Chapter 2

Background

Introduction

2.1 This chapter provides an overview of the National Registration and Accreditation Scheme (NRAS) and the operation of the Australian Health Practitioner Regulation Agency (AHPRA).

The National Registration and Accreditation Scheme (NRAS)[1]

2.2 In 2006, the Productivity Commission reported on its examination of issues impacting on the health workforce and solutions to ensure the continued delivery of quality healthcare over the next decade. The Commission recommended the establishment of a single national registration and accreditation scheme to enable the Australian health workforce to deal with shortages and associated pressures; to increase its flexibility, responsiveness, sustainability and mobility; and to reduce red tape.[2]

2.3 The Council of Australian Governments (COAG) considered the Productivity Commission's recommendation and on 14 July 2006, COAG agreed to establish the NRAS, with the nine health professions (later increased to 10) registered in all jurisdictions at that time. COAG envisaged the scheme being implemented in July 2008.[3] The intention was to ensure that all health professionals were 'registered against the same, high-quality national professional standards' and would allow 'doctors, nurses and other health professionals to practise across State and Territory borders without having to re-register'.[4]

2.4 The Australian Health Workforce Ministerial Council (AHWMC) submitted that the objectives of the NRAS are to:

- provide for the protection of the public by ensuring that only practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered;
- facilitate workforce mobility across Australia;

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1 A detailed account of the history of the NRAS is provided in Australian Health Workforce Ministerial Council, *Submission 70*, pp 4–8.

2 Productivity Commission, *Australia's Health Workforce*, Research Report, January 2006.

3 COAG *Communique*, 14 July 2006; www.coag.gov.au/coag_meeting_outcomes/2006-07-14/index.cfm#health

4 COAG *Communique*, 13 April 2007.

- facilitate the provision of high quality education and training of health practitioners;
- facilitate the rigorous and responsive assessment of overseas trained health practitioners;
- facilitate access to services provided by health practitioners in accordance with the public interest; and
- enable the continuous development of a flexible, responsive and sustainable health workforce and enable innovation in the education of, and service delivery by, health practitioners.[5]

2.5 AHWMC went on to state that:

> The greater consistency in registration and accreditation across states and territories under NRAS provides assurance to members of the public that all health practitioners are subject to the same high quality professional standards regardless of where the health service is accessed. If a health practitioner is deregistered or has conditions placed on the registration, this now automatically applies across all states and territories, as a result of the new national scheme.[6]

2.6 The implementation of the NRAS was delayed until March 2008 when COAG signed the Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions. The agreement aimed to 'help health professionals move around the country more easily, reduce red tape, provide greater safeguards for the public and promote a more flexible, responsive and sustainable health workforce'. The agreement included a national register to ensure health professionals banned from practising in one place would be unable to practise anywhere else in Australia.[7]

2.7 The Intergovernmental Agreement was to be implemented on 1 July 2010 and would consist of 'a Ministerial Council, an independent Australian Health Workforce Council, a national agency with an agency management committee, national profession-specific boards, committees of the boards, a national office to support the operations of the scheme, and at least one local presence in each state and territory'.

2.8 The national agency as described in the agreement would have the following role:

- maintain up-to-date and publicly accessible national lists of accredited courses and registered practitioners with entries relating to individuals to include any conditions or restrictions on professional practice;

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5 Australian Health Workforce Ministerial Council, *Submission 70*, p. 3.

6 Australian Health Workforce Ministerial Council, *Submission 70*, p. 3.

7 COAG *Communique*, 26 March 2008.

- administer the resources of the scheme and ensure the scheme is as efficient as possible;
- act in accordance with any policy directions from the Ministerial Council;
- report annually to the Ministerial Council;
- following agreement with the boards, set fees, and where there is no agreement, this will be referred to the Ministerial Council;
- at its discretion, contract or delegate functions, excluding registration and accreditation functions, with any delegations reported to the Ministerial Council;
- in consultation with the boards, develop and administer procedures and business rules for the efficient and quality operation of the registration and accreditation functions and the operation of the boards and their committees, consistent with ministerial policy direction and the objects of the legislation;
- in accordance with the objects of the legislation and any policy directions of health ministers, set frameworks and requirements for the development of registration, accreditation and practice standards by the national boards to ensure that good regulatory practice is followed;
- advise the Ministerial Council on issues relevant to the scheme; and
- establish a national office.[8]

2.9 The national agency would maintain the national registers of health practitioners and lists of accredited courses; provide secretariat support for the agency management committee and boards, and any other committees constituted under the scheme; and establish at least one presence in each state and territory.

