



24 July 2009

The Secretary
Senate Community Affairs Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

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

Dear Sir or Madam

**SUBMISSION TO THE SENATE COMMUNITY AFFAIRS COMMITTEE INQUIRY
INTO NATIONAL REGISTRATION AND ACCREDITATION SCHEME FOR
DOCTORS AND OTHER HEALTH WORKERS**

**RESPONSE TO THE EXPOSURE DRAFT OF THE HEALTH PRACTITIONER
REGULATION NATIONAL LAW 2009**

The Australian Orthopaedic Association (AOA) is pleased to make a further submission to the Senate Community Affairs Committee.

AOA is the peak professional body representing orthopaedic surgeons in Australia and is the training body for orthopaedic surgeons for this country on behalf of the Royal Australasian College of Surgeons (RACS). As such, it is the body that sets and maintains the standards for orthopaedic surgery in Australia, and is the reference point for orthopaedic surgery. AOA recognises that there are significant benefits to be gained from a new national registration and accreditation system.

The major advantage is the capacity of medical practitioners to practise within the whole of Australia without requiring further re-registration processes. It also recognises that issues of propriety and standards are likely to be better assessed through a national process.

The communiqué of 8 May 2009 released by the Australian Health Workforce Ministerial Council was a considerable improvement on the initial design for the national registration and accreditation scheme. AOA and other professional bodies were heartened by the communiqué and felt that if "Bill B" were to represent the issues raised in the communiqué, then there would be significant steps forward.

While many of the steps have been taken, there remain concerns, which have been expressed by other professional bodies as well as by our own.

We are supportive of the Australian Medical Association's submission and are also supportive of the RACS submission. However, we have further points to make:-

Ministerial influence on accreditation standards

As with the other bodies, AOA has a major concern in relation to ministerial power to influence accreditation standards for medical education and training. It is noted that the Ministerial Council may direct a national board if the accreditation standards are felt to have a substantive and negative effect on the recruitment or supply of health practitioners to the workforce.

If such a power would allow increased recruitment or supply without reference to standards, the Australian community would be significantly disadvantaged. There is no evidence that a practitioner with lesser qualifications is going to provide services that will be beneficial to the Australian community compared with a practitioner who is appropriately qualified. While workforce remains a concern for ministers and for the community, the Australian community deserves standards that are assessed against a recognisable professional standard.

In the case of medicine, there is currently an accrediting authority, the Australian Medical Council (AMC). It is noted, however, that there may not be an accrediting authority in some of the other boards, and as such, an accrediting authority should be created and approved by a national board. Where new scopes of practice are to be considered by boards, other than the Medical Board, and where those scopes of practice are currently practised within a discipline of medicine, then those accrediting authorities should seek collaborative assessment and review by the AMC, and the Medical Board. If such a mechanism were not to exist, then there would be no mechanism for the high standards that have already been assessed by robust methods on behalf of the Australian community, to be mirrored by other boards and ipso facto their accrediting authorities. Under the legislation as it is proposed, if there is a workforce need, the ministers may direct a board, in any way it wishes, to provide workforce without reference to standards. This is a significant risk to the Australian community.

Under the system currently in Australia, specialist medical colleges have the role of educating and training specialists and this has assured world-class medical care.

Under Sections 59 and 77 of the new legislation, it appears that the national board may ask an accrediting authority to conduct an examination or assessment. However these current processes are performed by the colleges, having been accredited by the AMC. The accrediting body should accredit the colleges. These colleges should perform the examination or assessment.

Areas of need

Areas of need continue to be a problem, and while the minister has been given authority to declare an area of need in the new legislation under Section 86 subsection 5, there is no requirement for the minister to consult the profession. Declaring areas of need for services that are perceived to be needed, and where infrastructure or support services are inappropriate or inadequate, can be an easy mechanism to appear to resolve the problem. However, there are numerous examples where such declarations of areas of need have not been in the best interests of the community.

It appears from the legislation that in Section 133 (2) and 134 (1)(c)(ii) that a practitioner with limited registration can use the title "medical specialist". It is inappropriate that someone who has limited registration be called a specialist. In fact they are not specialists, and by purporting to be a specialist, may cause a patient to be misled into believing that a specialist with appropriate qualifications is treating them. This has the potential for dangerous outcomes. Where areas of need have been declared and where doctors have been allowed to practise with limited expertise and limited registration, it should be made clear to the public that this is the situation. The patients may well be served adequately by such an arrangement until adequately qualified practitioners practise in the area or until that practitioner has gained appropriate qualification. However, to declare an inadequately qualified person to be a specialist is inappropriate and dangerous.

Protection of titles

Under Section 130 the title “medical practitioner” is protected but not the title “surgeon”. If such a system is maintained, then there is a significant likelihood that practitioners who are improperly qualified or inadequately trained, may purport to be a surgeon without risk of prosecution or without potential redress at law.

Medical practitioners alone have practised surgery for some centuries, and the colleges have maintained and improved the standards over this period of time. The appropriate standards of practice have been carefully scrutinised by both the colleges and the professional bodies and continue to provide high standards of safety and quality.

Without the protection of the title “surgeon” and without the scrutiny of the assessing body (RACS), there is a risk that a class of “surgeons” i.e. practitioners purporting to be surgeons, but who are not appropriately qualified, will potentially put the public at risk.

There is already clear evidence of such practice in the area of podiatry, where inadequate training has led to poor outcomes. The assertions by the podiatry group in relation to the podiatry boards, in some jurisdictions, have suggested that the standards are appropriate. There is documentary evidence that there has been no reference to any standard which has any bearing to the standards which are accepted and acceptable within the Australian community. Where surgical standards in podiatry do exist (United States), the training programs are comprehensive and competency based. Such programs are not available in this country, and there has been no assessment of the local programs to determine their comparability with standards deemed appropriate by medical colleges.

There is strong evidence that workforce imperatives have encouraged jurisdictions to seek foot and ankle surgery from under-trained and under-qualified podiatrists who call themselves surgeons without reference to any recognisable and acknowledged standard. Of greater concern, podiatry boards have accepted these affirmations.

It is for this reason that AOA strongly submits that where a scope of practice which is to be advocated within one of the health disciplines and which is practised by another health discipline, it should be reviewed and approved by the board of each discipline and the accrediting authority approved by that board in each discipline.

In other words, the training and practising standards of surgeons who have been trained in another discipline (in this case podiatry), should have those standards reviewed by the National Medical Board and by the AMC. The same principles would apply if there were any other new scope of practice, be it surgery or some other discipline.

It is for this reason that the titles “surgeon” and “specialist surgeon” should be protected and should apply only to medical practitioners and not to those who have inadequate training. It is important for the purposes of the Senate Review to note that surgery does not only include the technical capacity to do the operation, but also the knowledge of the pathology, physiology and pharmacology related to management of surgical conditions, and which can only be gained through a medical background.

Conclusion

AOA is supportive of the national registration process and recognises the potential benefits to the Australian community. There are also risks, and the Senate must understand that the risk to standards is real.

AOA represents the appropriate high standard of orthopaedic surgery in conjunction with the RACS, and draws to the Senate Committee's attention these serious matters. We recognise that other matters have been dealt with both in the AMA and RACS submissions.

We already have documentary evidence where, if inappropriate standards and reviews are performed, poor outcomes have resulted. Inappropriate training and practising standards for practitioners purporting to be surgeons, but who are inadequately qualified, have been drawn to your attention.

We would be happy to discuss these serious matters further and to present our documentary evidence.

Yours faithfully

A handwritten signature in blue ink, appearing to be 'JB', is centered within a light gray rectangular box.

John Batten
President