



Ref: NRAS

8 May 2009

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

Dear Mr Humphery,

**Inquiry into the National Registration and Accreditation Scheme for Doctors and Other Health Workers**

Please find enclosed a submission from the Pharmacy Guild of Australia in relation to the above inquiry.

Thank you for the opportunity to contribute to this inquiry into the National Registration and Accreditation Scheme for health professionals by the Senate Community Affairs Committee as it comes at a pivotal time in the development of the Scheme.

Whilst there is general support to achieve national registration and accreditation among the professions, the Guild believes that there is no need to introduce an over-arching authority to administer what now largely exists and operates well on a self-regulating and self-funding basis, as is certainly the case in pharmacy.

The Guild is keen to bring to the attention of the Committee that an effective and efficient Scheme can be achieved by building on the existing infrastructure and systems already established in most of the professions. It is also of the view that due consideration should be given to the proposed implementation date of the Scheme until such time as alternative models, such as a scheme built on existing infrastructure, are fully explored and a full business case and associated ongoing operating costs for the new bodies are provided.

The Guild also has concerns as to the impact and the unintended consequences that the Scheme will have on the existing administration of community pharmacy legislation in each State and Territory. This is particularly in regard to current ownership and registration of premises provisions, which sit outside the National Scheme but currently reside with State and Territory Pharmacy Boards which will be abolished under the Scheme.

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The Guild provides a recommendation to resolve this unintended consequence and would seek support from the Committee for this recommendation.

We look forward to making an official presentation to the Committee at either the Sydney or Melbourne Hearing.

If you require further information or any clarification, please contact Ms Khin Win May from my office on 02 6270 1888.

Yours sincerely

A handwritten signature in cursive script, reading "Wendy Phillips", is displayed on a light yellow rectangular background.

Wendy Phillips  
*Executive Director*



**The Pharmacy  
Guild of Australia**

**Response to the Inquiry into the National Registration  
and Accreditation Scheme for Doctors and  
other Health Workers**

**May 2009**

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# **Inquiry into the National Registration and Accreditation Scheme for Doctors and Other Health Workers**

## **Introduction**

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The Pharmacy Guild of Australia (the Guild) is an employers' organisation servicing the needs of independent community pharmacies. It strives to promote, maintain and support community pharmacies as the most appropriate primary providers of health care to the community through optimum therapeutic use of drugs, drug management and related services. Its members are pharmacist owners of around 5,000 pharmacies throughout Australia who employ approximately 45,000 people.

The Pharmacy Guild of Australia welcomes the opportunity to respond to this inquiry into the National Registration and Accreditation Scheme by the Senate Community Affairs Committee as it comes at a pivotal time in the development of a national registration scheme for health professionals.

## **Recommendations**

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### **General Recommendation in relation to the overall Scheme**

Whilst there is general support to achieve national registration and accreditation among the professions, the Guild believes that there is no need to introduce an overarching authority to administer what now largely exists and operates well on a self-regulating and self-funding basis, as is certainly the case in pharmacy.

### **Recommendation 1**

The Guild recommends that implementation of the scheme can be achieved more easily and with the greater support of the professions if it is done in a way which builds on the infrastructure and systems already established in most of the professions and certainly in pharmacy. Seeking greater cross-profession consistency could be something to which COAG might return in the future once the immediate public benefits of all professions operating on a national basis have been achieved.

### **Recommendation 2**

The Guild recommends that a detailed business plan should be provided outlining the ongoing operating and associated business costs incurred when the new additional layer of administration – Australian Health Practitioner Regulation Agency - is operational.

### **Recommendation 3**

The Guild recommends that there should be no further progress of the Scheme and the implementation date postponed until the following processes are completed.

- 3.1 a cost benefit analysis and business case developed for the Scheme
- 3.2 full consideration of alternative models, such as a scheme built on existing infrastructure, are fully investigated.

### **Recommendation 4**

The Guild recommends that all stakeholders be given a genuine opportunity to comment on the provisions of legislation proposed to implement a national scheme of registration before introduction into the legislation's respective parliaments.

### **Recommendation 5**

Mutual recognition can be readily achieved by having minimalist national bodies constituted by state representatives from the relevant health professions. In the case of pharmacy, this national body would set the broad standards that the State and Territory based Pharmacy Boards need to apply in order to facilitate mutual recognition. It would involve management of a national or virtual database. Other professions have been able to achieve mutual recognition without creating a centralist monolith.

