

Submission to the Medical Board of Australia

Public consultation paper on the definition of practice

December 2011



About the RANZCP

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) is the principal organisation representing the medical specialty of psychiatry in Australia and New Zealand and has responsibility for the training, examining and awarding of the qualification of Fellowship to medical practitioners. There are approximately 3000 fellows of the RANZCP who account for approximately eighty-five per cent of all practicing psychiatrists in Australia and over fifty per cent of psychiatrists in New Zealand. There are branches of the RANZCP in each state of Australia, the ACT and New Zealand.

Executive summary

The Royal Australian and New Zealand College of Psychiatrists welcomes the invitation by the Medical Board of Australia to provide feedback regarding potential changes to the definition of practice and registration standards.

There have been issues identified relating to the definition of practice and registration of health practitioners. It is acknowledged that many practitioners have roles that may not be easy to define as practising or non-practising, particularly those who move into roles of that are predominantly or exclusively governance, leadership or administrative in nature. This review of the definition of practice is necessary to ensure that there is better clarification for all health practitioners when they are registering with the Australian Health Practitioners Regulation Agency. The RANZCP believes that improved guidance is needed to avoid confusion amongst the profession as to when it is required to register as practising, and when it is possible to register as non-practising. The RANZCP believes that protection of the public is paramount and that clear guidelines are necessary to ensure that health practitioners and the public are clear of the circumstances under which an individual would not be required to be registered, or could hold a non-practising category.

In respect of the definition of practice the RANZCP supports a change to the definition similar to Option 2 in the consultation paper. Option 1 remains restrictive and has resulted in confusion of health practitioners in respect of knowing if they must register. However, the RANZCP does not support Option 2 as worded due to implications that will impact on bi-national medical specialist colleges. This includes how the definition could lead to the need for RANZCP members who are from New Zealand, or who are retired, needing to be registered with the Board to continue College work. The RANZCP believes that any definition should include reference to patient care and be worded in a way that clearly outlines who would be required to be registered. The RANZCP acknowledges there are medical practitioners undertaking roles that may not directly impact on patient care, and believes that a new definition would allow greater flexibility for health professionals and would, with appropriate guidance and transparent information about the registration system, bolster public confidence in the registration system.

In this submission the RANZCP addresses the key questions and points as outlined in the discussion paper.

The definition

Stakeholders are asked to consider whether it is more appropriate to link “practice” with its impact on safe, effective delivery of services in the relevant profession. That is, to require an individual to hold a “practising” category of registration only if they are in roles that “*impact on safe, effective delivery of services in the profession*”.

It can be argued that there is minimal risk to the community if practitioners are not registered, or are registered in the non-practising category if:

- (1) they do not have direct clinical contact *and*

- (2) their work does not “*impact on safe, effective delivery of services in the profession*” and
- (3) they are not directing or supervising or advising other health practitioners about the health care of an individual(s) and
- (4) their employer and their employer’s professional indemnity insurer does not require a person in that role to be registered and
- (5) the practitioner’s professional peers and the community would not expect a person in that role to comply with the relevant Board’s registration standards for professional indemnity insurance (PII), continuing professional development (CPD) and recency of practice and
- (6) the person does not wish to maintain the title of “registered health practitioner”.

Question 1: Are there any other factors that the National Boards should consider when advising whether or not a person needs to be registered?

The RANZCP agrees that the above factors should be considered in determining whether or not a person needs to be registered. The RANZCP believes that protection of the public is paramount and that clear guidelines are necessary to ensure that health practitioners and the public are clear of the circumstances under which an individual would not be required to be registered, or could hold a non-practising category. It is important that all practitioners are afforded choice in whether or not they choose to be registered in circumstances when it is determined that a non-practising registration would be appropriate, to allow for continued professional independence.

A further group that may require consideration is members of specialist medical colleges who sit on committees of the RANZCP. The RANZCP is incorporated in Australia and is subject to Australian laws as far as its corporate entity is concerned. However, the RANZCP, like many other medical specialist colleges, is a bi-national body, which represents both Australian and New Zealand psychiatrists. It is clearly responsible in the broadest sense with overseeing clinical practice of psychiatry and the standards of practice of psychiatrists and trainees, as well as contributing to setting standards for services. All Fellows who serve on committees and General Council are exercising their clinical knowledge and skills in the performance of their RANZCP duties. Due its bi-national nature, New Zealand members are integrated into all structures of RANZCP governance and New Zealand members are involved on many levels in examining and training trainees in Australia. It is therefore necessary for the Board to respect the bi-national nature of medical specialist colleges and ensure that New Zealand members, as long as they are registered with the Medical Council of New Zealand, are able to participate in RANZCP work in a governance and training capacity. The RANZCP holds the view that members only need to be registered in their country of domicile. Consequently New Zealand members whose sole contribution to practice within Australia is through committee and educational activity should not be encompassed within the definition of practice, although all such practitioners should be registered as health practitioners within New Zealand.