2.10 As the Commonwealth does not have the power to regulate health professionals, the legislative framework for implementation of the NRAS was enacted by the state and territory legislatures. The initial legislation was passed by the Queensland Parliament in November 2008. This legislation set up interim administrative arrangements for the Scheme.

2.11 Consultation with stakeholders took place through the National Registration and Accreditation Implementation Project (NRAIP). Following this consultation, in May 2009 the AHWMC announced changes to the Scheme as originally proposed. These changes included ensuring that accreditation functions are independent of government; establishing both general and specialist registers for professions, as well as separate registers for nurses and midwives; and requirements for continuing professional development in relation to annual renewal of registration.[9]

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8 Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions, pp 12–13.

9 Australian Health Workforce Ministerial Council, *Communique*, 'Design of New National Registration and Accreditation Scheme', 8 May 2009.

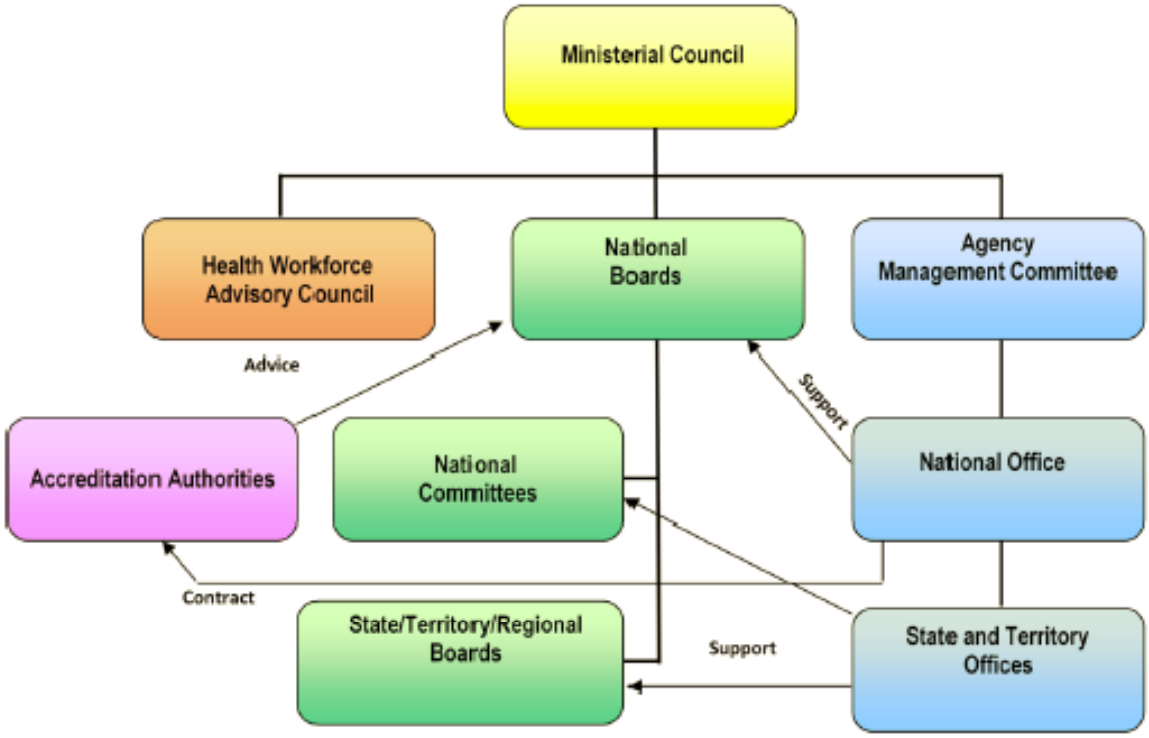
2.12 The *Health Practitioner Regulation National Law Act 2009* (Qld) (National Law) received Royal Assent on 3 November 2009. It details the substantive provisions for registration and accreditation and replaced the initial legislation passed in 2008. Other states and territories passed similar legislation to the National Law and jurisdiction-specific consequential and transitional provisions.[10] The NRAS legislation replaced 65 Acts across the jurisdictions and the bodies established replaced 80 state and territory boards. Several jurisdictions made amendments to the National Law, including New South Wales which opted for retaining its own complaints system.[11]

2.13 The Commonwealth also passed consequential and transitional amendments to Commonwealth legislation required to recognise and support the NRAS.

2.14 The NRAS commenced on 1 July 2010 for all States and Territories except Western Australia which joined the NRAS on 18 October 2010.

