



Special Commission of Inquiry into Healthcare Funding

Submission Number: 117
Name: Australian Health Practitioner Regulation Agency (AHPRA)
Date Received: 31/10/2023

31 October 2023

Mr Richard Beasley SC
Commissioner
c/o submissions.hfi@specialcommission.nsw.gov.au

Dear Mr Beasley

Submission: NSW Special Commission of Inquiry into Healthcare Funding

Thank you for the opportunity to make a submission to the NSW Special Commission of Inquiry into Healthcare Funding.

Ahpra and the National Boards recognise the importance of the Special Commission of Inquiry, particularly the critical role of the health workforce in enabling the NSW health system to provide safe and high-quality patient care.

This submission provides information about the National Registration and Accreditation Scheme for the health professions (the National Scheme) and outlines the role of the Australian Health Practitioner Regulation Agency (Ahpra) and the 15 National Boards, in respect of matters that may be relevant to the Commission of Inquiry's Terms of Reference as set out in the Letters Patent establishing the Inquiry. The relevant matters we focus on in our submission are set out in paragraphs F to H of the Letters Patent.

1. The National Registration and Accreditation Scheme (the National Scheme)

- 1.1 The National Scheme was established following agreement by the Council of Australian Governments (COAG) in 2006 and commenced operation in 2010. The National Scheme is governed by the *Health Practitioner Regulation National Law* (the National Law), as applied in each Australian state and territory through an "adoption of laws" model.
- 1.2 In general, the National Law is uniformly applied in each jurisdiction. Queensland is the "host jurisdiction" of the National Law, with other states and territories adopting the Law (and amendments) through various mechanisms.
- 1.3 Section 3 sets out the object of the National Law, which is to establish a national registration and accreditation scheme for the regulation of health practitioners and the registration of students undertaking accredited programs of study.
- 1.4 The objectives of the National Law as enumerated in section 3 are:
 - (a) to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered
 - (b) to facilitate workforce mobility across Australia by reducing the administrative burden for health practitioners wishing to move between participating jurisdictions or to practise in more than one participating jurisdiction
 - (c) to facilitate the provision of high-quality education and training of health practitioners
 - (d) to build the capacity of the Australian health workforce to provide culturally safe health services to Aboriginal and Torres Strait Islander Peoples
 - (e) to facilitate the rigorous and responsive assessment of overseas-trained health practitioners

Australian Health Practitioner Regulation Agency
National Boards
GPO Box 9958 Melbourne VIC 3001 Ahpra.gov.au [REDACTED]

- (f) to facilitate access to services provided by health practitioners in accordance with the public interest
 - (g) to enable the continuous development of a flexible, responsive and sustainable Australian health workforce and to enable innovation in the education of, and service delivery by, health practitioners.
- 1.5 Section 3A sets out the National Scheme's guiding principles. The most paramount guiding principles are the protection of the public, and public confidence in the safety of services provided by registered health practitioners and students.
- 1.6 The National Law establishes 15 health professional registration boards (the National Boards) to regulate the following 16 health professions:
- Aboriginal and Torres Strait Islander health practitioners
 - Chinese medicine practitioners
 - Chiropractors
 - Dental practitioners
 - Medical radiation practitioners
 - Medical practitioners
 - Nurses
 - Midwives
 - Occupational therapists
 - Optometrists
 - Osteopaths
 - Paramedics
 - Pharmacists
 - Physiotherapists
 - Podiatrists
 - Psychologists.
- 1.7 Ahpra works in partnership with the 15 National Boards and accreditation authorities to:
- (a) set professional regulatory standards
 - (b) register and renew the registration of practitioners who meet the requirements of registration
 - (c) maintain the national register
 - (d) manage notifications regarding practitioners
 - (e) accredit programs of study leading to a qualification that is approved by a National Board as a basis for registration
 - (f) deal with offences under the National Law.
- 1.8 The functions of Ahpra are set out in Section 25 of the National Law and include:
- (a) to provide administrative assistance and support to the National Boards, and the Boards' committees, in exercising their functions
 - (b) in consultation with the National Boards, to develop and administer procedures for the purpose of ensuring the efficient and effective operation of the National Boards
 - (c) to establish procedures for the development of accreditation standards, registration standards and codes and guidelines approved by National Boards, for the purpose of ensuring the national registration and accreditation scheme operates in accordance with good regulatory practice.
- 1.9 Ahpra maintains and publishes the national register of health practitioners, which is publicly available.
- 1.10 The National Scheme is funded through practitioner registration fees and Ahpra does not receive government funding outside of targeted grants.

