

24 July 2009

Elton Humphery
Committee Secretary
Senate Standing Committee on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

By email to: community.affairs.sen@aph.gov.au

Dear Mr Humphery,

Re: Inquiry into the National Registration and Accreditation Scheme for Doctors and other Health Workers

Thank you for your letter of 18 June 2009 addressed to Professor Ken Kirkby updating the Royal Australian and New Zealand College of Psychiatrists (RANZCP) on developments with the Community Affairs Legislation Committee's inquiry into the National Registration and Accreditation Scheme.

Following the release of the exposure draft of the *Health Practitioner Regulation National Law Bill 2009* (known as Bill B) on 12 June, the RANZCP has responded directly to the National Registration and Accreditation Implementation Project team in respect of the draft Bill. As part of its response the RANZCP acknowledged the marked improvement in proposed arrangements for a National Registration and Accreditation Scheme represented by the provisions of Bill B. However it is the view of the RANZCP that the exposure draft still highlights a number of areas that require further clarification and consideration in respect of the Scheme.

A copy of the RANZCP submission in respect of Bill B is enclosed with this letter for your consideration as part of the Senate Standing Committee on Community Affairs inquiry.

Yours sincerely,

Richard Prytula

Dr Richard Prytula
President, RANZCP

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Submission in respect of the Exposure Draft of the Health Practitioner Regulation National Law 2009

July 2009

working
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community

Submission in respect of the Exposure Draft of the Health Practitioner Regulation National Law 2009

About the RANZCP

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) is the principal organisation representing the medical specialty of psychiatry in Australia and New Zealand and has responsibility for the training, examining and awarding the qualification of Fellowship to medical practitioners. There are approximately 3000 Fellows of the RANZCP who account for approximately eighty-five per cent of all practicing psychiatrists in Australia and over fifty per cent of psychiatrists in New Zealand. There are branches of the RANZCP in each state of Australia, the ACT and New Zealand.

Through its various structures, the RANZCP accredits training programs and administers the examination process for qualification as a consultant psychiatrist; supports continuing medical education activities at a regional level; holds an annual scientific congress and various sectional conferences throughout the year; publishes a range of journals, statements and other policy documents; and liaises with government, allied professionals and community groups in the interests of psychiatrists, patients and the general community.

Introduction

The RANZCP acknowledges the marked improvement in proposed arrangements for a National Registration and Accreditation Scheme represented by the provisions of Health Practitioner Regulation National Law 2009 (Bill B), and the communiqué of 8 May 2009, issued by the Australian Health Workforce Ministerial Council

A key area of importance for the RANZCP is to ensure the independence of accreditation of medical specialist education and training. It is significant that the ministerial communiqué of 8 May made specific mention of specialist medical colleges and the Australian Medical Council. It is hoped that the legislation which ultimately passes through Australian parliaments does not preclude or undermine the ongoing work of these institutions in respect of the registration, assessment, training or continuing competence of medical practitioners.

The exposure draft, while reflecting many of these improvements, still highlights a number of areas that require clarification and consideration. Accordingly, in this submission, the RANZCP outlines its outstanding areas of concern in respect of Bill B below.

Accreditation

A key priority of the RANZCP is to ensure independence of accreditation and medical education and training and is pleased to note that the Ministerial Council has forfeited the power to approve accreditation standards. However, the RANZCP is concerned that there is little clarity in the draft Bill B about the circumstances in which the Ministerial Council will give the National Board policy directions on accreditation standards.

Section 10 (4) states that *“the Ministerial Council may give a National Board a direction ... only if, in the Council’s opinion, the accreditation standard will have a substantive and negative impact on the recruitment or supply of health practitioners to the workforce”*.

To insert a clause in the legislation that allows Ministers to influence standards, particularly on issues of workforce rather than public interest, safety and quality, is of particular concern. Whilst recognising that workforce issues are an important factor, the RANZCP believes that, if the accreditation body and the National Board agree on a standard, it would be inappropriate for the Ministerial Council to change that standard solely for workforce reasons. The role of Ministerial Council involvement at this level is unclear and the RANZCP submits that further clarity and transparency is required in respect of the Ministerial Council’s use of the mechanisms in clauses 10(3)(d) and 10(4) in respect of this point.

Section 60 provides that the Ministerial Council appoints an entity to exercise the accreditation function for a health profession. This clause is contradictory with an undertaking given in the ministerial communiqué of 8 May whereby *“The Ministerial Council agreed today that the accreditation function will be independent of governments.”* The RANZCP would prefer that an accreditation body be approved by the National Board. At the very least, it should be that the Ministerial Council approves an accreditation body on the recommendation of a National Board.

In the case of medical practice, the College takes this opportunity to endorse the role of the Australian Medical Council as the external accrediting body for the medical profession, and seeks a guarantee that it will have an ongoing role, beyond an initial three-year period, as the external accrediting body for medical education and training.

