

# Psychologists Registration Board of Western Australia

Mr Trevor G Hoddy  
Registrar

PO Box 263  
West Perth WA 6872

Mrs Kim Firth  
Assistant Registrar

15 Rheola Street  
West Perth WA

Telephone: (08) 9321 8499  
Facsimile: (08) 9481 4940  
Website: [www.psychboard.wa.gov.au](http://www.psychboard.wa.gov.au)  
E-mail: [psychboard@hbwaa.com.au](mailto:psychboard@hbwaa.com.au)  
ABN: 76 896 604 703

## SUBMISSION TO THE NATIONAL REGISTRATION AND ACCREDITATION IMPLEMENTATION PROJECT TEAM

### Exposure Draft of The Health Practitioner Regulation National Law 2009 – “Bill B”

This submission is made by the Psychologists Registration Board of WA, established under the Psychologists Act 2005.

The Board has had the opportunity to review the submission made by the Council of Psychologists Registration Boards of Australasia Inc in respect to Bill B. The Board agrees with and adopts that submission and makes the further comments set out below.

**Accreditation standards:** Clause 10(4) causes this Board concern as it appears to enable the Ministerial Council to direct the National Board to lower standards for “workforce” reasons. This Board strongly believes that the provision of health services to the public ought not be compromised by political considerations driven by factors other than the need to provide graduates with the highest quality education and skills. The focus in the recent past in psychology education has, quite appropriately, been on the increase in standards to best equip graduates for the challenges they face in their future careers. This Board believes that enabling “workforce” issues to dictate accreditation standards will inevitably lead to the lowering of education standards and ultimately to a lower standard of health care worker and poorer quality services. The costs of this will be dramatic for future generations.

**Board membership:** The Board notes in clause 45 that the Bill contemplates consumer representatives as members of the Board. The inclusion of consumer representatives is supported by this Board which has had consumer membership for the past several years and has found the experience, perspective and insights of the consumer representative of great assistance in its deliberations.

In addition, for many years this Board has had a legal practitioner member who has also provided invaluable assistance. Having a legal member assists, not only by the provision of timely and often “on the spot” legal advice, but also contributes to the skill development of the other members in areas like corporate governance, understanding and working within the legislation, the implementation of procedural fairness considerations and so on. Furthermore, the Board estimates that to purchase the legal advice which is otherwise

provided by the legal member as part of their usual Board activities would cost in the order of \$100,000 per annum, at a conservative estimate. As it is, the legal member is paid regular sitting fees of \$280 per half day, costing the Board in the order of \$3-4,000 per annum. This Board notes that this structure, that is the inclusion of both consumers and lawyers, is part of the model health professions legislation adopted across most health professions in this State over the past decade and supported by all sides of politics.

The Board therefore urges you to include both a legal practitioner and consumer on the Board established by Bill B.

**Specialist registration:** The Board notes clause 12 which deals with specialist registration. Psychologists have had this facility in this jurisdiction for many years and it is to the great benefit of both the public and the profession. This Board strongly supports the inclusion of psychologists as one of the professions with specialist registration. Specialist registration should be based on appropriate high level qualifications, including for example, relevant College membership with the flexibility at its initial introduction to enable those who currently practise at a specialist level to retain this status.

**Insurance arrangements:** In clause 69(1)(d) the Bill envisages a condition that practitioners have insurance. This type of requirement is supported however this Board is of the view that sections 30(2) and (3) *Psychologists Act 2005 WA* (which is mirrored in all other health profession legislation in this State) provides better scope for all practitioners to be covered by relevant insurance. This provision reads:

- (2) Without limiting the Board's powers under section 26, 27, 28 or 29 the Board may impose both of the following conditions as conditions of registration under section 26, 27, 28 or 29 —
  - (a) that —
    - (i) the psychologist must hold professional indemnity insurance;
    - (ii) the psychological care provided by the psychologist must be covered by professional indemnity insurance; or
    - (iii) the psychologist must be specified or referred to in professional indemnity insurance, whether by name or otherwise, as a person to whom the professional indemnity insurance extends even though the psychologist is not a party to the professional indemnity insurance;
  - (b) that the professional indemnity insurance must meet the minimum terms and conditions approved by the Board.
- (3) A condition imposed under this section may apply indefinitely or for a period of time specified by the Board in the written notice of the decision given under section 99.

