

APS Submission to the Australian Health Practitioner Regulation Agency consultation paper on Definition of Practice

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About the APS

The Australian Psychological Society (APS) thanks the Australian Health Practitioner Regulation Agency (AHPRA) for the opportunity to comment on its public consultation paper on the Definition of Practice (the Consultation Paper). The APS is the premier professional association representing psychologists in Australia with over 20,000 members. The APS is the largest of all non-medical and non-nursing professional associations in Australia and has 40 State and Regional Branches across Australia.

Psychology is a very diverse profession and APS members work in all facets of the Australian community and assist often the most vulnerable members of the society across the lifespan. These can include infants and children with development disorders to adolescents with drug and alcohol problems; from people in the criminal justice systems to those with mental health disorders and residents in aged care facilities. In addition to independent private practice, psychologists are employed by health services as clinicians, government agencies and private enterprises as consultants.

The APS has nine specialist professional colleges for its members, and they correspond to the nine areas of practice endorsement by AHPRA. They are:

- Clinical neuropsychology
- Clinical psychology
- Community psychology
- Counselling psychology
- Educational and developmental psychology
- Forensic psychology
- Health psychology
- Organisational psychology
- Sports and exercise psychology

Introduction and overview

The definition of practice as adopted by the various National Boards established under the Health Practitioner Regulation National Law Act (2009), commonly referred to as the National Law, is as follows:

Practice means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in their profession. For the purposes of this registration standard, practice is not restricted to the provision of direct clinical care. It also includes using professional knowledge in a direct non-clinical relationship with clients, working in management, administration, education, research, advisory, regulatory or policy development roles, and any other roles that impact on safe, effective delivery of services in the profession.

The Consultation Paper articulated many of the problems associated with the current broad definition of practice. The “one-size-fits-all” approach has limitations and presents difficulties for practitioners and the National Boards alike. As a result, the definition creates confusion and has many unintended consequences.

This submission from the APS will outline three examples of such unintended consequences, examine the objects of the National Law and propose a way forward in an attempt to address problems facing the current broad definition and its unintended consequences.

Unintended consequences

1 Psychology students classed as provisional psychologists rather than student psychologists

Psychology students undertaking professional postgraduate studies in Masters and Doctorate programs are currently deemed to be “practising” by the Psychology Board of Australia (PsyBA) to the level of a provisional psychologist thus required to be registered under the “Provisional” category (PsyBA, 2011).

Students from Masters and Doctorate psychology programs cannot practice independently while studying and are subject to strict supervision by registered psychologists during their placements in workplaces as part of their studies. This is not dissimilar to students in professional postgraduate programs in Medicine or Dentistry, with the exception that the latter are classified in the student registration category by their respective National Boards. As a result, psychology students as provisional registrants are required to comply with CPD, recency of practice and professional indemnity insurance requirements as set out by the PsyBA (2011). This is both impractical and unjust. Most, if not all, universities already have requirements for their students to have continuous study which counts as CPD and students are also covered by local professional indemnity insurance while on workplace based practical placements and therefore do not require additional insurance.

The APS argues that the particular interpretation, by the PsyBA, of the broad definition of practice, has led to this anomaly. Students in approved psychology programs can obtain full registration after a six-year sequence of studies: beginning with a four-year study sequence, including a one-year honors degree, followed either by a two-year PsyBA approved internship, or completion of an approved professional postgraduate qualification in psychology (Masters or Doctorate levels). By adopting a specific definition of

practice, the PsyBA made no distinction between four-year sequence of study, which establishes the “discipline training” of psychology, and the “professional training” at the postgraduate level to enable students to become fully qualified psychologists. A more common sense approach would have suggested that students in their postgraduate “professional training” should be under the Student Registration category and only those undertaking PsyBA approved internships would be under the Provisional Registration category. This will be elaborated further in this submission.

2 *Not all psychologists are health practitioners*

Psychology is a very diverse discipline. While the majority of psychologists are working in health settings, there are also psychologists who are working outside the “health” domain. However, by virtue of the bluntness of the National Law, all psychologists are deemed to be “health practitioners”. This is insensitive and has the potential to undermine the organic growth of the discipline.

It is easy to identify health practitioners who are applying their skills and knowledge to assist community members overcoming their status of ill health, enhancing their chances of avoiding such ill health or managing social or personal distress. However, psychologists, and members of other health disciplines, also work in settings that do not provide specific client contact work. The best examples are some academics and researchers. The APS contends that a portion of such practitioners pose very little, if any, risks directly to the public. Psychologists supervising research into effective learning methods of school aged children are utilising their skills in research and theories of learning. They are not providing psychological services in a way that clinical psychologists do when they are providing cognitive behavioural therapy to someone experiencing moderate depression.