### **Recommendation 5**

The Guild recommends that it is essential complaints and disciplinary matters are heard/ resolved at State/Territory level and that the interrelationship between a national scheme of registration and a state based health complaints structure operate as seamlessly as possible.

### **Recommendation 6**

The Guild recommends that State and Territory bodies should retain the title of Boards rather than being named as Committees, as it is consistent with the title 'Board' for the national body and their role as delegate of the National Board to fulfil their statutory obligations and to carry out all the functions in the interest of public health and safety.

### **Recommendation 7**

The Guild recommends that the national professional Boards control resources needed to operate the scheme within each of their professions.

## **Recommendation 8**

The Guild recommends that membership of National Pharmacy Board should be 14, consisting of: 8 jurisdictional members, 3 members representing the three pharmacy organisations (e.g. The Pharmacy Guild of Australia, Pharmaceutical Society of Australia, Society of Hospital Pharmacists of Australia), 2 consumers and one person with legal expertise. The Chair should be elected by the group from one of the jurisdictional representatives.

## **Recommendation 9**

In the event that a minimalist model is not supported then,

The Guild recommends that the precise role of the Australian Health Practitioner Regulation Agency (Management Agency) must be specified in the legislation giving effect to the final national registration structure.

## **Recommendation 10**

In relation to professional standards, the Guild recommends that:

- 10.1. The Australian Health Practitioner Regulation Agency (Management Agency) should not have any role in approving professional or accreditation standards for training courses. Standards must be developed and approved by the professional Boards. The role of the Health Ministers would be simply to endorse the standards. The legislation must be explicit about this issue.
- 10.2. The existing roles and functions related to pharmacy competency and professional standards continue to operate effectively under the proposed national scheme and that competency based self-assessment and audit systems for evidence of maintaining professional practice competency should be made nationally consistent.
- 10.3. The professions should be authorised to ensure the nationally consistent systems are not “minimum” standards and are appropriately maintained in the interests of public health and safety and should take advice from those states that have played a leadership role in this area.

## **Recommendation 11**

The Guild recommends that COAG amend the Intergovernmental Agreement in the manner permitted by Part 13 of the Agreement as is necessary to give effect to the recommendations made by this submission.

## Community Pharmacy Specific Recommendations

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### Recommendation 1

- 1.1 The Guild recommends that the Senate Community Affairs Committee note that the proposed National Scheme for Registration and Accreditation Scheme for health professions does not cover, as noted in the COAG Agreement, Attachment A, Paragraph 1.33, *the licensing of pharmacy premises and pharmacy ownership restrictions and that these matters continue to be the responsibility of the States and Territories.*
- 1.2 The Guild recommends that the Committee note that the State and Territory legislation that contains the registration of pharmacists and which will be repealed to establish the Scheme also contains community pharmacy legislation that deals with restrictions on pharmacy ownership and registration of pharmacy premises, as currently applies in most jurisdictions. Currently this community pharmacy legislation is administered by the respective State and Territory Pharmacy Boards.

### Recommendation 2

If in the event that the Guild preferred model is not supported, then,

- 2.1 The Guild recommends that this residual community pharmacy legislation be retained intact and continue to be administered by the State and Territory based Pharmacy Boards/Committees.
- 2.2 This function should be regarded as being separate from and outside of the National Scheme. The existing fee structure for the registration of premises, paid by pharmacists who are proprietors of pharmacies, would cover the costs of administering this function as it does now. This premises fee would of course be quite separate from the professional registration fee paid by pharmacists as part of the proposed National Scheme.

### Recommendation 3

- 3.1 If the newly established State and Territory Boards/Committees are not empowered to undertake these additional functions then the Guild recommends that each State and Territory establish a statutory entity to do so.
- 3.2 This Authority would then administer the residual community pharmacy legislation. These Authorities should be established under legislation developed by the State and Territory Governments prior to the passing of legislation to establish a national scheme of legislation, which is set to include the abolition of current Pharmacy Boards.



