for the NRAS is an applied laws model:

- a. Queensland is the lead state. The first tranche of legislation, the *Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008 (Qld)*, known as 'Act A' received Royal Assent on 25 November 2008. This Act established the structure and functions of the NRAS, including the new national agency, the Australian Health Practitioner Regulation Agency (AHPRA) and the Australian Health Workforce Ministerial Council (Ministerial Council).
- b. The second tranche of legislation, the *Health Practitioner Regulation National Law Act 2009 (Qld)*, known as 'the National Law' received Royal Assent on 3 November 2009. The National Law details the substantive provisions for registration and accreditation and replaces the first tranche of legislation.
- c. The third tranche of legislation involves the States and Territories passing legislation to apply the National Law and to include jurisdiction specific consequential and transitional provisions (referred to as 'Bill Cs). The Commonwealth does not need to apply the National Law, however consequential and transitional amendments to Commonwealth legislation is required to recognise and support the NRAS.

A summary of each jurisdictions legislative timing is at [Attachment 1](#).

The website providing updates on the NRAS is www.ahpra.gov.au

2. The National Law: *Health Practitioner Regulation National Law Act 2009*

The National Law continues the administrative arrangements established under Act A, and covers the more substantial elements of the Scheme, including registration and accreditation arrangements, complaints, conduct, health and performance arrangements, privacy and information sharing arrangements, and transitional arrangements.

Part 2 of the National Law has provisions relating to the Australian Health Workforce Ministerial Council (Ministerial Council) (extract in full at [Attachment 2](#)).

Section 12 of the National Law provides that the Ministerial Council approves registration standards recommended by National Boards.

Section 11(3)(d) of the National Law provides for [Ministerial reserve powers relating to accreditation standards](#) ([Attachment 2](#) refers).

3. The *Health Practitioner Regulation (Consequential Amendments) Bill 2010*: examine the implications for healthcare providers, particularly the reserve powers relating to registration requirements

The *Health Practitioner Regulation (Consequential Amendments) Bill 2010* (the Bill) had T-status for the Autumn sitting and was introduced into the House of Representatives on 24 February 2010. This Bill does not have any provisions relating to Ministerial reserve powers on registration requirements, as this is provided for in the National Law, as discussed above.

The Bill provides for consequential amendments to recognise and support the implementation of the Scheme. The Bill also proposes to streamline the extensive processes involved in the recognition of doctors for Medicare purposes under the *Health Insurance Act 1973* (HIA) ensuring reduction of red tape.

The HIA provides various pathways for recognising specialists, consultant physicians and general practitioners (GPs) for Medicare purposes. The current HIA pathways to specialist, consultant physician and GP recognition necessitate communication exchange between Medicare Australia and relevant organisations (such as medical colleges) to ascertain eligibility.

The requirement to enact consequential amendments to Commonwealth health legislation provides an opportunity to streamline current specialist recognition processes under Commonwealth legislation, including removing the current Vocational Register for GPs. Medical practitioners will benefit by reducing administrative requirements with a simpler pathway.

The Bill was scheduled for debate the week commencing 9 March 2010, however the full program of Bills in the Autumn sitting has delayed debate until the Winter sitting.

If passage of the Bill is delayed, there are sufficient contingencies in place to ensure that no health professional will be affected in terms of delivery of care and patients will still be able to receive Medicare benefits.

Jurisdictions - Summary of Legislative Timing

Jurisdiction	Legislative Timing
Victoria	<ul style="list-style-type: none"> • <i>Health Practitioner Regulation National Law (Victoria) Act 2009</i> gained Royal Assent on 8/12/2009; national law to commence on 1 July 2010 • Consequential amendments to support implementation of the national law – passed on 25/03/10 – IN SCHEME
ACT	<ul style="list-style-type: none"> • <i>Health Practitioner Regulation National Law (ACT) Bill</i> (adoption and consequential) was introduced in December 2009. Passed on 16/03/10 - IN SCHEME
Queensland	<ul style="list-style-type: none"> • <i>Health Practitioner Regulation National Law Act 2009 (Act B)</i> gained Royal Assent on 3/11/2009; national law to commence on 1 July 2010 • Consequential amendments to support implementation of the national law – introduced on 25 March 2010; anticipated debate/passage 13-15 April or 18-20 May 2010
NSW	<ul style="list-style-type: none"> • <i>Health Practitioner Regulation Act 2009</i> gained Royal Assent on 19/11/2009; national law to commence on 1 July 2010 • Consequential amendments to support implementation of the national law – to be introduced for debate/passage by April/May 2010
NT	<ul style="list-style-type: none"> • <i>Health Practitioner Regulation (National Uniform Legislation) Bill</i> (adoption and consequential) was introduced in November 2009 and passed on 17 March 2010 • Consequential amendments to support implementation of the national law – introduced on 24 February 2010 for debate/passage by April/May 2010
Commonwealth	<ul style="list-style-type: none"> • <i>Health Practitioner Regulation (Consequential Amendments) Bill 2010</i> introduced 24 February 2010; debate and passage anticipated in May 2010 • NB Commonwealth Bill will make consequential amendments to support implementation of the scheme; not required to have adoption law
WA	<ul style="list-style-type: none"> • Bill C expected to be introduced into Parliament on 23 April 2010 for potential debate and passage by May 2010
Tasmania	<ul style="list-style-type: none"> • The 20 March 2010 resulted in a hung parliament. On 8 April 2010 the Governor of Tasmania announced that the incumbent holder of the Commission was obliged to form a Government; therefore no change of Government. • The Bills C (adoption & consequential) will be re-introduced into Parliament for debate and passage by May 2010 – subject to Parliamentary priorities
SA	<ul style="list-style-type: none"> • The 20 March 2010 election is settled with the incumbent government retained • Bills C (adoption and consequential) to be introduced into Parliament in April for potential debate by May 2010 – dependent on election timing and Parliamentary priorities