Similarly, managers of large psychology departments whose roles are exclusively staff management, financial management and quality improvement activities may be included in this group. Again, the only connection they have with the ‘practice’ of psychology is the fact that they are psychologists managing other psychologists. However, if their role includes clinical supervision or clinical policy they are deemed to be “practicing” (see below).

While it can be argued that both the researcher and the manager are having an indirect impact on the practice of psychology and that their failure to observe good professional duty of care can have significant consequences, it may be proposed that they do not pose quite the same risks to the public as someone in direct contact with clients. This also assumes the notion that it is

the direct service provider who carries the burden of responsibility for what they do with clients despite the quality of advice, peer consultation and management they receive.

It is suggested that psychologists in some aspects academia and in non-health positions are disadvantaged by this broad definition of practice. For these practitioners, professional indemnity insurance, professional development and recency of practice as practising psychologists may not be necessary requirements. To regulate these psychologists as "health practitioners" is unjustified and potentially discriminatory.

Finally, psychologists working in non-health settings or as non-health practitioners are already required to comply with other regulatory mechanisms. An organisational psychologist may also belong to professional associations for ergonomists or industrial designers relevant to their job requirements. For these practitioners, their primary job is not that of psychologists, but they choose to identify themselves as psychologists by their psychological training. By doing so, they are distinguishing themselves from their peers without such characteristics. Unfortunately, the above broad definition of practice is not only defining these psychologists as health practitioners, but also forcing them to comply with practice requirements which may not be relevant.

3 *Distorts Purpose of the National Law*

The National Law has very specific objectives. Namely, it protects the public from the risk of inappropriate and dangerous practices by registering health practitioners and ensuring they have the appropriate training, competencies and ethical standards. A second objective was to facilitate health workforce mobility through a national scheme. These aims are achieved by national registration and setting standards of education, training and continuing professional development for health practitioners, including overseas graduates (Section 3).

But the broad definition of practice has the effect of distorting the purpose of the law when it includes groups that clearly pose little harm or risk to the community. As set above, this includes the retired, some academics and those providing services in the non-health arena but wishing to be identified as psychologists.

As with any legislative instrument, there are tradeoffs between benefits to the public and costs to the practitioners. The benefits to the public from registering psychologists not working in the health sector or as non-health

practitioners appear to be minimal when compared with the costs associated with regulating such practitioners.

While the APS agrees that these practitioners are utilising their skills and training as psychologists and require the regulatory oversight of general registration, they have an equal, if not greater, degree of professional responsibility whether they are health practitioners or otherwise. This is explicitly stated under B1 Competence and B3 Professional Responsibility in the APS Code of Ethics (2007) and adopted by the PsyBA.

One Suggested Solution

While there is broad understanding that the current broad definition of practice was intended to be inclusive of a wide range of practitioners, settings and professional activities for practitioners subject to the National Law, it is also clear that it has produced some unintended consequences some of which are just anomalous and others that border on injustice. The APS suggests that such a definition, while sound in its intention, is too blunt for the complexities and variations in practice within the psychology profession at least, let alone the other professions.

As stated earlier, some of the current problems lie not just with the definition itself, but with the manner in which it has been interpreted and applied to the discipline of psychology by the PsyBA. Consistent with the aims of the National Law, the APS suggests a model that distinguishes between various groups within the psychology profession on the basis of the level of risk their 'practising' poses to the public. What it in essence suggests is that a psychologist who is contributing to the profession in ways that pose lesser or little risk to the community (researcher, educator, retired practitioner, organisational consultant) should still be able to identify themselves as a psychologist but be distinguished from other psychologists who are intensively involved in the provision of higher-risk services.

