Procedures for the development of registration standards, codes and guidelines

November 2023

Purpose of this document

Ahpra has established these procedures under section 25 of the *Health Practitioner Regulation National Law* as in force in each state and territory (the National Law). One of the key functions of the National Boards is to develop or review registration standards, codes and guidelines for health practitioners registered in their respective professions. These procedures aim to ensure good regulatory practice when National Boards are developing new or revised registration standards, codes, and guidelines[1]. Good regulatory practice includes being responsive to changing needs and these procedures are intended to be implemented through approaches that respond to relevant context and need.

Wide-ranging consultation and consultation with other National Boards

National Boards must consult widely on any proposed change to the content of an existing registration standard, code or guideline, and content of any new registration standard, code or guideline.[2] The relevant community, patient safety and consumer groups or bodies, the profession, co-regulatory bodies and governments must be consulted as a minimum and details about how to respond to the consultation will be published on the National Board's website. The National Board will publish information about feedback received, the submissions (except where confidentiality is requested or required) and how the proposed new or revised registration standard, code, or guideline addresses key issues raised in the feedback.

The National Board must also consult with other National Boards if the proposed new or changed registration standard, code or guideline is reasonably expected to be of interest to them.[3]

Ahpra and the National Boards will assess the proposed new or revised registration standard, code or guideline against the principles outlined below and this assessment should be made publicly available including during the consultation process.

Patient health and safety impact statement and assessment

The National Board must prepare a patient health and safety impact statement to accompany advice and recommendations about the proposed new or revised registration standard, code or guideline and publish a patient health and safety impact assessment when the new or revised registration standard, code or guideline is published.

Regulatory impact assessment

In April 2023, National Cabinet agreed changes to the impact analysis requirements that apply to decisions in the Federal Relations Architecture. It is no longer mandatory for impact analysis to be finalised with the Office of Impact Analysis (the OIA), unless it is requested by the relevant decision

[1] See section 35(c)(i) and (iii) of the National Law.
[2] See Section 40(1) of the National Law
[3] See clause 9 of Schedule 4 of the National Law

maker. In the case of the National Scheme, this is either by the National Boards or the Ministerial Council, depending on who approves the proposal. Not all regulatory proposals will require a RIS.

The National Boards and Ahpra will prepare advice on likely regulatory impacts of any proposed new or revised standard, code or guideline against the principles set out below for inclusion in preliminary and public consultation. The decision-maker may ask that a Regulatory Impact Statement (RIS) be prepared, if needed. If so, contact will be made with the OIA. The OIA will continue to administer the *Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies*. The requirements of this Guide apply where the relevant decision-maker requests the OIA's support and independent assessment of a RIS prepared by their officials.

If the proposed new or revised registration standard, code or guideline substantially changes during finalisation of the proposal, updated advice should be provided to the decision-maker before submitting the final proposed new or revised registration standard to Ministerial Council for approval, and before the National Board's final approval of a new or revised code or guideline.

Proposal for new or revised registration standards, codes, and guidelines – principles

When putting forward a proposal for a new or revised registration standard, code or guideline, a National Board will:

1. describe how the proposed new or revised registration standard, code or guideline:

    1.1 takes into account the paramount principle, objectives and guiding principles in the National Law.[4]

3 Objectives

(1) The object of this Law is to establish a national registration and accreditation scheme for—

(a) the regulation of health practitioners; and

(b) the registration of students undertaking—

(i) programs of study that provide a qualification for registration in a health profession; or

(ii) clinical training in a health profession.

(2) The objectives of the national registration and accreditation scheme are—

(a) to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered; and

(b) to facilitate workforce mobility across Australia by reducing the administrative burden for health practitioners wishing to move between participating jurisdictions or to practise in more than one participating jurisdiction; and

(c) to facilitate the provision of high quality education and training of health practitioners; and

(ca) to build the capacity of the Australian health workforce to provide culturally safe health services to Aboriginal and Torres Strait Islander Peoples; and

(d) to facilitate the rigorous and responsive assessment of overseas-trained health practitioners; and

(e) to facilitate access to services provided by health practitioners in accordance with the public interest; and

(f) to enable the continuous development of a flexible, responsive and sustainable Australian health workforce and to enable innovation in the education of, and service delivery by, health practitioners.