Direct clinical roles / patient or client health care

When health practitioners provide advice, health care, treatment or opinion, about the physical or mental health of an individual, including prescribing or referring, it is clear that there is a level of risk to the public. The public and the practitioners’ professional peers would expect that this group of health practitioners would have the qualifications and the contemporary knowledge and skills to provide safe and effective health care within their area of practice. It would be expected that these practitioners will meet the standards set by the Board and therefore should be registered.

Question 2: Do you support this statement? Please explain your views.

The RANZCP supports this statement. It is expected that any health practitioner who has a direct clinical role and who is providing advice, referrals and prescribing medication to patients will be

registered and meet the standards as set by the Board. It is important that these health practitioners possess proper qualifications and maintain contemporary knowledge and skills in their medical specialty through Continuing Professional Development (CPD) activities.

Indirect roles in relation to care of individuals

Health practitioners who are in roles in which they are directing, supervising or advising other health practitioners about the health care of individuals would also be expected to have the qualifications and contemporary knowledge and skills to do so as there is potential to alter the management of the patient/client.

Question 3: Do you support this statement? Please explain your views.

The RANZCP supports registration for health practitioners who do not have a direct role in relation to care of individuals, but who are still influential in the care of patients through directing supervising or advising other health practitioners in the care of patients. Health practitioners in indirect roles in relation to care of individuals are still influential in the treatment of the patients. To ensure that these health practitioners continue to provide best practice services, they must maintain their qualifications through CPD programs, which have been tailored to their scope of practice.

Non-clinical roles / non-patient-client care roles

There are experienced and qualified health practitioners who contribute to the community in a range of roles that do not require direct patient/client contact and whose roles do not “*impact on safe, effective delivery of services in the profession*”. Examples are some management, administrative, research and advisory roles.

Question 4: Do you believe that health practitioners in non-clinical roles / non-patient-client care roles as described above are “practising” the profession? Please state and explain your views about whether they should be registered and if so for which roles?

Although their role may not involve patient care, non-clinical roles, may still require health practitioners to use their professional knowledge and skills in the delivery of their roles. Health practitioners involved in health management, administration, research and advisory positions are still participating in healthcare and have some responsibility for ensuring patients have the best standard of care. In addition, the RANZCP still requires health practitioners in non-clinical roles to still participate in the CPD Program, but under a different scope of practice. In these circumstances the RANZCP would suggest that health practitioners are “practising” the profession in a broad sense.

However it is acknowledged that, in some circumstances, it may not be appropriate or necessary for practitioners working in non-clinical or non-patient-client care to be registered as health professionals, particularly if this requires them to meet with AHPRA compliance requirements. At this point it is critically important that clear guidance is given as to the circumstances under which practitioners in such roles may be defined as non-practising and not required to comply with professional development, recency of practice, or professional indemnity insurance. However, in regard to practitioners in these circumstances, there may be merit, in narrowing the definition of practice to make it clearer to both health professionals and the public that it may not be necessary for all practitioners in these circumstances to be registered.

Education and Training

Experienced health professionals are vital to the education and training of health professionals. Their roles in education have an impact on safe and effective delivery of health services both

directly and indirectly.

Question 5: For which of the following roles in education, training and assessment should health professionals be registered?

- Settings which involve patients/clients in which care is being delivered ie when the education or training role has a direct impact on care, such as when students or trainees are providing care under the direction, instruction or supervision of another practitioner
- Settings which involve patients/ clients to demonstrate examination or consulting technique but not the delivery of care
- Settings which involve simulated patients/clients
- Settings in which there are no patients/clients present

Are there any other settings that are relevant and if so, what are your views about whether health practitioners should be registered to work in these settings?

Please explain your views.

As a general principle, the RANZCP agrees that those health professionals who have roles in education, training and assessment should be registered by the Board. Medical teaching does not only take place in the university, but also within a hospital and clinical settings, which requires health educators to have contemporary knowledge and skill that can be imparted to all trainees under their care. Although non-health professionals may participate in the education of medical trainees, it is important that assessment of a trainees' suitability to practice medicine be assessed by a health practitioner who is currently registered with the Board and the relevant specialist medical college.

However, the RANZCP has concerns regarding the above criteria, due to bi-national nature of the college and the use of retired members, who volunteer to supervise and assess examinations. Experienced health practitioners are important to the education, training and assessment of medical trainees within the healthcare system. Without the use of the RANZCP New Zealand members and retired members, the RANZCP would have difficulty in recruiting enough experienced psychiatrists to administer the RANZCP training and assessment programs. In respect of those from New Zealand, it is the view of the RANZCP that it would be sufficient for any examiner to be registered in New Zealand. In the case of retired members, the RANZCP suggests that further consideration be given to registration requirements for this group, including whether registration is necessary depending on the level and type of work carried out.

If there are any circumstances pertaining to education under which it is very clear that registration would not be required, for example retired members undertaking examination duties, this should be outlined clearly in guidelines developed in consultation with, and approved by, specialist medical colleges. Further information about this group is outlined in the section below under 'other options'.

Option 1 – No change

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 current definition of "practice" captures all activities and settings in which an individual with qualifications as a health practitioner might be involved professionally. It protects the public by requiring health practitioners to be registered and to meet the registration standards.