## Executive Summary

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1. The Pharmacy Guild of Australia supports the introduction of a national registration system which:
  - facilitates the national accreditation and registration of all health professionals, including pharmacists, throughout Australia; and
  - maintains an up-to-date national database recording details of all accredited and registered health professionals, including pharmacists, throughout Australia.
2. The Guild also supports the premise that a health professional's registration to practise should be on the basis of uniform national standards established by a single national board for each regulated profession and will create efficiencies that will benefit Governments, the community and the professions.
3. However, while there is general support to achieve national registration and accreditation among the professions, the Guild believes the introduction of an over-arching authority to administer a system which currently exists and operates well on a self-regulating and self-funding basis, as is certainly the case in pharmacy, is unnecessary and over bureaucratic.
4. If legislation and implementation of the scheme is rushed through without appropriate time for consultation to achieve broad consensus on key issues, the result will be a lack of support for the scheme by the professions.
5. Issues such as funding to pay for the scheme and powers of the management committee vs powers of each of the national boards etc will need time to resolve. These must be resolved to the satisfaction of all parties if the scheme is to operate efficiently.
6. There should be a due process of consultation with all health professionals so these concerns can be properly examined and addressed. At present the fixation on a July 2010 implementation deadline renders such consultation impossible.
7. In general the Guild believes that implementation can be achieved more easily and with the greater support of the professions if it is done in a way which builds on the infrastructure and systems already established in most of the professions and certainly in pharmacy.
8. It is essential to preserve the rigorous complaints structure and process that many states have in place, through the Boards and in some cases also through separate State or Territory Government organisations. This structure/process is in danger of being undermined under the proposed scheme.

9. It is important that the professions continue to be primarily accountable for their own performance and are self-regulating. This enables these professions to deliver registration and accreditation services best suited to their own circumstances, to determine standards of practice for their own profession and to ensure that they are enforced.
10. The legislation (Bill B) which is currently being developed to finalise the proposed COAG structure has significant national implication and needs to deal with a myriad of issues appropriately. There must be a genuine opportunity for input from the professions whilst Bill B and Bill C, which will be prepared by States and Territories, are still at the crucial drafting stage and well before they are finalised.
11. Seeking greater cross-profession consistency could be something to which COAG might return in the future once the immediate public benefits of all professions operating on a national basis have been achieved.

### **Pharmacy Specific concerns**

The Pharmacy Guild is also concerned with the unintended consequence that the new National Registration and Accreditation Scheme may have on the operation of community pharmacy administration in all States and Territories. These concerns are as follows.

1. The Guild has been most concerned with the impact the new scheme will have on the existing infrastructure of the pharmacy profession, particularly in regard to the **current ownership and registration of premises provisions within** State and Territory legislation and which will sit outside the Scheme once it is implemented.
2. The legislation that deals with the registration of pharmacists, and which will be repealed to establish the Scheme, also contains community pharmacy legislation which is currently administered by each of the State and Territory Pharmacy Boards.
3. Of particular concern to the Guild is, if the Pharmacy Boards are abolished in the manner anticipated by the IGA, what body of authority will exist or be established to administer and enforce compliance with the key community pharmacy issues, as listed below.
  - (a) pharmacy ownership;
  - (b) registration / licensing of pharmacy premises;
  - (c) location of pharmacies (particularly in relation to supermarkets);
  - (d) notification of changes in ownership/ pecuniary interests; and
  - (e) restrictions on the number of pharmacy businesses a pharmacist can own

4. **At present, these functions are undertaken by the Pharmacy Boards in all States and Territories.**
5. These specific community pharmacy issues and concerns have not been resolved to date and yet the legislation is being drafted which will impact on current State and Territory pharmacy legislation either by repeal or removal.
6. It is essential that the community pharmacy legislation is kept intact and it seems sensible that the State and Territory Pharmacy Boards continue to administer this legislation. This is important to ensure both stability and a smooth transition to a national mutually recognised model.
7. Community pharmacy has been under review for over a decade under the national competition policy process and has only recently emerged from this period of uncertainty to be faced with further change. The community pharmacy model that is strongly supported by all Australia Governments will be put at risk if the existing State and Territory Boards are not retained to administer the relevant legislation.
8. If the Boards are not empowered to undertake these additional functions then an alternative statutory entity would need to be established.
9. This alternative statutory entity would then administer the residual community pharmacy legislation. These Authorities should be established under legislation developed by the State/ Territory Governments prior to the passing of legislation to establish a national scheme of legislation, which is set to include the abolition of current Pharmacy Boards.
10. The cost to administer this function would then be funded by the existing fee structure for the registration of premises, paid by pharmacists who are proprietors, as is the current model. This premises fee would of course be quite separate from the professional registration fee paid by pharmacists as part of the proposed National Scheme.