The NSW co-regulatory model

- 1.11 The relevant legislation in NSW is the *Health Practitioner Regulation (Adoption of National Law) Act (NSW) 2009* and the *Health Practitioner Regulation National Law (NSW)*.
- 1.12 For the purposes of this submission, further references to the National Law as it is in force in NSW will be to the National Law (NSW).
- 1.13 Both NSW and Queensland have varied the application of the National Law in their jurisdictions to provide for state-based systems for the regulation of complaints management.
- 1.14 In NSW, Part 8 of the National Law (NSW) regulates the health, performance and conduct of practitioners and the processes for managing notifications about practitioners.
- 1.15 Part 5A, section 41b, of the National Law (NSW) establishes the 15 health professional councils that manage notifications in NSW.
- 1.16 The Health Professional Councils Authority (HPCA) is an administrative agency of the NSW Ministry of Health that supports the health professional councils in NSW.
- 1.17 The HPCA and councils manage notifications in a co-regulation model with the Health Care Complaints Commission (HCCC), an independent body with responsibility for dealing with complaints under the *Health Care Complaints Act 1993*.
- 1.18 Ahpra works and engages collaboratively with the HPCA, the councils and the HCCC on common matters. Examples of this may include cases of practitioners who are practising in multiple jurisdictions.
- 1.19 As set out in 1.10, the National Scheme is funded through practitioner registration fees. As part of the concept of setting single national fees for registration and renewal of practitioners across Australia, part of the funds collected from NSW-based practitioners is provided to the NSW co-regulatory scheme for the purposes of managing notifications related to NSW practitioners.
- 1.20 In 2009, Australian Health Ministers issued a Policy Direction to Ahpra and the National Boards (published [here](#)) that clarifies the agreed financial arrangements for the provision of these funds. Importantly, NSW registrants are not required to contribute to the costs of running the national complaints scheme and non-NSW registrants are not required to contribute to the costs of running the NSW complaints scheme or subsidise the HCCC.
- 1.21 There are two important operational components for calculating the fee arrangements. The first component relates to the registration and accreditation elements. This is calculated by Ahpra. The second component relates to the notifications function. This is calculated by the HPCA.
- 1.22 The sum of those two components may see either a rebate or a surcharge in relation to the national renewal fee for each profession in NSW. The annual practitioner registration renewal fee is collected by Ahpra, and the notifications component distributed to the HPCA.
- 1.23 In 2022-23, the National Scheme provided \$45.5 million of practitioner fees to the HPCA to fund the management of notifications related to practitioners in NSW. This figure was \$41.1 million in 2021-22, and \$39.4 million in 2020-21.

2. Paragraph F: The current capacity and capability of the NSW Health workforce to meet the current needs of patients and staff, and its sustainability to meet future demands and deliver efficient, equitable and effective health services, including: (i) the distribution of health workers in NSW and (ii) an examination of existing skills shortages.

- 2.1 The National Scheme is a facilitator/enabler of the Australian health workforce by enabling national registration and workforce mobility; setting standards and assessing programs of study as being suitable for the education and training of registered health professionals; enabling the rigorous assessment of overseas-trained practitioners seeking to practise in Australia, and regulating the health, conduct and performance of registered practitioners (undertaken in NSW by the co-regulatory agencies).
- 2.2 The establishment of the National Scheme has been of great importance to the distribution and mobility of registered health practitioners throughout Australia. Prior to the establishment of the National Scheme, registration and accreditation functions were carried out separately by each state and territory, necessitating registration in each jurisdiction in which a practitioner practised.
- 2.3 Single national registration enables workforce flow within and across jurisdictions by facilitating:
- (a) the mobility of workforce across borders (particularly between facilities located on the borders of NSW and Victoria, Queensland and the ACT)
 - (b) the provision of cross-border services such as fly in/fly out health services and telehealth
 - (c) single national assessment and registration of overseas health practitioners, enabling them to practise in any Australian area
 - (d) single national student registration, allowing flexibility in training locations throughout Australia.
- 2.4 Ahpra collects significant data through its registration function, which it publishes in its annual report, and makes available to relevant agencies for workforce planning purposes. This data can assist governments in monitoring the growth in the health practitioner workforce, including the number of overseas practitioners seeking to practise in Australia, and in determining registered professions that are in workforce shortage. A copy of the National Scheme's data strategy is available [here](#).
- 2.5 To facilitate distribution of the health workforce, the National Law provides for limited registration for Area of Need. Under Section 67, an area may determine "areas of need", and National Boards may provide overseas practitioners with limited registration to practise in that area. The NSW Ministry of Health administers the Area of Need Program in NSW.
- 2.6 Registration standards may require that certain practitioners practise under supervision. This enables opportunities for training and skills development in a safe environment for patients.
- 2.7 For example, all international medical graduates (IMGs) who are granted limited or provisional registration must be supervised throughout the duration of that registration period. The supervision monitors and supports the IMG throughout the registration period and promotes a culture of continuous learning and professional development.
- 2.8 Ahpra and the National Boards are committed to working with jurisdictions to enhance workforce supply, distribution and skills development.
- 2.9 At the beginning of the Covid pandemic in 2020, Ahpra worked with health services to establish pandemic sub-registers. This enabled health services to add to the pool of health professionals mobilised to support the pandemic response by allowing eligible, recently retired health practitioners to practise in areas of need.
- 2.10 In April 2021, this sub-register was extended to enable medical practitioners, nurses, midwives, pharmacists and Aboriginal and Torres Strait Islander Health Practitioners to assist with the COVID-19 vaccination program.