Legend:

	Adoption law and Consequential Amendments law passed
	Adoption law passed
	Adoption and/or Consequential law introduced
	Adoption and Consequential legislation pending introduction

Health Practitioner Regulation National Law Act 2009**Part 2 Ministerial Council****11 Policy directions**

- (1) The Ministerial Council may give directions to the National Agency about the policies to be applied by the National Agency in exercising its functions under this Law.
- (2) The Ministerial Council may give directions to a National Board about the policies to be applied by the National Board in exercising its functions under this Law.
- (3) Without limiting subsections (1) and (2), a direction under this section may relate to—
 - (a) a matter relevant to the policies of the National Agency or a National Board; or
 - (b) an administrative process of the National Agency or a National Board; or
 - (c) a procedure of the National Agency or a National Board; or
 - (d) a particular proposed accreditation standard, or a particular proposed amendment of an accreditation standard, for a health profession.
- (4) However, the Ministerial Council may give a National Board a direction under subsection (3)(d) only if—
 - (a) in the Council's opinion, the proposed accreditation standard or amendment will have a substantive and negative impact on the recruitment or supply of health practitioners; and
 - (b) the Council has first given consideration to the potential impact of the Council's direction on the quality and safety of health care.
- (5) A direction under this section cannot be about—
 - (a) a particular person; or
 - (b) a particular qualification; or
 - (c) a particular application, notification or proceeding.
- (6) The National Agency or a National Board must comply with a direction given to it by the Ministerial Council under this section.

12 Approval of registration standards

- (1) The Ministerial Council may approve a registration standard about—
 - (a) the registration, or renewal of registration, of persons in a health profession; or
 - (b) the endorsement, or renewal of the endorsement, of the registration of registered health practitioners.
- (2) The Ministerial Council may approve a registration standard for a health profession only if—
 - (a) its approval is recommended by the National Board established for the health profession; and
 - (b) it does not provide for a matter about which an accreditation standard may provide.

Note. An accreditation standard for a health profession is a standard used to assess whether a program of study, and the education provider that provides the program, provide persons who complete the program with the knowledge, skills and professional attributes to practise the profession in Australia. Accreditation standards are developed and approved under Division 3 of Part 6.

- (3) The Ministerial Council may, at any time, ask a National Board to review an approved or proposed registration standard for the health profession for which the National Board is established.

13 Approvals in relation to specialist registration

- (1) The following health professions, or divisions of health professions, are health professions for which specialist recognition operates under this Law—
 - (a) the medical profession;
 - (b) the dentists division of the dental profession;
 - (c) any other health profession approved by the Ministerial Council, on the recommendation of the National Board established for the profession.
- (2) If a health profession is a profession for which specialist recognition operates, the Ministerial Council may, on the recommendation of the National Board established for the profession—
 - (a) approve a list of specialties for the profession; and

- (b) approve one or more specialist titles for each specialty in the list.
- (3) In making a recommendation to the Ministerial Council for the purposes of subsection (1)(c) or (2), a National Board established for a health profession may have regard to any relevant advice provided by—
 - (a) an accreditation authority for the profession; or
 - (b) a specialist college for the profession.
- (4) The Ministerial Council may provide guidance to a National Board established for a health profession for which specialist recognition will operate in relation to the criteria for the approval of specialties for the profession by the Council.

14 Approval of endorsement in relation to scheduled medicines

- (1) The Ministerial Council may, on the recommendation of a National Board, decide that the Board may endorse the registration of health practitioners practising the profession for which the Board is established as being qualified to administer, obtain, possess, prescribe, sell, supply or use a scheduled medicine or class of scheduled medicines.

Note. See section 94 which provides for the endorsement of health practitioners' registration in relation to scheduled medicines.

- (2) An approval under subsection (1) is to specify—
 - (a) the class of health practitioners registered by the Board to which the approval relates; and
 - (b) whether the National Board may endorse the registration of the class of health practitioners as being qualified in relation to a particular scheduled medicine or a class of scheduled medicines; and
 - (c) whether the National Board may endorse the registration of the class of health practitioners in relation to administering, obtaining, possessing, prescribing, selling, supplying or using the scheduled medicine or class of scheduled medicines.

15 Approval of areas of practice for purposes of endorsement

The Ministerial Council may, on the recommendation of a National Board, approve an area of practice in the health profession for which the Board is established as being an area of practice for which the registration of a health practitioner registered in the profession may be endorsed.

Note. See section 98 which provides for the endorsement of health practitioners' registration in relation to approved areas of practice.

16 How Ministerial Council exercises functions

- (1) The Ministerial Council is to give a direction or approval, or make a recommendation, request or appointment, for the purposes of a provision of this Law by resolution of the Council passed in accordance with procedures determined by the Council.
- (2) An act or thing done by the Ministerial Council (whether by resolution, instrument or otherwise) does not cease to have effect merely because of a change in the Council's membership.

17 Notification and publication of directions and approvals

- (1) A copy of any direction given by the Ministerial Council to the National Agency—
 - (a) is to be given to the Chairperson of the Agency Management Committee; and
 - (b) must be published by the National Agency on its website as soon as practicable after being received by the Chairperson.
- (2) A copy of a direction or approval given by the Ministerial Council to a National Board—
 - (a) is to be given to the Chairperson of the National Board; and
 - (b) if the direction is given under section 11(3)(d), is to include reasons for the direction; and
 - (c) must be published by the National Board on its website as soon as practicable after being received by the Chairperson.
- (3) A copy of a direction or approval given by the Ministerial Council to the National Agency or to a National Board is to be published in the annual report of the National Agency.