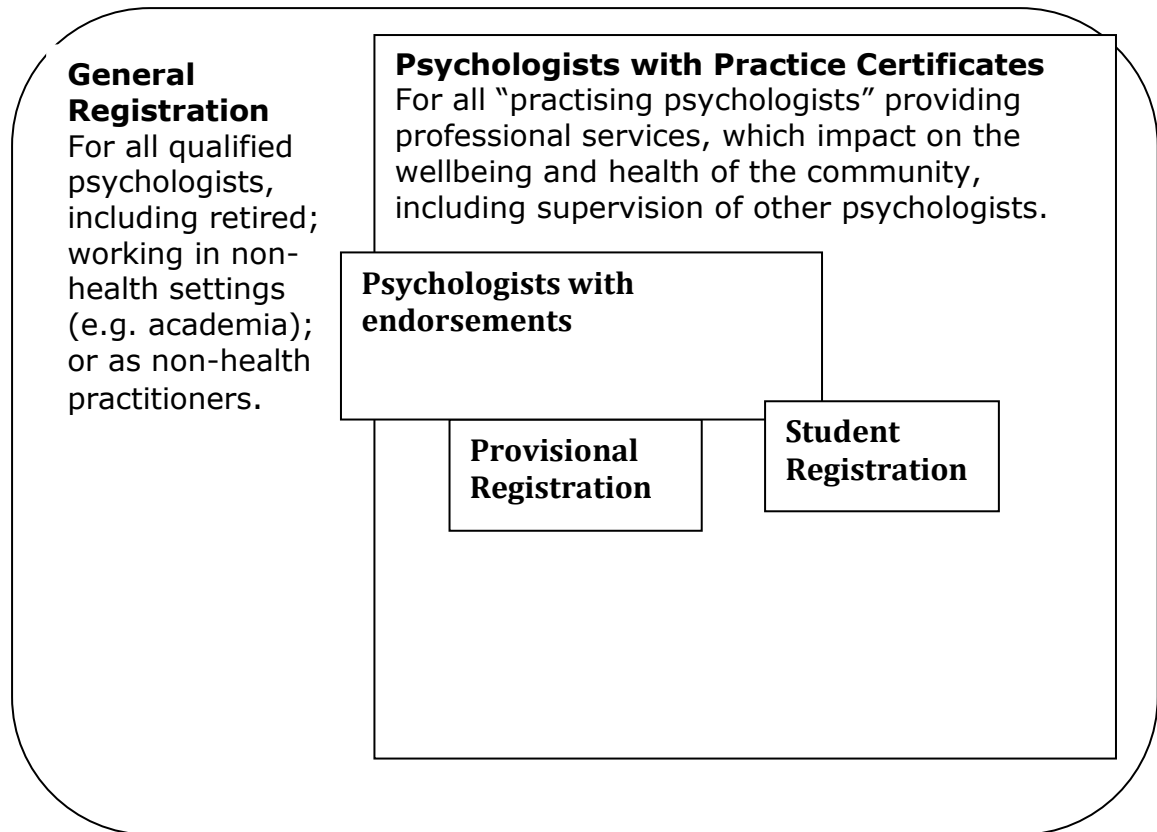
The suggested model comprises a general category of registration for all appropriately qualified psychologists that meet the PsyBA registration standards. Those psychologists who are not currently practising or are retired psychologists, who wish to maintain their professional identity but no longer in any direct service provision (that is, performing only low risk activities) would be eligible for General Registration only. In addition, psychologists who work in non-direct service provision roles (such as researchers and academics), or are not health practitioners, are also eligible. Within that General Registration category are four other subcategories under the broad heading of 'practising psychologists'. "Practising psychologist" are those psychologists whose provision of services carries that risk for which

the National Law was devised and for whom quality assurance needs to be ongoing. By this means the definition of practice could be circumscribed and confined based on the risks associated with the set of services they provide and their recipients. This would minimise the unintended consequences outlined in detail above.

Psychologists with endorsed areas of practice will be another subcategory and would largely lie within the practising psychologist section but some endorsed area practitioners might sit outside it in the general registration category since they might be academics, researchers or retired experts. The third subcategory would be for psychologists with provisional registration. As stated above, psychologists undertaking their two year PsyBA approved internships will be registered under this subcategory. This is because for these practitioners, there will be some areas of their practice that will be in the areas of greater risk to the public. Once having achieved full registration, they can continue to be in the “practising psychologists” subcategory or in the General Registration category depending on their nature of work. There is a possible implicit injustice in terms of cost (lower wages; some only work part time) but not in terms of risk. A lower rate need to be set for provisional psychologists.

Finally, there would be a subcategory for psychology students undertaking their postgraduate “professional training”. These students pose the same level of risk to the public as do their provisionally registered counterparts. A schematic of the model suggested is included on the following page. This model draws support from similar models utilised overseas, namely models of licensure from North America. An outline of a licensure model can be found at Appendix 1 of this submission.

Schematic of a possible model



The Practice Certificate

Under the APS proposal, the “practising psychologists” subcategory defines all those whose interface with the community carries all the risk and demand for quality and standards for which the National Law was defined. Such psychologists engage in client work and delivering professional services, remunerated or not, need to apply for an annual Practice Certificate. In essence, as the higher risk group, they will need to comply with the regulations regarding professional indemnity insurance, continuing professional development and recency of practice. Practice Certificates can only be issued to applicants once they meet all these professional obligations, which are also subject to random audits by the PsyBA.