#### **Additional General Comments**

1. Mutual recognition can be readily achieved by having minimalist national bodies constituted by state representatives from the relevant health professions. In the case of pharmacy, this national body would set the broad standards that the State and Territory based Pharmacy Boards need to apply in order to facilitate mutual recognition. It would involve management of a national or virtual database. Other professions have been able to achieve mutual recognition without creating a centralist monolith.
2. The Guild understands the other driver behind the scheme is to break down health workforce silos. However, there is no evidence in the Productivity Commission report in 2005, or since that time, to indicate how this objective would be achieved by the establishment of the Scheme.

3. Such a scheme is not needed to achieve this outcome if this is what is intended. Agreement between health professionals and action by Government can achieve the changes sought, as is evidenced for example by the widening of prescribing rights to dentists, optometrists, and pharmacists in well defined circumstances. It is also evident that Government has the capacity to act through State and Territory legislation as has occurred with widening the role for nurse practitioners.
4. Apart from legislation, Government has available to it funding of diagnostic tests and services through Medicare as a vehicle to change workforce barriers. It also has competition statutory bodies to monitor anti-competitive behaviours by any health professional groups.

## Other concerns

**(The following comments are based on the national Scheme proceeding and if the Guild's minimalists model is not accepted).**

### *Proposed COAG structure*

The Guild believes that the model being proposed by COAG includes a heavy bureaucratic structure to administer the scheme and appears to be costly. The Guild is concerned that the additional layers of administration are unnecessary, will be expensive to maintain and will create an additional cost burden on the scheme and ultimately on all of the professions. We are also concerned that no cost analysis appears to have been conducted. The Guild seeks assurance that registration fees will not be increased over time to cover the costs of maintaining the structure.

Although COAG is injecting funds of over \$19m to set up the scheme, in the end, it will be the registration fees of health professionals which will cover the cost of maintaining the structure. Not only would it create unnecessary costs for the Government, it would be likely to have cost impacts for the professions. These fees are likely to be passed onto the patients, who in turn will seek higher subsidies from Governments.

Therefore, the Guild recommends that a detailed business plan should be requested from the appropriate body which would outline the ongoing operating and associated business costs incurred when the new additional layer of administration – Australian Health Practitioner Regulation Agency - is operational.

*The national Professional Boards must control resources needed to operate the scheme within each of their professions.*

The National Management Agency (now called *Australian Health Practitioner Regulation Agency*) should be a body which supports not manages the activities of the National Professional Boards.

The Guild notes in the legislation establishing the framework for registration, the *Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008* (Qld) (**the framework legislation**) establishes in section 20 of the Act the functions to:

- a) establish general requirements for the development of health profession standards for the purpose of ensuring that the scheme operates

The Guild believes that the determination of standards is solely the province of the National Board established for each regulated profession.

## ***Fees***

The Guild also feels strongly that the National Agency should not be involved in fee setting. Fees should be set by each profession to ensure they cover the administrative cost necessary to carry out the functions required. If a component of the fee needs to be provided to cover the Agency's financial administrative requirements, the amount should be separately determined.

The formula used for allocating the funding for each profession should be based on the premise that the fee a health professional should pay should be no more than the overall hypothecated cost of administering the registration scheme for that specific profession i.e. the fee for a pharmacist should be no more than necessary to administer the pharmacist registration scheme.

*The fees collected from health professionals should not pay for the running of the National Agency and the Guild would strongly object to increases in fees being implemented to cover the costs of additional layers of bureaucracy particularly when the professions have no control over the staffing levels and budgets of the Management Agency.*

## ***Structure of National Boards***

The size of each National Board should be decided by each profession according to their requirements.

Membership of National Pharmacy Board should be 14, consisting of: 8 jurisdictional members, 3 members representing the three pharmacy organisations (egg The Pharmacy Guild of Australia, Pharmaceutical Society of Australia, Society of Hospital Pharmacists of Australia), 2 consumers and one person with legal expertise. The Chair should be elected by the group from one of the jurisdictional representatives.

The Guild makes this proposal because of the need to ensure that each jurisdiction is represented because of the differences which currently exist in pharmacy-related legislation between States and Territories and so that the expertise and knowledge held by each of the existing State and Territory Boards is made available to the new National Board.

## ***States and Territory Boards/Committees***

It is critical to ensure that the National and State and Territory Boards/Committees are provided with sufficient resources to fulfil their statutory obligations and to carry out all the functions in the interest of public health and safety.

The Guild believes that it is important that a body capable of performing delegated functions of the relevant national board be established in each State and Territory.

Therefore, whilst the current State and Territory Boards would be abolished in the manner anticipated by paragraph 6.5 of the COAG agreement, the Guild believes that any legislation establishing the final structure for the national registration scheme should require the National Board to establish a body (currently proposed to be called *Committee*) for every jurisdiction to discharge registration/discipline functions as well as such other functions as the law of a state or territory may confer.

