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Supplement to the AAS submission

of April 2009

to the

Senate Community Affairs Committee Inquiring into the

Health Practitioner Regulation National Law 2009

July 2009

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The Australian Association of Surgeons supports the July 2009 Federal AMA submission to the Senate Community Affairs Inquiry* and will be a co-signatory of the AMA submission to the Project Implementation Team.

This brief supplementary submission attempts to present an overview of the legislation and suggests options aimed at satisfying the requirements of the various groups of health professionals. It looks past the matter of greatest concern to doctors (maintenance of the present high standards of medical care in Australia) and attempts to evaluate the legislation as a whole including its broad effects on health care and on governments.

Having been involved ten years ago in efforts to achieve a single medical registration for doctors practicing in Albury and Wodonga and briefly in preliminary discussions about the present scheme in the then Prime Ministers office, the Australian Association of Surgeons is disappointed by the slow progress of negotiations concerning the scheme.

The problems now facing the proposed legislation would seem to result largely from attempting to achieve too much at one time. It would have been much better for the legislation to have dealt only with the registration of doctors in the first instance. The addition of accreditation seemed logical but this addition has proved to be a major stumbling block with respect to medicine and some other professionals, e.g., psychologists, less than half of whom are involved in health care. Also, the thirteen health professions are so different that any attempt to achieve efficiency and lessened cost by way of shared administrative structures relating to registration and accreditation seems doomed to fail. However, the greatest difficulties appear to have arisen from attempts to change the nature of health care via registration and accreditation processes.

Because of the above, the scheme has evolved into planning a huge, unduly complex, unwieldy, expensive and possibly unworkable bureaucracy. This submission questions how the present legislation would fit in with State and Federal legislation and administrative arrangements and how it would work in practice. The Australian Association of Surgeons shares the concerns expressed by psychologists and notes that psychologists engaged in business, rather than in health care, are, perhaps, the best suited professionals to advise on such matters.

A distinction should be drawn between an administrative body which serves to develop a complex administrative system and one which has an ongoing function. What is the important ongoing function of the Agency and of its subcommittees? Would it not be simpler for the National Boards, once they have been set up and are running satisfactorily, to report directly to the Ministerial Council? Note that the AMA has advised that the Medical Board of Australia should employ its own staff: the national boards will be far different from government departments which employ pooled staff. We see ahead much frustration arising from difficult interactions between the Agency and the National Boards.

In medicine, at least, apart from national registration, all day to day matters relating to doctors, which are not already handled at a national level by medical colleges and other national organisations, will continue to be efficiently handled by existing integrated State and Territory systems.

* The Australian Association of Surgeons was late in agreeing to be a cosignatory.

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Thus the State Medical Boards will remain the main bodies dealing with individual doctors, especially those educated and trained in Australia. The National Medical Board will assume a supervisory role, determine standards and deal with matters not efficiently handled at a State level (e.g., some problems relating to overseas medical graduates).

There should be as little interference as possible with State legislative and administrative arrangements, e.g., complaints, impaired doctors, etc.

Over the last 50 years, highly sophisticated systems of research, education, training and accreditation have developed in medicine, not only in Australia but in several countries with which Australia co-operate closely in health matters. At the higher end of specialisation these systems are national and international. Therefore, there is little need for the Ministerial Council (or the Agency) to adopt a "hands on" approach with respect to standards and scope of work applying to doctors but a "hands on" approach is clearly needed with respect to some groups (e.g., two of the three recently added disciplines).

Enough of the problems – what can now be done to ensure that the scheme has broad support?

Possible ways forward

- Include in the legislation a section or one or more clauses, relating specifically to medicine, making clear statements consistent with the requirements of the AMA, the Committee of Presidents of Medical Colleges and other medical groups which have put a great deal of effort into submissions. Note that the AMA has also drawn attention to the importance of submissions from medical indemnity organisations.

  If other health professions wished to be dealt with similarly, a specific section or clauses relating to each profession would be appropriate.

  "Bill B" is already long and complex. To make it longer by including further specific sections or clauses would actually improve it and make it easier to implement. However, it would be essential to avoid contradictory statements.

OR

- Delete from the legislation all references to doctors and to any other profession with which significant difficulties are experienced. A separate Bill or Bills would follow.

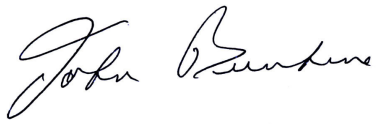
Final Comments

The present legislation sees no lead role in health for doctors. It fails to accept that there are fundamental differences between doctors and other health workers; differences which are based on history, culture, personal characteristics, science education, training, continuing education and, especially, on the continuing experience of treating the most seriously ill people including those most likely to be significantly helped by treatment. Medicine in its various specialities encompasses the whole of health care. This should be reflected in the structure of the legislation.

Irrespective of how much the legislation is further amended and improved, some unintended outcomes may be expected to become apparent almost immediately it is enacted while others will become obvious only with the passage of time. All complex legislation must include transparent arrangements for review and amendment. This legislation should be no exception!

Because of a long involvement and a close interest in the operation of the scheme as a whole and because of encouragement to achieve the present Senate Inquiry, the Australian Association of Surgeons is well poised to contribute if granted an interview at the Inquiry.

John A Buntine



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Note: The AAS submission of April 2009 is attached.

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