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Committee Secretary
Health and Environment Committee
Parliament House
George Street
Brisbane Qld 4000

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Dear Committee Secretary,

RE: National Registration and Accreditation Scheme for the Health Professions - Consultation on the Health Practitioner Regulation National Law Amendment Bill

The Royal Australasian College of Surgeons (RACS) welcomes the opportunity to provide comment concerning this bill. RACS is the leading institution for the training of surgical practice for more than 7,000 surgeons and 1,300 surgical trainees and Specialist International Medical Graduates in Australia and New Zealand.

RACS welcomes the Ministerial Council's concern to keep the National Law up to date and fit for purpose, and previously made a submission to the NRAS Review Implementation Project Secretariat in relation to the draft bill.

RACS welcomes the fact that subsequent to that earlier consultation the bill was updated to reflect some of the feedback received yet retains some concerns. This short submission describes a number of these. The three in question are-

1. Interim Prohibition Orders
2. Public statements
3. Disclosure of information about registered practitioners

Interim Prohibition Orders

RACS retains concerns regarding the Division 7A 'Interim Prohibition Orders' amendment, particularly as the powers described would apply to a practitioner whose registration had been suspended under the existing 'immediate action' powers available to national boards under sections 155 & 166.

RACS understands that these existing sections enable a national board to suspend registration on a reasonable belief that action is in the public interest. The 7A amendment would then allow practitioners to be prohibited from providing a specified health service or all health services and prohibit a person from using protected titles for an initial, but extendable, period of 60 days.

Sixty days is a long time for a practitioner not to be working especially when still incurring significant practice costs. Given the very extended periods AHPRA takes to investigate and process notifications (periods of 18 months and 2 years have been cited), it seems possible that it would be a regular occurrence for interim orders to be in place for the full 60 day period, and to be extended.

Vexatious and unreasonable notifications do get made, and so RACS is of the view that any cases involving IPOs must be expedited, so that the interim order only remains in place for the shortest possible period, ideally with a legislated maximum time to complete an investigation and reach a conclusion.

Committed to
Indigenous health

Public statements

RACS retains concerns regarding the Division 7B 'Public Statements' amendment. RACS appreciates that the purpose of this amendment is to allow regulators to warn the public about the risks posed by persons who are the subject of investigations or disciplinary proceedings, and whose conduct poses a serious risk to public health and safety.

RACS also appreciates that a 'show cause' process would be required before public statements are made about registered practitioners, and that a subject person would be able to appeal to a relevant tribunal regarding the intention to make a public statement.

Nevertheless, RACS is concerned that a public statement could result in the unjust ruination of a practitioner's reputation when a finding of improper conduct has not been substantiated.

Vexatious and unreasonable notifications do get made. Media organisations which may have published an initial statement are not under an obligation to publish a correction or revocation, and once a statement is made the practitioner's reputation will likely be damaged permanently.

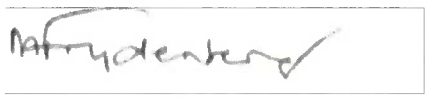
Disclosure of information about registered practitioners

RACS also has concerns about the section 220A 'Disclosure of information about registered practitioners to protect the public' amendment. RACS understands that, prior to taking disciplinary action, in certain circumstances where the Medical Board believed that the health, conduct or performance, of a practitioner posed a serious risk to persons, the Medical Board must provide information to current employers but also to a variety of other associates with which the doctor has a practitioner relationship.

In other words, and for example, if a serious (but potentially vexatious) complaint was made that a surgeon has a tremor and the Medical Board considered that it was necessary to notify one third party (e.g., the public hospital where the surgeon works), section 220A would be triggered and the Medical Board would be required to notify a variety of other parties. These could include arrangements which do not carry this risk. For example, the surgeon may also be the official first aid officer in a family member's amateur sports team. In such circumstances it is likely that the practitioner's privacy outweighed any risk. Yet the bill's insertion of a 'paramount principle' of, 'public confidence in the safety of services' into the Act, indicates that a practitioner's privacy may be considered of less importance, meaning the amateur sports team would be notified.

RACS is always open to discuss our concerns in detail if a request were made to do so by the Committee.

Yours sincerely,



Professor Mark Frydenberg
Chair, Health Policy & Advocacy Committee