3A Guiding principles

(1) The main guiding principle of the national registration and accreditation scheme is that the following are paramount—

(a) protection of the public;

(b) public confidence in the safety of services provided by registered health practitioners and students.

(2) The other guiding principles of the national registration and accreditation scheme are as follows—

(a) the scheme is to operate in a transparent, accountable, efficient, effective and fair way;

(aa) the scheme is to ensure the development of a culturally safe and respectful health workforce that—

(i) is responsive to Aboriginal and Torres Strait Islander Peoples and their health; and

(ii) contributes to the elimination of racism in the provision of health services;

Example—

Codes and guidelines developed and approved by National Boards under section 39 may provide guidance to health practitioners about the provision of culturally safe and respectful health care.

(b) fees required to be paid under the scheme are to be reasonable having regard to the efficient and effective operation of the scheme;

(c) restrictions on the practice of a health profession are to be imposed under the scheme only if it is necessary to ensure health services are provided safely and are of an appropriate quality.

[4] See section 3 and section 3A of the National Law

1.2 draws on available evidence, including regulatory approaches by health practitioner regulators in countries with comparable health systems

2. describe how the proposed new or revised registration standard, code or guideline supports or contributes to:

2.1 improving patient safety, effective care and health outcomes, including for vulnerable members of the community and Aboriginal and Torres Strait Islander Peoples

2.2 practitioners' provision of culturally safe care as defined in the Aboriginal and Torres Strait Islander Health and Cultural Safety Strategy 2020-2025

2.3 practitioners' understanding of the health system in Australia and their roles, responsibilities and ethical conduct, when working within the system

2.4 practitioners' engagement in interprofessional collaborative practice

2.5 addressing health and workforce priorities including family and domestic violence, noting that information about new priorities may be published as they emerge

2.6 avoiding duplication and minimising regulatory burden

3. outline steps taken during development of the proposed registration standard, code or guideline to:

3.1 achieve greater consistency within the national scheme (for example, by adopting any available template, guidance or good practice approaches used by national scheme bodies)

3.2 meet the consultation requirements in the National Law and these procedures

3.3 address the following principles:

a. whether the proposal is the best option for achieving the proposal's stated purpose and protection of the public

b. whether the proposal results in an unnecessary restriction of competition among health practitioners

c. whether the proposal results in an unnecessary restriction of consumer choice

d. whether the overall costs of the proposal to members of the public and/or registrants and/or governments are reasonable in relation to the benefits to be achieved

e. whether the proposal's requirements are clearly stated using 'plain language' to reduce uncertainty, enable the public to understand the requirements, and enable understanding and compliance by registrants, and

f. whether the Board has procedures in place to ensure that the proposed standard remains relevant and effective over time.

4. provide any feedback on regulatory impacts to the decision maker that has been provided in the consultation process or identified in developing the new or revised registration standard, code or guideline

5. complete a patient health and safety impact statement (at preliminary consultation) and a patient and safety impact assessment (when ready to publish) by considering the following matters:

a. the potential impact of the registration standard, code or guideline on the health and safety of patients and consumers, particularly vulnerable members of the community, including approaches to mitigate any potential negative or unintended effects

b. the potential impact of the registration standard, code or guideline on the health and safety of Aboriginal and Torres Strait Islander Peoples including approaches to mitigate any potential negative or unintended effects

c. engagement with patents and consumers particularly vulnerable members of the community about the proposal

d. engagement with Aboriginal and Torres Strait Islander Peoples about the proposal.

Proposal to Ministerial Council

Consistent with the changes agreed by National Cabinet to regulatory impact assessments, the Ministerial Council can ask for a RIS be prepared if needed, preferably before public consultation and informed by advice from Ahpra and the National Boards on the likely regulatory impacts of a proposal.

When submitting a proposed new or revised registration standard for approval, a National Board must provide advice about the potential impacts of the proposed registration standard, including impacts on the issues set out in these procedures and summarise feedback about any impacts provided during the consultation process.

Gill Callister PSM
Chair
Ahpra Board

Date of approval: November 2023

Date of review: These procedures will be reviewed from time to time as required. This will generally be at least every 3 years.