Structure of the NRAS

2.15 AHPRA provided the following diagram to show how the scheme operates:



Source: Australian Health Practitioner Regulation Agency, *Submission 26*, p. 5.

10 For further details of the legislation passed by each jurisdiction, see Australian Health Workforce Ministerial Council, *Submission 70*, p. 7.

11 Australian Health Practitioner Regulation Agency, *Submission 26*, p. 5.

- Ministerial Council: AHWMC comprises the health ministers of each state and territory and the Commonwealth. The functions of the Ministerial Council are set out in the National Law and include:
    - appointing the National Board members and the Agency Management Committee;
    - giving direction to AHPRA and the Board about the policy they must apply in exercising their functions; and
    - approving registration standards, lists of specialities and specialist titles and endorsements in relation to scheduled medicines and areas of practice;
- Health Workforce Advisory Council: provides independent advice to the Ministerial Council about matters related to the national scheme;
- National Boards: established under the National Law for each of the regulated health professions with members appointed by the Ministerial Council. Functions are set out in the National Law and include:
    - responsibility for registering health practitioners who meet the requirements of the approved registration standards (English language skills, professional indemnity insurance, recency of practice, continuing professional development and criminal history);
    - investigate and manage concerns (notifications) about performance or conduct of practitioners;
    - develop standards, codes and guidelines; and
    - set national fees;

    The functions of the National Boards can be delegated and many are delegated to AHPRA and Board committees; and
- Agency Management Committee: effectively the board of AHPRA with functions including policy development and ensuring that AHPRA performs its functions in a proper, effective and efficient manner.

2.16 The AHWMC described its role as:

> The AHWMC has an ongoing and defined role but had not intended or expected continued administrative involvement except at the 'lightest touch' level. Under the National Law, Ministers are responsible for approving registration and accreditation standards put forward by the National Boards, approval of specialist registration and approval of areas of practice for the purposes of endorsement. Ministers can only give directions to National Boards or the national agency under limited circumstances specified in the legislation.[12]

12 Australian Health Workforce Ministerial Council, *Submission 70*, p. 4.

Inquiries into the NRAS

2.17 The Senate Community Affairs Legislation Committee conducted two inquiries into the NRAS. The first, *National registration and accreditation scheme for doctors and other health workers*, made three recommendations:

- providing a safeguard against the potential misuse of power by the Ministerial Council in relation to accreditation standards (Recommendation 1);
- introducing a requirement into the NRAS that the reasons for the Ministerial Council issuing a direction in relation to an accreditation standard be made public (Recommendation 2); and
- that the AHWMC ensure that the NRAS contains sufficient flexibility for the composition of National Boards to properly reflect the characteristics and needs of individual professions (Recommendation 3).[13]

2.18 In May 2010, the Community Affairs Legislation Committee tabled its report on the Health Practitioner Regulation (Consequential Amendments) Bill 2010. In addition to recommending that the bill be passed, the committee also recommended that AHPRA place information on protected titles and roles, including for nurses and specialists, on its website to ensure clarity around definitions for the community.[14]

Australian Health Practitioner Regulation Agency (AHPRA)

2.19 AHPRA was established on 1 July 2010 as part of the National Registration and Accreditation Scheme to regulate 10 health professions. The ten health professions regulated by AHPRA are:

- chiropractors;
- dental practitioners (including dentists, dental specialists, dental hygienists, dental prosthetists and dental therapists);
- medical practitioners;
- nurses and midwives;
- optometrists;
- osteopaths;
- pharmacists;
- physiotherapists;
- podiatrists; and
- psychologists.

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13 Senate Community Affairs Legislation Committee, *National registration and accreditation scheme for doctors and other health workers*, August 2009, p. vii.

14 Senate Community Affairs Legislation Committee, *Health Practitioner Regulation (Consequential Amendments) Bill 2010 [Provisions]*, May 2010, p. vii.

2.20 The AHPRA annual report for 2009–10 indicated that from July 2012, a further four health professions are planned to join the scheme:

- Aboriginal and Torres Strait Islander health practitioners;
- Chinese medicine practitioners;
- medical radiation practitioners; and
- occupational therapists.[15]

2.21 AHPRA supports the nation boards to perform their functions. AHPRA staff exercise functions delegated by each of the National Boards in relation to registration of health practitioners and investigation of notifications. The following provides an overview of the establishment of AHPRA.