Question: Do you support this option? Please explain your views.

The RANZCP does not support the current definition. The RANZCP is concerned that retaining this definition does not allow sufficient flexibility within the system for doctors who have moved into non-clinical roles to opt to either not register, or register in a non-practising role.

The RANZCP believes that having a too broad definition of practice may inadvertently deter a number of health professionals from taking on roles for fear of having to meet with AHPRA compliance requirements - e.g. mandatory CPD, recency of practice, and professional indemnity insurance. Doctors who are not performing roles with a clinical or patient focus will be put at a disadvantage in respect of meeting these compliance requirements and it may even deter such practitioners from moving into these roles. This may have the unintended consequence of decreasing the number of health professionals involved in research, governance, education and other leadership roles. Consequently the RANZCP supports a change of the definition of practice.

Option 2 – Change the definition to emphasise safe and effective delivery of health care

As stated above, the current definition of “practice” captures the various settings in which a health practitioner may use his or her knowledge and skills and provides for the changing nature of health care delivery.

The current definition could be changed to place the emphasis on safe and effective delivery of health care.

***Practice** means any role in which the individual uses their skills and knowledge as a health practitioner in their profession in any way that impacts on safe, effective delivery of health services.*

Question: Do you support this option? Please explain your views.

The RANZCP does not support this option. As noted earlier, this definition does not allow for the bi-national nature of medical specialist colleges and would necessitate the registration of retired members, to allow them to continue to work and volunteer with the RANZCP.

Whilst, in principle, the RANZCP supports a narrower definition of practice, it is believed that further consideration is given to a definition that encompasses patient care but does not imply that members from New Zealand, and retired members, participating in examinations and other College activity would be required to be registered.

Other Options

There may be other options that the National Boards have not put forward at this stage, such as maintaining the current definition but providing further guidance on when a practitioner needs to be registered and the circumstances when non-practising registration will be appropriate. Stakeholders are asked to provide feedback on any alternatives to the above options.

It is important that registration requirements take into account the broad nature of health care and the practice of the health professions. Throughout this submission, the RANZCP has provided examples where issues may arise in determining who needs to register. Consequently the RANZCP supports a change of the definition of practice.

As part of introduction of new definition, The RANZCP would recommend that further clear guidance on the circumstances under which practitioners would need to be registered, and can be defined as non-practising, is essential. Clear scenarios would need to be outlined. For example, for some research roles involving patients, it may be highly appropriately, and indeed required, for the health professional to be registered and comply with CPD, indemnity and recency of practice requirements. In other circumstances, research may have no contact with patients, and be based purely on social theory - in

these circumstances, non-registration, or a non-practising registration may be appropriate. Such guidelines should be developed in consultation with and approved by relevant organisations, including specialist medical colleges.

To help address some of these issues, the RANZCP did consider whether implementation of a more 'limited' definition of practice was required – for example for members who are nearing retirement or who have family commitments and are undertaking a very limited scope of practice, such as assistance with examinations. However, it is understood that, under current legislation, changes to registration categories is not possible.

If it is determined that practitioners with a limited scope of practice are required to be registered, to assist members in these situations, the RANZCP recommends the Medical Board of Australia consider recommendations for less arduous CPD requirements (the RANZCP currently provides a CPD category that is less arduous for Fellows who are retired) and considers a recommendation to medical indemnity insurers to provide discount insurance premiums for those who work in a limited capacity, but who are still required to be registered under whatever definition of practice that is decided upon. Furthermore, a reduced registration fee rate would be welcome for such individuals. Again, such information should be provided in an open and transparent manner, and clear guidelines issued, to promote public confidence in the system.

It is also important that individual practitioners retain a right to choose how they be registered, and whether they wish to comply with professional requirements (e.g. professional development, professional indemnity insurance, and recency of practice) to retain their professional identify and independence.

Key issues

- The Board should respect the bi-national nature of medical specialist colleges and ensure that New Zealand members, as long as they are registered with the Medical Council of New Zealand, are able to work for the RANZCP in a governance and training capacity.
- That the current definition of practice be changed to which has an emphasis on patient health and safety, but does not imply that members from New Zealand, and retired members, participating in College activity would be required to be registered.
- Any approved definition and registration guideline should acknowledge the work of retired members, who may be fully retired from medical practice, but may still be involved in medical college activities, such as supervision of examinations.
- That further clear guidance on the circumstances under which practitioners would need to be registered, and can be defined as non-practising, is essential. Clear scenarios need to be outlined and such guidelines should be developed in consultation with and approved by relevant organisations, including specialist medical colleges
- The Medical Board of Australia needs to consider recommendations for less arduous CPD requirements and considers a recommendation to medical indemnity insurers to provide discount insurance premiums for those who work in a limited capacity, but who are still required to be registered (for example those nearing retirement).
- That all practitioners are afforded choice in whether or not they choose to be registered in circumstances when it is determined that a non-practising registration, or non-registration, would be appropriate, to allow for continued professional independence