**At the very least, it is essential that the current State and Territory Boards are kept in place at least for the transitional period of three years (July 2010 - June 2013) and certainly until functions and costs are ironed out. This will ensure the expertise of those currently serving on the Boards is not lost.**

*The Guild believes that State/Territory bodies should retain the title of Boards rather than being named as Committees, as it is consistent with the title Board for the national body and their role as delegate of the National Board to fulfil their statutory obligations and to carry out all the functions in the interest of public health and safety.*

It is important to note that Pharmacy Boards in each State and Territory are responsible for important functions that fall outside the requirements of the National Registration Scheme. For example, in several states, the Boards oversee the registration of pharmacy premises and collect a fee for this service which is additional to the fee for the registration of the pharmacist who might own the pharmacy. They are also responsible for overseeing ownership and pecuniary interest provisions of state and territory legislation, which together with regulation of premises provide strong support for the Quality Use of Medicines, which is a key component of the National Medicines Strategy.

Therefore, the Guild emphasises strongly that the existing functions of the State and Territory Pharmacy Boards (egg monitoring of ownership and pecuniary interest provisions, registration of premises, pre-registration assessment) continue as part of their charter. These and other activities must remain a function of State and Territory Boards, though **as a separate function outside the National Scheme, with the premises registration fees collected to cover costs of administering this function.**

## **The impact of the scheme on state and territory health services**

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Each State and Territory has pharmacy and pharmacist specific legislation consistent with each jurisdiction's responsibility for regulating the profession and its practice. Such regulation is aimed at protecting the public by ensuring health care is delivered by registered pharmacists in a professional, safe and competent way, upholding professional standards of pharmacy practice within the profession and maintaining public confidence in the profession.

### ***State/Territory Legislation***

Australian pharmacy legislation has been extensively reviewed since 2000 as part of the National Competition Policy process, and is being actively reviewed by some Australian jurisdictions as this submission is being prepared.

**Queensland** passed the Pharmacist Registration Act 2001, which was significantly amended by the Health Legislation Amendment Act 2005 and the Quality and Complaints Commission Act 2006 so the legislation complies with modern requirements.

**Tasmania** passed the Pharmacists Registration Act 2001. This jurisdiction passed the Pharmacists Registration Amendment Act 2004 and the Pharmacists Registration Amendment Act 2005 so legislation complies with modern requirements.

**The Northern Territory** passed the Health Practitioners Act 2004, which contains a specific schedule containing the core provisions of the community pharmacy model.

**Victoria** passed the Pharmacy Practice Act 2004. This jurisdiction passed the Health Professions Registration Act 2005, an omnibus piece of legislation that covers all regulated health professions that nevertheless, like the Northern Territory, has specific schedules containing the core provisions of the community pharmacy model.

**NSW** passed the Pharmacy Practice Act 2006 which reflects similar modern provisions to those in other State and Territory Acts.

**The ACT** passed the Health Professionals Act 2004. A specific schedule dealing with the regulation of pharmacists (Health Professionals Amendment Regulation (No.1)) was notified as recently as 23 December 2006.

**South Australia** amended its pharmacy legislation to reflect modern requirements in the Pharmacy Act of 2007.

Finally, **Western Australia** had modern pharmacy legislation before its Parliament prior to the 2008 election. It lapsed with the change of government. The current Government plans to re-introduce this legislation shortly.



## ***The IGA Structure***

Part 6 of the Intergovernmental Agreement (IGA) for a National Registration and Accreditation Scheme for the Health Professions is concerned with legislative implementation of the Scheme. Queensland will enact the primary legislation to establish the Scheme (clause 6.3). Save for Western Australia, the remaining States and Territories of Australia will use their best endeavours to enact legislation in their jurisdictions applying the Queensland legislation as the law of those jurisdictions (clause 6.4). Western Australia will enact corresponding legislation (clause 6.4).

Clauses 6.5 and 6.6 concern the impact on existing legislation and provide:

*6.5 Each of the States and Territories will use their best endeavours to repeal their existing registration legislation which covers the health professions that are subject to the new national scheme. This will have the effect of abolishing the current State and Territory based registration boards for those health professions.*

*6.6 Each of the Parties will use its best endeavours to repeal, amend or modify any other legislation which is inconsistent with or alters the effect of the legislation to establish the national registration and accreditation scheme.*

Paragraph 1.33 of Attachment A of the IGA provides:

*This Agreement does not cover the licensing of pharmacy premises and pharmacy ownership restrictions. These matters will continue to be the responsibility of the States and Territories.*

The regulations covering pharmacy ownership and pecuniary interest and, in most jurisdictions, registration of pharmacy premises are contained within the same legislation that concerns registration in each of the States<sup>1</sup> and Territories<sup>2</sup>.