Staff

2.22 Timetable for the appointment of staff:

March 2009	Agency Management Committee members appointed
Dec 2009 – Jan 2010	AHPRA CEO and national management team in place and receive handover from project team
February 2010	AHPRA State and Territory managers on board and recruiting senior staff
March 2010	Most eligible staff accept offer to transfer to AHPRA
July 2010	Over 400 staff transfer to AHPRA AHPRA offices open in all states and territories

Source: Australian Health Practitioner Regulation Agency Annual Report 2009–10, p. 9.

2.23 AHPRA has a staff of around 510 full-time and part-time staff. More than 80 per cent of staff from the previous boards joined AHPRA. Most state and territory managers were recruited from previous chief executive officers of state and territory boards.

Offices

2.24 AHPRA has offices in all states and territories and a national office co-located with the state office in Melbourne.

Financial arrangements

2.25 The Ministerial Council established the financial principles for the transfer of assets and liabilities for state and territory boards. All funds deriving from the state

15 Australian Health Practitioner Regulation Agency, *Annual Report 2009-10*, p. 6.

and territory boards of each profession were to be pooled at a national level and held for the benefit of the national board of that profession.

2.26 The Australian Health Ministers Advisory Council (AHMAC) agreed that boards were required to transfer funds to cover:

- prepaid fees held at 20 June 2010;
- funds to cover transferring liabilities; and
- reserve funds equivalent to one year's operating, or if not available, all reserve funds.[16]

2.27 In addition, $19.8 million (and subsequently additional funds) were provided by the Commonwealth and state and territory governments for project costs before implementation commenced.

2.28 AHPRA is now funded solely by the registration and renewal fees paid by health practitioners. AHPRA noted that in some cases transition and implementation costs have been higher than expected. Further, renewal dates for health practitioners differ across the states and territories. It was noted that it will take up to 17 months before the new national fees can be applied uniformly to all registrants.

2.29 AHPRA also commented that if more resources are required, additional revenue can only be raised by increasing registration fees, in agreement with the National Boards. It was stated that 'it is not expected that fees should increase by more than the inflation rate on an annual basis'. The Ministerial Council will be advised if the fee rise is to be greater than the inflation rate.[17]

Information and communication technology

2.30 The 2009–10 AHPRA Annual Report provides an overview of the information and communication technology (ICT) system implemented. Following review of the existing ICT capability of boards, it became clear that greenfields ICT would be required by AHPRA with only limited re-use likely of existing systems and infrastructure.

2.31 Data migration of more than one million names and addresses from 42 databases located within state and territory registration boards. A key element of the data migration was a mailing to registrants which commenced in April 2010 to:

- confirm registrant details;
- confirm principle place of practice;
- advise registrants of their new registration types; and

16 Australian Health Practitioner Regulation Agency, *Annual Report 2009-10*, p. 11.

17 Australian Health Practitioner Regulation Agency, *Submission 26*, p. 24.

- advise registrants of the conditions that would appear on the public register.[18]