Registration

Section 83 provides eligibility for limited registration, which can include Area of Need. Limited Registration is to be granted for a period of not more than two years, and under section 91 cannot be renewed or restored. Accordingly there would appear to be a maximum period of two years available for limited registration. The RANZCP is informed that officials have provided verbal advice that people with limited registration will be able to reapply for registration at the end of the two year period, and submits that this be made clear in the Bill. It is also suggested that a two-year period of limited registration may be too short for people in post-graduate practice to allow for circumstances such as pregnancy and illness.

The National Boards now have a requirement to make a decision on registration within 90 days. This seems an unreasonably short period of time, given the investigations, confirmations and other information that the Boards will necessarily need to make a decision. For example, in the case of an international medical graduate, the Board may be waiting on additional information from overseas or from other sources. If the Board does not make a decision within 90 days, it is taken to have refused to

register the application, and the review of provisions would then operate. This appears to be an unnecessary bureaucratic requirement and this should be moderated.

Protection of titles

Section 132 prevents a person from using a title, name, symbol, word or description that could be taken as implying that the person is a specialist health practitioner. However, section 133 of the draft specifically permits a practitioner who holds limited registration (which includes Area of Need practitioners) to use the title medical *specialist*.

The RANZCP believes that it is misleading, and potentially dangerous, for a practitioner with limited registration to be termed a 'specialist health practitioner' or 'medical specialist'. The RANZCP submits that this section is removed. The title 'specialist' should be permitted to be used only by those practitioners who hold full specialist registration and are entitled to practise independently. It is accepted that all Jurisdictions would need to agree not to use the term specialist for practitioners, including psychiatrists, working in an area of need.

Mandatory reporting

Section 156 deals with mandatory reporting and applies to a health practitioner who believes that another health practitioner has behaved in a manner that constitutes reportable conduct.

Whilst the public interest of safety is paramount, the impairment of health professionals is an issue that needs to be handled confidentially and in a supportive manner. It is important that the scheme consistently applies to ensure that an issue of mental and physical impairment of a health professional is regarded as a health issue, rather than an issue that relates to professional conduct and performance.

The RANZCP is concerned that there are considerable risks that health professionals will over-report or not know when to report. The RANZCP supports the development of educational scenarios to be provided to registrants so that there is some certainty of what would be considered in scope as reportable conduct, and when it would appropriate to report.

Complaints handling

The Public Interest Assessor (PIA) is a new entity in the handling of complaints against a health practitioner. The RANZCP would welcome further information on how the role of the PIA would operate in practice, prior to the introduction of Bill B. The RANZCP supports other medical colleges in its assertion that all costs associated with the discharge of the PIA must be borne by the government and not the profession.

Continuing professional development

The RANZCP notes and supports requirement that, for annual renewal of registration, a registrant must demonstrate that they have participated in a continuing professional development program (CPD) as approved by their national board.

Each profession's requirements will be set by the relevant board. It is stated that a board may use its accrediting body to set standards for programs and approve providers of such programs (including, in the case of medicine, specialist medical colleges) where that is the best arrangement for that profession. The RANZCP strongly submits that it should continue responsibility for designing and implementing CPD for psychiatrists who are members of the College. The RANZCP notes that non-Fellows (for example Area of Need specialists) will require CPD to allow registration. The RANZCP would welcome further discussion and clarity regarding the responsibility and practicability of the regulation of medical colleges offering CPD to non-Fellows.

Protected persons

Section 280 provides protection from personal liability for 'protected persons' carrying out functions under the Act. However, no provision is made for the medical colleges when carrying out their functions for the National Board, including assessment of Area of Need and assessment of International Medical Graduates. In addition, representatives of the medical colleges should carry out particular reviews on behalf of the National Board and this should be specifically covered. The RANZCP understands that this has been accepted as an oversight in the drafting of legislation, but believes it necessary to highlight this as part of this submission regardless.

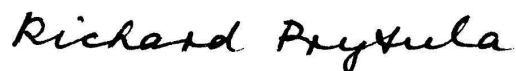
Timeline

The RANZCP remains concerned that effective implementation of the scheme may not be achieved by the proposed date of 1 July 2010 and suggests that consideration is given to initially piloting one, or perhaps a few, of the health professions.

Process for handling future amendments to legislation

The RANZCP is concerned in respect of the clauses in Bill that provide for future amendments to the Act to only be through the Queensland Parliament and believes that Parliaments in other jurisdictions should have the opportunity to consider amendments. The RANZCP would be grateful for further clarification and advice setting out the process for the development of and consultation on future amendments to primary and subordinate legislation.

Signed,

A handwritten signature in black ink that reads "Richard Prytula". The signature is written in a cursive style and is contained within a white rectangular box.

Dr Richard Prytula, President, RANZCP