### ***Guild concerns***

The Guild is consequently concerned to ensure that, in the process of State and Territory governments repealing existing registration legislation, the legislative provisions establishing pharmacy ownership restrictions and ancillary provisions<sup>3</sup> are appropriately framed.

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<sup>1</sup> *Pharmacy Practice Act 2006* (NSW), Part 3, Division 2 and Schedule 2; *Pharmacists Registration Act 2001* (Qld), Part 4, Division 6A; *Pharmacy Practice Act 2007* (SA), Part 3, Division 4; *Pharmacists Registration Act 2001* (Tas), Part 6, Division 1 and *Pharmacy Code (Tas)* Part E; and *Pharmacy Act 1964* (WA), Parts 3, 4 and 5.

<sup>2</sup> *Health Professionals Regulation 2004* (ACT), Schedule 5; *Health Practitioners Act 2004* (NT), Schedule 8; and *Health Professions Registration Act 2005* (Vic), Part 6, Division 2.

<sup>3</sup> Those ancillary provisions include registration of premises, location of pharmacies outside supermarkets, dispensaries in private hospitals, change in ownership notification to the regulator, 'grandfathered company' exemptions and restrictions on the number of pharmacy businesses which a pharmacist can own

While a National Pharmacy Board will be established, which will establish State and Territory Committees to fulfil the Board's functions (including registration and investigation of conduct)<sup>4</sup>, its mandate will not include the enforcement of State and Territory legislation concerning pharmacy ownership restrictions, pecuniary interest provisions, licensing of pharmacy premises and ancillary provisions.

It is important that State and Territory Governments, through a mechanism such as the Pharmacy Boards, continue to oversee the standards of pharmacy premises. These are in place in order to protect the interests of public safety and to ensure that pharmacies provide accountability by complying with legislated ownership provisions and maintain proper storage and handling of medicines.

Whatever infrastructure changes are made to achieve the COAG objective of the new Scheme, there is a need for the Pharmacy Boards to still have residual responsibilities, particularly relating to advising State/Territory Governments as to the quality of pharmacy services provided within the particular jurisdiction. The State and Territory Governments should not forfeit their role of assessing how well these services are being provided to the community and of supervising the practice of pharmacy in its jurisdiction.

The Guild has suggested earlier in this submission that the legislation establishing a national scheme of registration of health professionals should require the newly established Board/Committee to discharge delegated functions of the National Board, as well as other functions assigned by them under a law of the relevant State or Territory.

*The Guild is strongly of the view that the handling of the registration of pharmacy premises should remain as the function of the State and Territory based Pharmacy Boards/Committees, but that this function should be regarded as being separate from and outside of the National Scheme. The existing fee structure for the registration of premises, paid by pharmacists who are proprietors of pharmacies, would cover the costs of administering this function as it does now. This premises fee would of course be quite separate from the professional registration fee paid by pharmacists as part of the proposed National Scheme.*

**It is supported in its view by the proposed structure of the *Intergovernmental Agreement for a National Licensing System for Specified Occupations, approved by COAG on 30 April 2009*.** The Guild notes the rationale for the 'National Delegated Agency' model adopted by COAG and contained in the Regulatory impact statement that whilst establishing a National Licensing Board to determine issues such as licence eligibility, the day to day operation of the scheme should remain with the currently constituted jurisdictional regulators<sup>5</sup>.

<sup>4</sup> Intergovernmental Agreement, Attachment A, paragraph 1.25

<sup>5</sup> *National Licensing System for Specified Occupations Decision Regulatory Impact Statement* April 2009 p.20

([http://www.coag.gov.au/coag\\_meeting\\_outcomes/2009-04-30/docs/National\\_Licensing\\_System\\_RIS.pdf](http://www.coag.gov.au/coag_meeting_outcomes/2009-04-30/docs/National_Licensing_System_RIS.pdf))

If the Guild's recommendation to have the handling of the registration of pharmacy premises remaining as the function of State and Territory based Pharmacy Boards/Committees is not accepted, then the Guild submits that there is a need for new State and Territory pharmacy administration authorities to be established to monitor and enforce compliance with the pharmacy ownership restrictions and ancillary provisions.