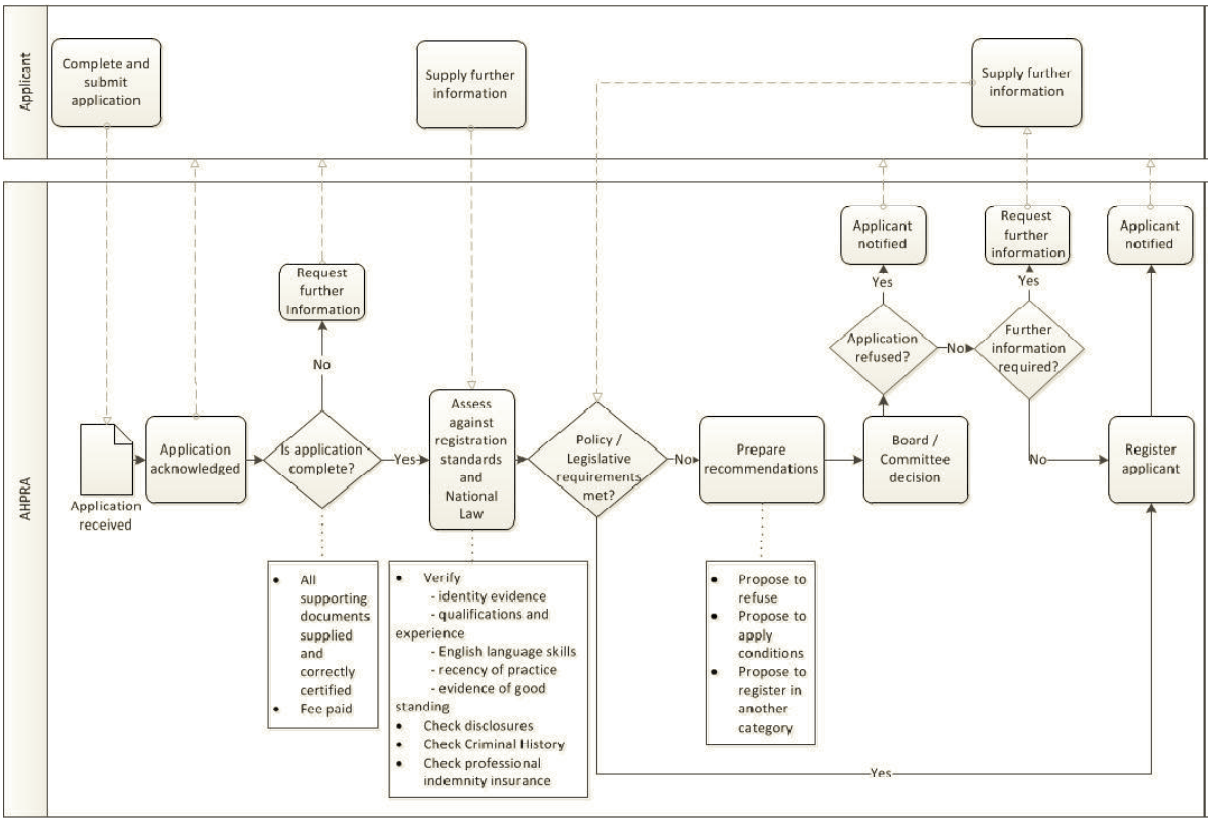
Registration by AHPRA

2.32 There are over 528,000 health practitioners on the national registers across 10 professions with just over half of those being nurses and midwives (288,861) and 87,984 medical practitioners.[19]

Application for registration

2.33 The National Law sets a maximum 90 day timeframe to assess an initial application for registration. If a National Board does not decide an application for registration within 90 days of its receipt, or a longer period agreed between the Boards and the applicant, the failure by the Board to make a decision is taken to be a decision to refuse to register the applicant.

2.34 AHPRA provided the following flowchart of the registration process:



Source: Australian Health Practitioner Regulation Agency, *Submission 26*, p. 26.

18 Australian Health Practitioner Regulation Agency, *Annual Report 2009–10*, p. 12.

19 Australian Health Practitioner Regulation Agency, *Submission 26*, p. 26.

2.35 AHPRA noted that the registration process now includes additional requirements that 'stem from the core principle of public safety'. These new requirements are as follows:

- English language skills registration standard;
- criminal history registration standard;
- recency of practice registration standard;
- continuing professional development registration standard;
- automatic expiry of registration; and
- new common renewal date.[20]

2.36 AHPRA has instituted special procedures for the graduate registration process which allows graduates to pre-apply for registration.

Renewal of registration

2.37 All health practitioners must renew their registration annually. If practitioners do not renew their registration by the end of the late period (one month after their registration expiry date), their registration will lapse and they will need to make a new application for registration.

2.38 AHPRA stated that the National Law does not set a time period for a decision on an application for renewal, as section 108 enables a practitioner to remain registered after he or she has made an application for renewal until the Board decides to renew or refuse to renew the registration. AHPRA stated that in most cases, where practitioners renew online and make no adverse declarations, their registration is updated within hours.[21]

2.39 AHPRA provided the following flow chart of the renewals process:

20 Australian Health Practitioner Regulation Agency, *Submission 26*, p. 12.

21 Australian Health Practitioner Regulation Agency, *Submission 26*, pp 13–14.

Source: Australian Health Practitioner Regulation Agency, *Submission 26*, p. 43.

APHRA's response to service delivery problems

2.40 In response to service delivery problems, AHPRA indicated that it had instituted measures to improve service delivery. These include:

- contacting AHPRA: boosted resources for customer services teams, management of calls directly by experienced staff and established new backup and peak demand capacity;
- lapsing of registrants: established a fast track application process for registrants who miss the renewal deadline, to streamline their re-registration, with no late or application fees in the first year. The fast track is open for one month after the end of the late period; and
- improved online services: implemented enhancement of the online applications and tracking process.[22]

2.41 In addition, AHWMC announced that the Commonwealth will consider ex gratia or act of grace payment for a period of time so that patients are not disadvantaged by lapsed registration of their health care practitioner who is still practising.[23] See chapter 4 for further details.

22 Australian Health Practitioner Regulation Agency, *Submission 26*, pp 15–17.

23 Australian Health Workforce Ministerial Council, *Communique*, 17 February 2011.