- 2.11 In September 2021, the registration of practitioners was changed so they could work in any area supporting the COVID-19 response, not just vaccinations.
- 2.12 More recently, Ahpra is actively participating in the National Health Workforce Taskforce (NHWT), which is composed of representatives from each area. The NHWT is developing a comprehensive plan to implement actions agreed by National Cabinet arising from the Independent review of health practitioner regulatory settings, led by Ms Robyn Kruk AO.
- 2.13 The assessment of overseas-trained health practitioners as being suitable for registration in Australia is a function of the National Scheme under the National Law. Health Ministers commissioned Ms Kruk to undertake an [independent review](#) of the regulatory settings for overseas-based practitioners seeking to relocate and practise in Australia. National Cabinet is expected to consider Ms Kruk’s final report in November 2023.
- 2.14 Ahpra and National Boards have been implementing a program of work to streamline and accelerate the recognition of skills and qualifications of overseas-trained practitioners. This work includes:
- (a) Boosting the assessment and examination capacity for overseas-based practitioners. For example, in 2023 we have created an additional 500 examination places for Internationally Qualified Registration Nurses and Midwives.
 - (b) Increasing our staffing to reduce the time taken to assess registration applications.
 - (c) Introducing greater flexibility in relation to meeting English language requirements for registration by allowing an additional English language test for National Boards that accept the testing pathway.
 - (d) Reviewing the English Language registration standard and recency of practice requirements.
 - (e) Examining options to provide more ‘fast track’ pathways for those overseas-based practitioners with substantially equivalent qualifications to Australian-based qualifications.
 - (f) Cutting red tape by removing duplications such as having to submit multiple criminal history checks.
- 2.15 Ahpra is also streamlining its registration process to make it more simplified for registrants, including changes to English language requirements that allow applicants to resit specific parts of the test rather than restarting the entire process.
- 2.16 Ahpra and the Medical Board of Australia (MBA) have commenced work to review the pathways for Specialist International Medical Graduates seeking to attain specialist registration in Australia. This work will consider streamlining the registration pathways particularly for those whose qualifications are substantially equivalent or based on similar competencies to approved qualifications in Australia.

3. Paragraph F: (v) the role and scope of workforce accreditation and registration and (vi) the skill mix, distribution and scope of practice of the health workforce.

- 3.1 It is important to define the terms registration, accreditation, endorsement, and scope of practice in the context of the National Scheme.
- 3.2 Under the National Law, “registration” means registration in one of the registered professions.
- 3.3 The National Scheme is a “protection of title” registration system. It is an offence for a person to use certain titles unless the person holds the relevant registration. Apart from a few restricted practices outlined in Sections 121-123, the National Law does not delineate those practices which various types of registered health practitioners may or may not conduct.
- 3.4 The term “scope of practice” is not defined in the National Law, and there are no offences in the National Law for acting “outside” a scope of practice. However, there are provisions which may affect a practitioner’s scope of practice. These include:
- (a) conditions that may be placed on a practitioner’s registration

- (b) the granting of limited registration for certain purposes (for example, area of need or in the public interest)
- (c) an endorsement indicating that the practitioner has a particular qualification and/or experience in a certain field
- (d) a registration standard which relates to certain practices.