Psychologists in the General Registration category without Practice Certificates may not be required to comply with all these obligations, as they are either not required or not relevant, and would face lesser fees compared to those with Practice Certificates. In addition, Medicare Provider Numbers (and other third party funding arrangements) would require Practice

Certificates, as would employment in any health service, school or other government department where direct client services are involved. Under the Practice Certificate, there will be well-defined areas of practice for psychologists. As a starting point, the APS suggests that practice would include any of the following:

- Assessment and formal diagnosis of disorders;
- Treatment intervention, including counselling;
- Supervision of psychologists and other health professionals; and
- Provision of expert advice and opinions.

The APS urges the PsyBA to consult further with all relevant stakeholders to define and refine areas of practice, so that the full benefits of the National Law can be realised.

Cost v benefit to the public

The cost of the proposed registration model would be neutral when compared with existing registration requirements for psychologists, with possible exception of some initial start up related costs of the new model. It is anticipated that fees for General Registration would be significantly lower than they are currently but that fees for Practice Certificates, which are in addition to the General Registration fee, would be much higher. The decreased revenue from reduced General Registration fees would also be offset by an increased number of registrants as psychologists wanting to preserve their professional title choose to be registered.

Conclusion

The APS understands the reasoning behind the broad definition of practice, but argues the problems encountered stem from both its over-inclusivity and the strict interpretation by some of the National Boards. In keeping consistent with the stated aims of the National Law, the APS proposes a new model that will be both inclusive of the whole of psychology, but also with specific details to take into account of the subtleties of the discipline. The APS believes that such a model will be cost neutral and more equitable to registrants, and provides greater clarity to the public. The APS urges the PsyBA to work closely with all key stakeholders in developing and implementing such a regulatory framework.

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2011.

Appendix 1: Model of Licensure

Licensure models of psychological practice are utilised throughout the USA and Canada, with some State based differences. The Association of State and Provincial Psychology Boards (ASPPB) is the alliance of state, provincial, and territorial agencies responsible for the licensure and certification of psychologists throughout the United States and Canada (ASPPB, 2011).

Each State however, is pursuant to its own legislation and regulatory bodies. For example, in Michigan in the USA, the Department of Licensing and Regulatory Affairs regulates the licensing of psychologists, pursuant to the Public Health Code (the Code) Act 368 1978 . In Michigan, "psychologist" refers to an individual *licensed* under the code to engage in the practice of psychology. The practice of psychology is defined as:

"rendering to individuals, groups, organisations, or the public of services involving the application of principles, methods, and procedures of understanding, predicting, and influencing behaviour for the purpose of the diagnosis, assessment related to diagnosis, prevention, amelioration, or treatment of mental or emotional disorders, disabilities or behavioural adjustment problems by means of psychotherapy, counselling behaviour modification, hypnosis, biofeedback techniques, psychological tests, or other verbal or behavioural means" (the Code)

A "license" permits a professional to independently practise psychology, which is distinguished from a "limited license". Licensed psychologists are those who have completed a doctoral level degree (either a PhD or PsyD) in psychology (with some exceptions to very similarly professional doctoral degrees), an amount of accredited supervision, pass a Standard National Examination and engage in work experience beyond the aforementioned requirements. A limited Licensed Psychologist is an individual who has a Masters Degree in psychology or who is working towards full licensure (Michigan Psychological Association [MPA], 2011).

"Psychologist" and the combinations of its use (e.g., consultants psychologist, licensed psychologist) are restricted terms (the Code, 2011). Psychologists do not however, apply for a registered term of "endorsement". For example, clinical psychologist is not a restricted term. Psychologists can specialise their education towards clinical psychology, however the official term to use remains "psychologist" only.

Although, Michigan has not specified exceptions to the licensee arrangements of "non-practicing" psychologists, some exceptions from license requirements exists in some states . For example individuals

employed in a state or federal institution, university or in laboratory research may not be required to be "licensed" although their work may meet the criteria for the practice of psychology. In addition, some states allow *school* psychologists to hold a minimum of a Masters degree as their employment is managed by the Education Department of that state.

With respect to the Australian context, the Michigan model suggests that psychologists working face-to-face with clients must be licensed to do so while probationary psychologists would meet the criteria of a limited license. Although academics may be exempt of applying for a license to practice their psychological work, they are not permitted to use the term "psychologist".