CHAPTER 1

INTRODUCTION

TERMS OF REFERENCE

1.1 On 19 March 2009 the Senate referred the design of the proposed national registration and accreditation scheme for doctors and other health workers (NRAS/the Scheme) to the Senate Community Affairs Committee (the Committee) for inquiry and report by 18 June 2009[1]. The reporting date for the inquiry was subsequently extended to 6 August 2009.

1.2 The terms of reference for the inquiry asked the Committee to consider the design of NRAS including:

- the impact of the Scheme on state and territory health services;
- the impact of the Scheme on patient care and safety;
- the effect of the Scheme on standards of training and qualification of relevant health professionals;
- how the scheme will affect complaints management and disciplinary processes within particular professional streams;
- the appropriate role, if any, in the Scheme for state and territory registration boards; and
- alternative models for implementation of the Scheme.

CONDUCT OF THE INQUIRY

1.3 The inquiry was advertised in the *Australian* and on the Committee's website. The Committee invited submissions from Commonwealth and state and territory governments and interested organisations and individuals.

1.4 The Committee received 141 public submissions. A list of individuals and organisations that made submissions or provided other information authorised for publication by the Committee is at Appendix 1.

1.5 The Committee also relied on information made available through the website of the National Registration and Accreditation Implementation Project (NRAIP), which has conducted a national consultation process as part of the implementation of the NRAS. Information on the NRAIP consultation, including consultation papers, stakeholder submissions and draft NRAS legislation, can be found at

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1 Following the restructuring of Senate Committees on 13 May 2009, the inquiry was continued by the Senate Community Affairs Legislation Committee.

http://www.nhwt.gov.au/natreg.asp. A chronology of the NRAIP process is included at Appendix 3.

1.6 The inquiry focused on the exposure draft of the main piece of legislation implementing the NRAS, the Health Practitioner Regulation National Law—generally referred to as 'Bill B'—which was released on 12 June 2009. The Committee approached the inquiry as an opportunity to complement or 'add value' to the NRAIP consultations on the exposure draft. As such, the report does not aim to provide an exhaustive analysis of all the issues raised in evidence and submissions, but rather seeks to identify the major issues and concerns of the regulated professions. The timing of the report was intended to ensure that it could feed in to the NRAIP's final recommendations on Bill B to the Australian Health Workforce Ministerial Council (AHWMC/the Ministerial Council).

1.7 The conduct of the inquiry was therefore guided by the availability of the exposure draft of Bill B and by the timing of the national consultative processes. The Committee had originally planned to conduct up to five hearings for the inquiry; however, this was reduced to three hearings to allow the Committee's report to contribute to the feedback on the exposure draft.

1.8 The Committee held three public hearings in Canberra on 7 May, 13 July and 14 July. Witnesses who appeared at these hearings are listed at Appendix 2.

1.9 The Committee extends its thanks to Dr Louise Morauta, Project Director of NRAIP. The evidence and information provided by Dr Morauta's concerning the detail of the NRAS, as well as consultative and implementation processes for the Scheme, were of great assistance to the Committee.

BACKGROUND

1.10 The introduction of the NRAS arises from the 'Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions' (the Intergovernmental Agreement). The genesis of the Intergovernmental Agreement was a 2005 Productivity Commission report which examined 'issues impacting on the health workforce, including the supply of, and demand for, health workforce professionals'; and proposed 'solutions to ensure the continued delivery of quality healthcare over the next 10 years'. The Commission's report 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 COAG, 'Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions', p. 1, available at http://www.nhwt.gov.au/natreg.asp.

1.11 On 14 July 2006 the Council of Australian Governments (COAG) subsequently agreed to establish the NRAS, beginning with the health professions then registered in all jurisdictions.

1.12 On 26 March 2008 COAG agreed to the introduction of the NRAS by 1 July 2010. The COAG communiqué announcing the agreement called the Scheme a 'major step towards improving Australia's health system' and outlined a number of perceived benefits:

> The new arrangement will help health professionals move around the country more easily, reduce red tape, provide greater safeguards for the public and promote a more flexible, responsible and sustainable health workforce.[3]

THE NRAS SCHEME

Legislative framework

1.13 The legislative framework for the implementation of the NRAS is governed by the fact that the power of regulating health professions resides with the states, which prevents the Commonwealth from enacting the Scheme through a single piece of Commonwealth legislation. Accordingly, the Scheme is to be enacted through the various state and territory legislatures. The enacting legislation will be passed in Queensland first and then adopted by the other states and territories.