- 3.5 It is also worth noting that the “scope of practice” of a practitioner is also determined by the terms of their employment (if employed) including credentialing processes and other legislative and regulatory requirements beyond the scope of the National Scheme. For example, the Poisons and Therapeutic Goods Act and Regulation regulate the storage, use and administration of certain medicines by certain practitioners.
- 3.6 In Australian public hospitals, specialist medical practitioners are generally “credentialled” by the employing hospital to determine their scope of practice within the hospital facility. Credentialing is undertaken by hospitals as a safety and quality measure and is not regulated under the National Law.
- 3.7 The term “accreditation” in the National Scheme refers to the accreditation functions of National Boards and their external accreditation entities under Part 6 of the National Law. These functions relate to the accreditation of programs of study leading to registration.
- 3.8 The term “accreditation” is used colloquially within the wider health system to refer to several different functions, for example, accreditation by a professional membership association, or accreditation through an educational course external to the National Scheme. Public hospitals are also accredited by the Australian Commission on Safety and Quality in Health Care under the *National Health Reform Act 2011*. These accreditations are not regulated under the National Scheme.
- 3.9 The term “accreditation” is also used to refer to specialist medical colleges’ accreditation of health facilities as being suitable for conducting workplace-based training and education of college trainees seeking specialist medical registration under the National Scheme. This is dealt with later in this submission.

4. Paragraph F: (ix) opportunities for an expanded scope of practice for paramedics, community and allied health workers, nurses and/or midwives.

- 4.1 The National Scheme was designed to enable a regulatory approach that facilitates health workforce flexibility and sustainability in response to health system and consumer need.
- 4.2 The National Scheme provides flexibility for the scopes of practice of professions to evolve, rather than constraining practitioners to a specific scope. The Codes of Conduct place the responsibility on practitioners to practise within their own scope of practice based on their education, training, and competence.
- 4.3 The registration standards of National Boards provide flexibility for practitioners wishing to expand or change their scope of practice, while maintaining public safeguards.
- 4.4 A good example of this flexibility is that the National Scheme enabled allied health professionals to assist in the rollout of vaccinations during the Covid pandemic, when states and territories authorised practitioners with appropriate skills such as dentists, paramedics, and pharmacists to administer vaccines.
- 4.5 National Boards may endorse a registration as qualified to prescribe scheduled medicines under Section 94 of the National Law, to support registered health practitioners engaging in the safe and effective use of scheduled medicines.
- 4.6 For example, the Optometry Board of Australia has Guidelines for use of scheduled medicines which permit suitably qualified optometrists to be endorsed to prescribe scheduled medicines.

- 4.7 Section 38 of the National Law enables National Boards to develop a scope of practice registration standard. Only the Dental Board of Australia has developed such a standard and the current version requires that dental practitioners must only perform dental treatment for which they have been educated and trained and in which they are competent.
- 4.8 A National Board may also provide guidance on scopes of practice to the profession. For example, the Nursing and Midwifery Board of Australia (NMBA) has published material on the scope of practice and capabilities of nurses and midwives. It provides an overview of registration standards and includes information about the varying roles and scopes of practice of registered nurses, enrolled nurses, nurse practitioners and midwives.
- 4.9 The NMBA is currently considering a proposed new standard and guidelines that would enable a registered nurse with an endorsement for scheduled medicines to prescribe scheduled medicines within their level of competence and scope of practice under the supervision of a medical practitioner or nurse practitioner. This would be within the context of a governance framework and in accordance with relevant state and territory drugs and poisons legislation.
- 5. Paragraph G: Current education and training programs for specialist clinicians and their sustainability to meet future needs, including: (i) placements (ii) the way training is offered and overseen (including for internationally trained specialists) (v) how barriers to workforce expansion can be addressed to increase the supply, accessibility and affordability of clinical services in healthcare workers in NSW.**

Accreditation of education and training programs

- 5.1 The National Scheme regulates the programs of study that lead to registration in the regulated professions, through the accreditation functions of the National Boards and their external accreditation entities. Boards or their accreditation entities set accreditation standards which must be met by education providers and assess programs of study against those standards. Unlike registration standards, Ministerial Council approval of accreditation standards is not required under the National Law.
- 5.2 Both the National Law and Ahpra's policies require that wide ranging consultation be undertaken in the development of accreditation standards, and this includes consultation with the health departments of all participating jurisdictions.
- 5.3 The manner in which education providers provide programs of study is not regulated under the National Scheme, except through accreditation standards.
- 5.4 The role of accreditation in workforce supply and distribution was comprehensively examined in the Independent Review of Accreditation Systems within the National Registration and Accreditation Scheme for health professions, conducted by Professor Woods and published in 2017. This review made a number of recommendations which were accepted by health ministers and implemented by Ahpra and the National Boards.