In this circumstance, the Pharmacy Guild recommends the establishment of a statutory authority in each State and Territory, to uphold the existing legislation around pharmacy premises for public safety and benefit. This newly created premises registering authority would be supported by an appropriate State and Territory based premises fee; i.e. the premises registration fee that currently exist in all States except Queensland, ACT and Northern Territory.

## **The effect of the scheme on standards of training and qualification of relevant health professionals**

### ***Policies and health professional standards***

The IGA permits the Australian Health Workforce Ministerial Council to provide policy directions generally to the National Agency and the National Boards created by the Scheme.

The Agency and the Boards are required to exercise functions in accordance with any decisions given. However, these are wide powers that can significantly control the manner by which health professions are regulated in Australia. This is implicitly recognised by the requirement imposed by subsection 12(3) to post on a website any direction that has been made.

Whilst the Ministerial Council may only make a health profession standard or accreditation decisions on the recommendation of a national board, it would be expected that a specialist technical body such as a National Board would determine professional standards rather than a body such as the Ministerial Council, which would have limited capacity to determine the efficacy of any professional standard developed by a specialist body.

Moreover, if a political body such as the Ministerial Council is to be vested with the responsibility of developing a national standard, one would usually expect that there would be a capacity for Parliamentary disallowance where it was thought that the enactment of the standards were not in the public interest.

*The National Board of a regulated health profession should be empowered to make instruments accrediting courses, and prescribing health professional standards.*

It is of concern that the COAG Ministerial Council model of public administration disenfranchises Australian parliaments from participating in the development of the regulation of the Australian health professions. Interested stakeholders are also denied the capacity to have any views as to whether the content of an instrument made by a Ministerial Council is in the national interest tested by a democratically elected body.

It is finally noted that it is unclear which court would have the authority to hear a challenge about the legality of an instrument made by the Ministerial Council – would it be the Federal Court or a State Court? If the latter, would a decision in one court have effect throughout Australia? Therefore, the issue of which court has jurisdiction to hear legal challenge to the making and content of such instruments should be clarified.

*If a function is common to a number of professions, minimum competency standards should apply equally to all professions undertaking that competency to ensure protection of the public.*

### ***Principal functions of the national agency***

Paragraph 20(1)(a) of the framework legislation establishes as a function of the National Agency:

To establish general requirements for the development of health professional standards for the purpose of ensuring that the scheme operates in accordance with good regulatory practice.

It is unclear what this paragraph is intended to achieve.

It is also unclear whether the effect of this provision qualifies the capacity of a Board conferred by paragraph 42(1)(a) of the Bill to:

formulate health profession standards for the approval of the Ministerial Council if a Board fails to adhere to a general requirement.

*The precise role of the National Agency must be specified in the legislation giving effect to the final national registration structure.*

### ***Accreditation processes***

It has been proposed that Boards will generally be able to delegate accreditation of training courses functions to external bodies.

The Guild understands this to include education to meet requirement of initial registration including “intern” year, clinical placements and continuing professional development for ongoing registration.

The Guild is concerned to ensure the current system continues as the profession has demonstrated that they have been proactive in this area and that no new regulatory requirements are imposed which could involve additional unnecessary costs for the profession.

While it would appear the Australian Pharmacy Council which currently provides accreditation will be able to continue under the national scheme, it is noted that accreditation standards have to be approved by the Ministerial Council, which will have to take advice from its Advisory Body.

The Guild is concerned that the Management Agency appears to have a disproportionate role in controlling standards through its responsibility for developing the Accreditation Standards Framework (ASF).

The Guild has concerns in regard to the relatively limited role of the National Board, compared to the role of the Ministerial Council and the Agency and questions:

- a) the need for the Ministerial Council rather than a National Board to approve accreditation standards; and
- b) the nature of the role of an administrative agency in developing accreditation standards.

Therefore, the Guild recommends that the Agency should not have any role in approving professional or accreditation standards for training courses. Standards must be developed and approved by the professional boards. The role of the Health Ministers would be to simply to endorse the standards. The legislation must be explicit about this issue.

The Guild further recommends that existing roles and functions related to pharmacy competency and professional standards continue to operate effectively under the proposed national scheme and that competency based self-assessment and audit systems for evidence of maintaining professional practice competency should be made nationally consistent.