**Non-practising registration:** Clauses 92 & 93 provide for non-practising registration. Whilst the category may be of assistance, in this Board's view a person who is non-practising must continue to undertake continuing professional development activities whilst remaining on the register in any capacity so as to ensure their skills are up to date should they choose to recommence practice. This appears to the Board to be fundamental to the protection of the public.

**Limited registration:** The Board has concerns that Division 4 has potential to produce a number of problems. Clause 85, limited registration in an area of need, carries with it a very real risk of a lowering of standards and the creation

of a second class of registrant, providing a second class of services to the public. This clause should be deleted in its entirety. Furthermore, at the least Ministerial control, envisaged by clauses (5) & (6), should be removed so as to overcome any perception that a second class of practitioners can be created by Ministerial dictate solely to resolve workforce issues but without giving due consideration to standards of competence and care.

Clause 87 is problematic as it appears to suggest that this is the registration category for academics without a current clinical load. There are many academics who do not have clinical loads in a number of the health professions and their registration should not be limited in this way.

Clause 91 envisages a once only limited registration. This is entirely impractical, particularly for example, if clause 87 is not removed.

**Disclosure of spent convictions:** Clause 94(4) envisages that registrants are to disclose spent convictions to the Board. The Board believes this provision is impractical, draconian and inappropriate. Spent convictions are by their very nature low level or minor matters, often relating to offences committed whilst people are very young. Serious offences which may move a Board to reject registration on the grounds that a person is not fit and proper are not able to be the subject of a spent conviction. Consequently, the requirement to disclose is inappropriate. Furthermore, criminal record checking will not disclose spent convictions and will consequently require additional resourcing and facilities to check. Placing an obligation on a registrant to disclose an offence for which they have a spent conviction order or which is spent as a matter of law and does not show up on a criminal record check will lead to delay, confusion and a great deal of personal angst which is entirely unnecessary. Furthermore, the Board questions whether this provision is lawful in light of human rights considerations.

**Student registration:** The Board notes that the administrative costs associated with student registration, which comprise registration costs, costs associated with placing conditions on registration and most significantly, any costs associated with impairment review under Division 8, are not to be recovered from students themselves but are to be borne by the profession as a whole. In this Board's view it is unreasonable to expect practitioners, particularly in smaller professions, to bear these costs. Whilst the Board is conscious of the costs already imposed on students and the need to encourage people in to the health professions, there should be some cost recovery from student registration, particularly if they leave their studies and so ultimately make no contribution to the regulation of the profession through their own future registration fees.

**Complaints procedures:** The Board has considerable concerns with the impact of the dual complaints assessment procedure envisaged in Part 8, and in particular with the inclusion of a Public Interest Assessor in addition to the Board's own processes. The impact of this dual system will inevitably add cost to the regulatory system and slow down the resolution of complaints with no discernable benefit to either complainants or the professions. This Board understands the provision was introduced because of concerns that there would be insufficient attention paid to the perspectives of consumers of health

care services in the resolution of complaints. That is not the experience of this Board. Our internal Complaints Assessment Committee, a statutory committee which is charged with investigating complaints and making recommendations to the Board, includes a consumer amongst its four members. Her voice carries equal weight with the other voices and is greatly valued. Secondly, this Board, which makes decisions in respect to complaints, has a consumer member who participates fully in its deliberations. Finally, if a complaint is referred to the State Administrative Tribunal for hearing, that Tribunal will comprise three people including a consumer, a legal member and a psychologist. In summary, this Board is of the view that the inclusion of consumers representative at all stages is a more efficient and effective way of ensuring these voices are heard, than imposing a second layer of administration and assessment on complaints processing.

**Health panels:** The Board supports the inclusion of psychologists in clause 194 (health assessment) but suggests this should also be the case in clause 200 dealing with health panels. Furthermore, given that clause 204 enables the practitioner to be legally represented and clause 203 requires that procedural fairness be observed, a lawyer should be included in clause 200. This is particularly so in light of the very significant powers contained in clause 209.



**Dr John Manners B.Psych., M.Psych., Ph.D.**  
**Presiding Member**  
**Psychologists Registration Board of Western Australia**

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