Specialist medical colleges, specialist medical training and "college accreditation"

- 5.5 The Australian Medical Council (AMC) is the external accreditation entity for the MBA. The AMC develops accreditation standards for medical programs across all phases of medical education, including specialist medical training programs. These standards are approved by the MBA. The AMC assesses specialist medical training programs and their providers and accredits programs that meet the standards.
- 5.6 The AMC accredits specialist medical colleges to provide specialist medical training programs that lead to specialist registration in Australia. Accredited medical colleges may be found [here](#).

- 5.7 Colleges incorporate workplace-based training in their specialist medical training programs. This is done under an arrangement between colleges and health facilities whereby health facilities agree to provide workplace-based training as part of their employment of college trainees. Colleges “accredit” training sites and posts within health facilities for this purpose. The AMC accreditation standards set out certain requirements for the way in which this “college accreditation” is carried out.
- 5.8 “College accreditation” is not the same as accreditation under the National Law and described in section 1. For clarity, this submission uses the term “college accreditation” to distinguish that function from accreditation of programs of study by Boards or their external accreditation entities under the National Law.
- 5.9 Where a college accredited health facility loses college accreditation, the training provided by that health facility will generally not be counted towards college training requirements. This sometimes results in college trainees being withdrawn from such facilities. This in turn can impact the medical workforce available to the health facility.
- 5.10 Health ministers have raised concerns regarding some of the practices and processes of the colleges in relation to accreditation of training sites and posts. Ahpra is aware that ministers requested the AMC to negotiate a communication protocol between colleges and jurisdictional health departments, and that the AMC has responded to this request. The AMC has also noted that it will be reviewing its accreditation standards for colleges in the near future.
- 5.11 Health ministers also commissioned the National Health Practitioner Ombudsman to review college accreditation processes, and a comprehensive report with recommendations will be issued.
- 5.12 Health ministers have also issued Policy Direction 23-1 (available [here](#)) requiring Ahpra and the MBA to require the AMC to work with colleges and jurisdictions to achieve certain outcomes in relation to college accreditation. Ahpra, the MBA and the AMC are currently working together to determine the most appropriate arrangements to implement the policy direction.
- 5.13 The issue of college accreditation is complex and Ahpra and the MBA are committed to responding to the Ministerial policy direction and any relevant recommendations made by the National Health Practitioner Ombudsman. Ahpra plans to engage with health department chief executives to determine appropriate ways forward. These measures in combination are addressing jurisdictional concerns.

6. Paragraph H: New models of care and technical, clinical and workforce innovations

- 6.1 Among the objectives of the National Law is to “enable the continuous development of a flexible, responsive and sustainable Australian health workforce and to enable innovation in the education of, and service delivery by, health practitioners”.
- 6.2 In addition to the development of standards and guidelines that facilitate innovations around scopes of practice, Ahpra and the National Boards facilitate innovation in the use of technology to enable access to safe healthcare.
- 6.3 The Covid pandemic was a key driver of an increase in health practitioner consultations taking place using telehealth, including consultations taking place using videoconferencing and telephone.
- 6.4 Despite the removal of public health orders related to the pandemic, telehealth continues to be an important enabler to access to healthcare, particularly in rural and remote areas. It will continue to be an important feature of the Australian health system.

- 6.5 The MBA has developed [telehealth guidelines](#) (the Guidelines) to support access to telehealth services. The intent of the Guidelines is to ensure that the standard of care in a telehealth consultation is equal to the standard in a face-to-face consultation. It is also designed to protect patients from inappropriate and potentially unsafe prescribing behaviours that occur outside of a real-time consultation.
- 6.6 Ahpra and some of the National Boards also support the use of technology to enable access to healthcare by permitting remote supervision for some practitioners deemed to require supervision. Remote supervised practice enables the practitioner requiring supervision to consult with the supervisor by telephone, video conference or other means of communication about the management of patients. This arrangement provides assurance that the practitioner requiring supervision is practising safely, while still enabling access to healthcare.

Thank you for the opportunity to provide a submission to this Special Commission of Inquiry. If you have any questions about our submission, please contact Ms Carol Nader, State Manager (New South Wales), Ahpra: [REDACTED]

Yours sincerely



Chris Robertson

Executive Director Strategy, Policy and Health Workforce