

Submission in Response to the Consultation Paper of the Definition of Practice, Australian Health Practitioner Regulation Agency, October 2011

The Forum of Australian Health Professions Councils (the Forum), representing the ten accreditation authorities under the National Registration and Accreditation Scheme, has made representation to the Australian Health Practitioner Regulation Agency and the ten National Boards since 21 December 2010 on the implications of the operation of the category of 'non-practising' registration (Section 73 of the *Health Practitioner Regulation National Law Act 2009*) and the definition by the National Boards of what constitutes 'practising the profession'. The Forum is concerned about the breadth of the definition and the potential negative implications for many organisations, particularly those involved in education and training, because of their dependence on practitioners who are no longer involved in active or direct clinical practice.

Many regulated professionals continue contributing to their profession after they have ceased clinical practice and the universities, professional and specialist colleges, other education and training institutions and bodies, and the Accreditation Councils are very dependent on their professional expertise and (often *pro bono*) contribution. While these persons are frequently involved in teaching, examining, assessment and accreditation activities, they also contribute to standard setting, policy development, mentoring and administration.

As the *Health Practitioner Regulation National Law* states that a practitioner holding non-practising registration in a profession must not practise the profession, those who are no longer in active clinical practice but are involved in teaching and other such non-clinical roles will need to be registered as practising. However, the general understanding within the community is that 'practising' refers to clinical practice. Practitioners not engaged in clinical practice but wishing to continue teaching and other non-clinical roles have generally considered themselves as 'non-practising', and prior to 1 July 2010 were, in many jurisdictions, able to register in a relevant 'non-practising' category.

The operation of the current definition may result in many organisations having to forego a valuable (and in some cases, essential) source of expertise, experience and skills. Regulated professionals wishing to continue in the non-clinical roles and activities in which they were involved before will have to have a 'practising' registration and to meet continuing professional development (CPD) requirements, and the appropriate form of such CPD is unclear.

By including in the definition of 'practice' a range of activities, such as 'working in management, administration, education, research, advisory, regulatory or policy development roles', the National Boards have included a range of activities that are not regulated and if undertaken by a non practitioner would not lead to any legal action, however if undertaken by a practitioner who was previously registered as 'practising' and is now in the 'non-practising' registration category would be against the National Law. This would seem to members of the Forum to be an unintended, and negative, consequence of the breadth of the definition.

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The contribution of highly experienced and knowledgeable members of the regulated health professions to their maintenance and continued development is highly valued, and the potential loss of this wealth of experience and *pro bono* activity is of great concern to the Accreditation Councils. Many members of the profession wish to continue to use their skills and knowledge as a health practitioner after they have ceased direct patient care and clinical practice, yet, as the consultation paper states, 'under the current definition, a person in any role who uses their skills and knowledge as a health practitioner in their profession is deemed to be practising' (Page 5). Further the consultation paper states 'therefore, anyone with a qualification as a health practitioner who is working in anything related to health could be deemed to be 'practising'. This is regardless of whether the job could be done by someone who is not a qualified practitioner' (Page 5). Many members of the profession wish to remain registered in an appropriate category of registration recognising that they no longer need to be registered for direct clinical care.

The Forum welcomes the decision of the participating National Boards in seeking a possible change to the definition. The paper (Page 2) indicates that it has been the aim of the Boards to have a common definition of 'practice'. The Forum considers that the professions might be better served by profession specific definitions of 'practice' which will allow for, and accommodate, the differences among the professions in relation to the nature of practice, and the requirement to ensure that there are not further unintended consequences within a particular profession. The Forum also notes that as there are three of the current ten National Boards not undertaking this consultation, should changes to the definition be agreed by one or more of the seven National Boards the question remains as to whether or not the other three National Boards will consider undertaking a consultation process to determine the views of those professions. The Forum is advised that the Accreditation Council for at least one of the three professions not included in the current consultation would have preferred that its National Board be participating, as the Council asserts that the current definition of 'practice' is causing similar practical difficulties within that profession.

The Forum agrees that the objective should be the protection of the public by ensuring that those fully registered to practise be suitably trained and qualified to practise in a competent and ethical manner. The majority of the Forum supports the option of changing the definition to 'emphasise safe and effective delivery of health care' (Page 7), however the wording of the definition suggested does not emphasise 'health care' but refers instead to 'health services'. It is suggested that the essence of the second option with reference to 'health care' rather than 'health services', and with the addition of any professions specific requirements, would be a more suitable definition than the current definition. The Forum notes that in addition to a change of definition the provision of 'further guidance on when a practitioner needs to be registered and the circumstances when non-practising registration will be appropriate' would be required.

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