*Profession should be authorised to ensure the nationally consistent systems are not “minimum” standards and should take advice for those states that have played a leadership role in this area.*

## **How the scheme will affect complaints management and disciplinary processes within particular professional streams**

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### *The relationship between National, State and Territory Boards and State and Territory Health Complaints Commissions*

The Guild supports the delegation of complaints handling function to a local board as it is essential that complaints and disciplinary matters are heard and resolved at State and Territory level with links to existing health complaints infrastructure.

Every Australian jurisdiction has a Health Quality and Complaints Commission/ or a Health Services Commission to which consumers may complain if they have received unsatisfactory professional advice. In all jurisdictions, there is a requirement for pharmacy registration bodies to have some relationship and to cooperate with the Health Complaints Commissioner to determine whether a particular matter should be dealt with by the Complaints Commission or the registration board.

The proposed model does not reflect this. There is a need for cooperation between the complaints body and profession specific Boards/Committees, in this case the Pharmacy Boards, which are located in each jurisdiction. There appears to be no practical advantage to change the existing infrastructure and to break the statutory link between the two bodies, as well as the relationships that have been built between them over many years.

Under the current proposal, the respective bodies will notify each other of complaints made, then determine which body should deal substantially with the matter. The Guild wishes to emphasise that there is a significant responsibility for State and Territory Governments to ensure that the interrelationship between a national scheme of registration and a state based health complaints structure operate as seamlessly as possible.

The Guild is concerned that the proposed model and the national bureaucracy will generate delays in dealing with complaints which will aggravate consumer groups and complainants.

Although the notion of a one-stop shop for all health profession-related complaints sounds attractive, particularly for consumers, in practice it would not be as consumer-friendly, efficient or cost-effective for pharmacy complaints as is the current pharmacy system/ infrastructure.

It should also be noted that some complaints refer to advertising and improper provision of price information and, as there is no nationally consistent legislation, this makes the administration of complaints ineffective.

*The Guild supports the delegation of complaints handling function to a local board as it is essential that complaints and disciplinary matters are heard and resolved at State/ Territory level with links to existing health complaints infrastructure.*

There is an increasing convergence between jurisdictions as to how professional discipline is implemented.

The current legislative models only confer on Pharmacy Boards the ability to impose relatively minor disciplinary sanctions. Increasingly, specialist committees consider whether health practitioners are suffering from impairment, or have deficiencies in their professional standards. The freestanding independent tribunals make decisions as to whether a practitioner should have their registration either suspended or cancelled with access to courts of law.

*This increasing convergence and relationship between a national scheme of registration and a state based health complaints structure should be continued and operate as seamlessly as possible.*

## Conclusion

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In conclusion, the Pharmacy Guild of Australia wishes to reiterate its general support for the introduction of a national registration system which facilitates the national registration of all health professionals.

However, it strongly believes that there is no need to introduce an over-arching authority to administer what now largely exists and operates well on a self-regulating and self-funding basis, as is certainly the case in pharmacy.

The Guild is keen for the Committee to note that an effective and efficient Scheme can be achieved by building on the existing infrastructure and systems already established in most of the professions. It is also of the view that due consideration should be given to the proposed implementation date of the Scheme until such time as alternative models, such as a scheme built on existing infrastructure, are fully explored and a full business case and associated ongoing operating costs for the new bodies are provided.

The Guild also has concerns as to the impact and the unintended consequences that the Scheme will have on the existing administration of community pharmacy legislation in each State and Territory. This is particularly in regard to current ownership and registration of premises provisions, which sit outside the National Scheme but currently reside with State and Territory Pharmacy Boards which will be abolished under the Scheme.

It is for that reason the Guild draws the attention of the Senate Community Affairs Committee to the recently published 'national delegated agency model', contained in the IGA prepared for the *National Licensing System for Specified Occupations*. This model proposes a National Licensing Board to determine licence eligibility issues, but the day to day operation of the scheme would remain with the currently constituted jurisdictional regulators.

The Guild is of the view that current State and Territory Pharmacy Boards should be retained as the local pharmacy boards delegated to perform the registration assessment, investigation and complaints handling functions, as well as other functions not covered in the new legislation such as registration of premises and administration of poisons and controlled substances legislation.

If this recommendation is not possible, the Guild submits that there is a need for new State and Territory based pharmacy administration authorities to be established to monitor and enforce compliance with the pharmacy ownership restrictions and ancillary provisions.

The Guild finally recommends that to the extent the Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions requires amendment as a result of the adoption of the proposals put forward in this submission, COAG should amend the structure of the National Scheme, as permitted by Part 13 of the IGA.