1.14 The legislative structure to implement the Scheme involves three bills, for convenience referred to as Bills A, B and C:

- Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008 (Bill A);
- Health Practitioner Regulation National Law 2009 (Bill B); and
- each state and territory will introduce adopting or corresponding legislation (Bill C) into their parliaments to fully implement the national scheme; the Commonwealth will also make consequential amendments to Commonwealth laws to support the implementation of the national scheme.

1.15 Bill A, which set up the interim administrative arrangements for the Scheme, was passed by the Queensland parliament on 13 November 2008, and took effect upon receiving Royal Assent on 25 November 2008.

1.16 Bill B, which supersedes Bill A, contains the full detail of the implementation arrangements for the NRAS. This includes:

- defining the role and powers of the Ministerial Council;

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3 COAG, Council of Australian Governments' Meeting Adelaide Communiqué, 26 March 2008, p. 5.

- establishing and defining the role, powers and governance arrangements of the Australian Health Practitioner Regulation Agency (the National Agency);
- establishing and defining the role, powers and governance arrangements of the National Boards of the regulated professions;
- defining the authorities and processes for the accreditation of regulated health professions;
- defining the requirements for registration of health practitioners and students;
- proscribing offences for unregistered practitioners of the regulated professions (practice protections);
- establishing processes for managing complaints, performance assessment and professional standards; and
- establishing powers and processes for the conduct of investigations.

Scope of NRAS

1.17 The AHWMC communiqué of 14 July 2006 confined the first tranche of national registration to the ten health professions registered in all jurisdictions,[4] with other health professions to be added over time The professions to be regulated from the inception of the Scheme are:

- physiotherapists;
- optometrists;
- nurses and midwives;
- chiropractors;
- pharmacists;
- dental, including dentists, dental hygienists, dental prosthetists and dental therapists;
- medical practitioners;
- psychologists;
- osteopaths; and
- podiatrists.[5]

1.18 The AHWMC communiqué of 8 May 2009 advised that from 1 July 2012 a further three professions will be regulated under NRAS. These are:

- Aboriginal and Torres Strait Islander health practice;

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4 COAG communiqués on the NRAS are available at http://www.nhwt.gov.au/natreg.asp.

5 Podiatry was included despite not being registered in the Northern Territory. This was regarded as a special case arising from the small number of podiatry practitioners in that jurisdiction (Northern Territory podiatrists are registered to practise through other jurisdictions).

- Chinese Medicine; and
- medical radiation practice.

Objectives and guiding principles of NRAS

1.19 The Intergovernmental Agreement set out the following objectives to be enshrined in the NRAS legislation:

- 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;
- to facilitate workforce mobility across Australia and reduce red tape for practitioners;
- to facilitate the provision of high quality education and training and rigorous and responsive assessment of overseas-trained practitioners;
- to have regard to the public interest in promoting access to health services; and
- to have regard to the need to enable the continuous development of a flexible, responsive and sustainable Australian health workforce and enable innovation in education and service delivery.[6]

1.20 The Intergovernmental Agreement set out the following principles to be enshrined in the NRAS legislation:

(a) it should operate in a transparent, accountable, efficient, effective and fair manner;

(b) it should ensure that fees and charges are reasonable; and

(c) it should recognise that restrictions on the practice of a profession should only occur where the benefits of the restriction to the community as a whole outweigh the costs.[7]

1.21 The object of the NRAS is set out in clause 3 of Bill B:

> The object of this Law is to protect the public by:
>
> (a) establishing a national scheme for the regulation of health practitioners that ensures health practitioners registered under this Law are suitably qualified and competent, and maintain appropriate standards of practice, and
>
> (b) establishing a national scheme for the registration of students undertaking programs of study that provide a qualification for registration in a health profession, to ensure the public is not placed at risk by the students in the course of undertaking the programs of study.

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6 Intergovernmental Agreement, p. 3.

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1.22 The objectives and guiding principles of the NRAS are set out in clause 4 of Bill B:

(1) The objectives of the national registration and accreditation scheme are as follows:

(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 facilitate the rigorous and responsive assessment of overseas-trained health practitioners,

(e) to facilitate access to services provided by health practitioners in accordance with the public interest,

(f) 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.

(2) The guiding principles of the national registration and accreditation scheme are as follows:

(a) the scheme is to operate in a transparent, accountable, efficient, effective and fair way,

(b) fees required to be paid under the scheme are to be reasonable having regard to the efficient and effective operation of the scheme,

(c) restrictions on the practice of a health profession are to be imposed under the scheme only if it is necessary to ensure health services are provided safely and are of an appropriate quality.