

Respondent

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Time to complete

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4. The National Boards and Ahpra publish submissions at their discretion. We generally publish submissions on our websites to encourage discussion and inform the community and stakeholders. Please advise us if you do not want your submission published. *

- Submission can be published
- Submission NOT to be published

5. Do the draft revised regulatory principles reflect the policy directions issued by CoAG Health Council? If not, how could the principles be improved?

Generally speaking, the regulatory principles reflect some of the policy directions issued by CoAG Health Council. However, some of the wording may need to be revised, giving consideration to the later Policy Directions 2020-1 and communiques issued by CoAG

between 2020- 2021 addressing similar issues, including the reform of National Law regarding the role of Ahpra.

6. Do the draft revised regulatory principles support Ahpra and the National Boards regulatory decision-making? If not, how could they be improved?

The draft revised regulatory principles will provide support for the decision-making of various entities. However, an unavoidable point of confusion for the public is, to what extent is Ahpra deemed to be involved in the regulation of unregistered health professionals to better protect the public? While Ahpra focuses on those professions currently registered in line with the current National Law, what is the intended role of Ahpra in the protection of the public for unregistered health professionals and how can this be better communicated to the public?

7. Is the content of the draft revised regulatory principles helpful, clear and relevant?

Yes, the draft regulatory principles are helpful, clear and relevant. However, in reference to the general public, the difference between a registered and unregistered health practitioner does cause confusion, particularly when an issue has arisen. Consideration could be given to create a 'laymans' version of the principles that the public can better understand.

8. Is there any content that needs to be changed, added or deleted in the draft revised regulatory principles?

Principle 5 could be considered in terms of identifying risk to vulnerable people. CoAG Health Council raised the issue regarding the concept of vulnerable people in the Policy Direction 2019-1. However, two years have elapsed between now and then, and CoAG Health Council has not yet updated their name to the Health Council since late May 2020. The initial policy direction was issued pre COVID-19. On reflection from the many experiences during 2020 and the pandemic, we should be more reflective about our society and consider the broader group of vulnerable members of our society. According to NSW Courts definition; In the Criminal Procedure Act 1986 (chapter 6 part 6) a vulnerable person is a person who has suffered a personal assault offence and is one of the following: 1. A child, or 2. A cognitively impaired person. According to NSW Police Force definition; The NSW Police make special arrangements for vulnerable persons particularly when they need to give a statement. In the Law Enforcement (Powers and Responsibilities) Regulation 2005 Clause 24 a person who falls within one or more of the following categories is considered a "vulnerable person": 1. Children 2. People who have impaired intellectual functioning 3. People who have impaired physical functioning 4. People who are Aboriginal or Torres Strait Islanders 5. People who are of non-English speaking background Back in 2018, the

Australian Institute of Health and Welfare (AIHW) noted that there is a definite association between limited English skills and poorer health outcomes. CoAG defined the concept of “vulnerable group” slightly differently between its Policy Direction 2019-1 and 2019-2, as shown below: Policy Direction 2019-1 2.b. take into account the potential impact of the practitioner’s conduct on the public, including vulnerable people within the community such as children, the aged, those living with disability and people who are the potential targets of family and domestic violence; Policy Direction 2019-2 2.b. Take into account the health and safety of vulnerable members of the community, and Aboriginal and Torres Strait Islander people. The second policy acknowledges that vulnerable people are living within our community. The reason they are vulnerable is determined by their position in the society, which could be social or economic, causing such vulnerability. Therefore, the second policy does not intend to make a close definition but left the definition open. The most efficient way to address the definition issue is revise Principle 5 (or the addition of a footnote) to ensure a full expansion of the range of vulnerable groups in our society.

9. Please add any other comments or suggestions for the draft revised regulatory principles.

ASUM appreciates the opportunity to participate in the consultation process. The revision of the regulatory principles should promote governance improvements of the National Law since its inception. An independent review of the National Registration and Accreditation Scheme was undertaken by Mr Kim Snowball in 2014, as well as the independent report by Professor Michael Woods in 2017. Both reports provided discussion on the governance of the national law, with both indicating the concern regarding unregistered health professionals operating outside the National Scheme. The Australian Health Ministers partially accepted the recommendations made in these reports does not diminish the concerns and public confusion of the unregistered health professionals. In responding to the two above-mentioned reports, there were more key documents issued by the CoAG Health Council between 2020 and 2021, including another Policy Direction 2020-1, two Communiques both issued on 12 February 2020 and a full report on the governance issue of the National Scheme (2017). A comprehensive understanding of these documents may show us the overall picture of the role of Ahpra in managing both registered and unregistered health professionals in registration and accreditation matters. Ahpra’s administration of the National Scheme is relevant to both the registered and non-registered health professionals, especially for the core purpose of public protection. Previously, it was the function of the National boards to develop registration standards to ensure that health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered. The Health Council is recommending an amendment to the National Law to provide it with a power of delegation in relation to registration standards . CoAG Health Council had also already required the Ahpra to “establish an independent accreditation committee with broad stakeholder membership to provide advice on relevant accreditation reforms” (see CoAG Health Council Communique 12 February 2020). This requirement has been confirmed again by the Ministerial Council Policy Direction 2020-1 – Independent Accreditation Committee advice. