The Royal Australian and New Zealand College of Radiologists®

Submission to Inquiry into Administration of Registration and Notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law

The Royal Australian and New Zealand College of Radiologists (RANZCR) is committed to improving health outcomes for all, by educating and supporting clinical radiologists and radiation oncologists. RANZCR is dedicated to setting standards, professional training, assessment and accreditation, and advocating access to quality care in both professions to create healthier communities.

RANZCR creates a positive impact by driving change, focusing on the professional development of its members and advancing best practice health policy and advocacy, to enable better patient outcomes.

RANZCR members are critical to health services: radiation oncology is a vital component in the treatment of cancer; clinical radiology is central to the diagnosis and treatment of disease and injury.

RANZCR Response to the Terms of Reference

(a) the current standards for registration of health practitioners by the Australian Health Practitioner Regulation Agency (AHPRA) and the National Boards under the Health Practitioner Regulation National Law (National Law);

RANZCR is very concerned about the operations of National Boards under the National Registration and Accreditation Scheme, the lack of appropriate governance oversight and lack of assurance of proper process by these Boards, and most importantly the risk it creates to patient safety. Protection of the public is the primary directive of the Boards and the Australian Health Practitioner Regulation Agency (Ahpra) as stated in their mandate.

It is RANZCR's understanding that the National Registration and Accreditation Scheme was not designed to be the arbiter of scope of practice for the various professions it registers, and that the National Boards were not intended to oversee, determine, nor extend the scope of practice for the relevant profession.

One of the functions of the Boards is to develop standards, codes and guidelines which are then presented to the Ministerial Council for their approval. However, the lack of governance oversight by the Ministerial Council has created an environment where extension of the scope of practice is occurring without Ministerial Council consideration. RANZCR is not opposed to appropriate role extension, however it must benefit patient care and must not result in non-medical specialists(without the appropriate skills and training) being allowed to perform functions that are in the domain of trained specialist medical practitioners.

Our concerns are illuminated by the March 2020 publication of *Professional capabilities for competencies for medical radiation practitioners*[1] (Professional Capabilities) by the Medical Radiation Practice Board (MRPB) and the process by which it was developed.

The Professional Capabilities document was developed and approved by the MRPB. It is not good governance practice for a single entity to approve work they have developed. There is no mechanism to identify bias and an inherent conflict of interest that should be managed by the governing body, in this case the Ministerial Council.

[1] Medical Radiation Practice Board. Professional Capabilities for Medical Radiation Practice. 1 March 2020. Available at: https://www.medicalradiationpracticeboard.gov.au/Registration/Professional-Capabilities.aspx

The Professional Capabilities document has been described by the MRPB as a guideline. However, the same document states:

> *"The professional capabilities identify the knowledge, skills and professional attributes needed to safely and competently practise as a diagnostic radiographer, a nuclear medicine technologist or a radiation therapist in Australia. They describe the threshold level of professional capability needed for both initial and continuing registration."*

This statement, as well as others in the document, clearly describes a minimum standard that must be achieved to meet MRPB registration requirements. The language and described purpose of the capabilities document details a mandatory standard for registration and therefore cannot be considered as just a guideline.

The MRPB is regulated by the Australian Health Workforce Ministerial Council (Ministerial Council) which with the transition of Council of Australian Governments (COAG) to the National Federation Reform Council is now known as the Health Council, under the enabling legislation of the *Health Practitioner National Law (*National Law). The National Law states that the function of National Boards, as set out in clause 35(1)(c)(ii) is:

> "*development of registration standards for approval by the Ministerial Council."*

In describing the capabilities that must be achieved to meet MRPB registration requirements, regardless of the title, the capabilities document is in fact setting a standard and by law must therefore be approved by the Ministerial Council.

RANZCR believes that the MRPB has not met its legal obligations under the National Law. We further believe that Ahpra has also failed to meet its legal obligations to provide adequate oversight of the MRPB to ensure that it acts within the law. As a registration standard the capabilities document should have been submitted for approval by the Ministerial Council.

Australian patients expect that the person delivering their medical care is appropriately skilled and trained. Further, Australians expect that the Government sets and enforces regulations to ensure that all health professionals are appropriately qualified. The lack of oversight of the MRPB does not meet this expectation.

Consultation process

RANZCR has engaged with both the MRPB and Ahpra several times to provide feedback to the serious concerns that the Professional Capabilities document, firstly extends the scope of practice of a medical radiation practitioner (radiographer) to include tasks that require medical training to safely perform, and secondly, as a standard it would require all medical radiation practitioners to practise at a level beyond their training. These concerns have been disregarded by both entities. We believe that this poses a serious risk to patient safety, to medical radiation practitioners themselves, and has serious medico-legal ramifications for all parties involved in the care of these patients.

The MRPB has documented the consultation process it undertook in reviewing the Professional Capabilities. While it lists a considerable consultation process, RANZCR believes that it was conducted in form only and did not engage appropriately with the feedback provided by stakeholders. Amendments to the professional capabilities based on stakeholder feedback are tokenistic at best. Not only was RANZCR's feedback ignored, feedback from many other stakeholders, covering a variety of issues, is also not reflected in the final Professional Capabilities.

It is insufficient to conduct consultation and consider the requirements met. Consultation must be a sincere process where stakeholder feedback is taken on board and influences the final

outcome. This demonstrates that stakeholder consultation alone is not a safeguard against inappropriate self-regulation and that appropriate independent governance oversight of the National Boards, including an appeal process, is required.

National Registration and Accreditation Scheme Review

The Accreditation Systems Review considered the nature of professional capabilities and similar competency statements. The Review[2] recommended that:

> *Recommendation 10*
> *National Boards should develop, and recommend to the Australia's Health Workforce Ministerial Council, profession-specific competency standards formally under the National Law in accordance with the legislative provisions established for the development of registration standards.*

The Consultation report [3] on these recommendations only supported Recommendation 10 in part, further recommending that:

> *COAG Health Council endorsement of competency standards is not considered necessary and risks delay in their production.*

The COAG Health Council accepted that its endorsement of competency standards is unnecessary as per the response published in February 2020 [4].

RANZCR strongly recommends that this decision be reconsidered. The reason given for accepting the recommendation in the Consultation report[3] was in relation to timing delays. The risks of the National Boards operating without an overarching governing body was not explored adequately. An independent governing body as is current established in the National Law should be maintained.

It is RANZCR's understanding that National Registration and Accreditation Scheme was not designed to be the authority of scope of practice for the various professions it registers. RANZCR supports clear registrations standards for health practitioners, however, is of the opinion that self-determined registration standards should not enable scope of practice expansion. The Scheme does not currently have a mechanism to manage disagreements among the professions, particularly as related to scope of practice, nor is there any adequate appeal process for the actions of the Boards.

The Victorian Government is currently preparing draft amendments to the Health Practitioner National Law for consideration by the Health Council. RANZCR is concerned by a number of the proposed amendments contained within the Consultation Draft the Health Practitioner Regulation National Law Amendment Bill 2021.

For example, the Draft Bill proposes to amend the National Law to allow the Ministerial Council to delegate its power to approve registration standards. RANZCR opposes this proposal because it has been, for some time, concerned by the operation of National Boards under the

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[2] COAG Health Council. Australia's Health Workforce: strengthening the education foundation, Independent Review of Accreditation Systems within the National Registration and Accreditation Scheme for health professions. Final Report November 2017. https://www.coaghealthcouncil.gov.au/Portals/0/ASReview%20FINAL%20Report.pdf
[3] COAG Health Council. Consultation report on implementation of recommendations from Australia's Health Workforce: strengthening the education foundation. October 2018. https://www.coaghealthcouncil.gov.au/Portals/0/Consultation%20report%20on%20implementation%20of%20recommendations%20from%20Australia%27s%20Health%20Workforce%20-%20strengthening%20the%20education%20foundation.pdf
[4] COAG Health Council communique. March 2020 https://www.coaghealthcouncil.gov.au/Portals/0/Final_Communique_ASR_Issued%20120220.pdf

National Registration and Accreditation Scheme. This submission to the Senate Community Affairs References Committee outlines the risks that this proposal entails.

Recommendations

1. The Medical Radiation Practice Board Professional Capabilities for Medical Radiation Practitioners"[1] be revised as a priority to more fully reflect stakeholder feedback and remove requirements outside the scope of practice of medical radiation practitioners that risks patient safety.
   In addition, the process undertaken by the MRPB for revising the Professional Capabilities for Medical Radiation Practitioners be investigated.

2. That the Health Council (formerly Ministerial Council) continues to provide governance oversight of the National Boards and Ahpra in a proactive manner. Failing this, governance oversight should be delegated to an independent body. There should not be a delegation to the National Board to approve amendments to the national regulations. Self-governance by National Boards does not serve the best interest of Australian patients nor support quality healthcare.

3. That an independent mechanism to arbitrate disagreements or consider appeals outside the Boards and AHPRA administration be established to manage the scope of practice of the various professions to ensure patient safety is maintained in registering of practitioners under the Scheme.