



**Submission by the
Australian Psychological Society
on the
Health Practitioner Regulation
National Law and Other Legislation
Amendment Bill 2017**

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Executive Summary

The Australian Psychological Society (APS) considers that the proposed modifications to the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017, especially with respect to the complaints (notifications) management, disciplinary and enforcement powers of National Boards, have the potential to provide improvements to notifiers and practitioners.

The APS is concerned that enabling the COAG Health Council to make changes to the structure of National Boards by regulation may undermine National Boards' independence and capability to formulate policy considering the unique aspects of their respective health profession.

Introduction

The Australian Psychological Society (APS) welcomes the opportunity to comment on the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017.

The APS is the peak industry body and leading professional organisation for psychologists in Australia, representing almost 23,000 members. The APS is the largest of all non-medical registered health professional organisations in Australia. The APS has been at the forefront of feedback and advice during the initial development of the National Law, its implementation and the 2014 review. This submission draws on previous submissions. The APS looks forward to ongoing discussions regarding the amendments to the National Law for the benefit of the community.

The APS submission focusses on the areas below, relevant to psychology, which the bill proposes to amend:

- enabling the COAG Health Council to make changes to the structure of National Boards by regulation following consultation
- improvements to the complaints (notifications) management, disciplinary and enforcement powers of National Boards to strengthen public protection and ensure fairness for complainants (notifiers) and practitioners, and
- make changes requested by the Health Ombudsman, as part of the committee's *Inquiry into the performance of the Queensland Health's functions pursuant to section 179 of the Health Ombudsman Act 2013*.

Enabling the COAG Health Council to make changes to the structure of National Boards by regulation following consultation

The APS appreciates the preference for flexibility that this change to the National Law would provide the COAG Health Council. However, the APS is concerned about this proposal. Even allowing for consultation, changes to the structure of the national boards via regulations, as opposed to the current requirement of changing of the National

Law itself, may not be subject to the same level of scrutiny. Specifically, the need for balanced representation of any future national boards, particularly for those 'low regulatory workload professions', needs to be weighed against optimal arrangements for committees and operational efficiency in order to fully achieve the stated objectives of the National Law as outlined above.

Although the proposed amendments require full consultation for any proposed changes in the national boards' structure and composition, the APS urges caution in proceeding down this path. Any consultation would require profession-specific input and advice prior to and throughout such changes.

Improvements to the complaints (notifications) management, disciplinary and enforcement powers of National Boards to strengthen public protection and ensure fairness for complainants (notifiers) and practitioners

The APS is in support of improvements to the complaints management. The APS has detailed specific concerns about the complaints mechanism administered under the Health Practitioner Regulation National Law in a February 2017 submission.

As stated in the executive summary of that submission:

The Australian Psychological Society (APS) has been contacted by a number of psychologists with concerns regarding the complaint handling process by the Australian Health Practitioner Regulation Agency (AHPRA) and the National Boards. In particular, psychologists reported the following:

- the initial assessment and subsequent investigation process not adhering to the principles of natural justice;
- unreasonably short timeframes to respond to the initial complaint followed by unacceptable delays in the investigation and lack of communication to psychologists throughout;
- the abuse of process by people lodging vexatious complaints against psychologists, some of a repeated nature; and
- the apparent heavy-handed approach taken by AHPRA and the Boards in the assessment and investigation process.

The APS therefore recommends greater involvement by psychologists in the initial assessment and investigative process. This will assist in:

- more expeditious initial assessment and subsequent investigative processes;
- development of protocols or guidelines in dealing with vexatious complaints; and
- maintaining the trust and faith of practitioners in the national scheme.

The APS submission will not address each of the specific subheadings but only focus on a few specific areas:

Asking registered health practitioners for 'practice information'

The APS is in support of the Bill, replacement section 132, recognising the different settings in which a psychologist may practice, and requiring practitioners, when asked, to provide relevant 'practice information'.

Improving communication with notifiers

The APS notes that despite concerns expressed in prior submissions about the need to improve communication with both notifiers and practitioners, the Bill only focuses on the former.

The APS considers that timely and accurate communication with practitioners should also be improved. The APS notes that the Senate Community Affairs References Committee in its May 2017 report on *Complaints mechanism administered under the Health Practitioner Regulation National Law* makes specific recommendation on improving complaints management and ensuring fairness for both complainants and practitioners; we note especially recommendation 10, specific to psychologists, and recommendations 11, 13 and 14.

Amendments to the Health Ombudsman Act 2013

The APS is in support of amendments to the Health Ombudsman Act 2013 that enable the Health Ombudsman to vary decisions concerning immediate actions, especially when new information or changes in circumstances make it appropriate for the Ombudsman to amend actions.

Conclusion

The APS supports the objective of the National Law to assure protection of the public. The APS similarly supports objectives to facilitate access to the services provided by health practitioners. We hope that the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017 will address concerns raised about the initial legislation and its implementation. We note that the Bill does allow flexibility for both the National Boards and AHPRA to set up robust policies and processes that assure both protection of the public and a fair registration and complaints procedures for health practitioners.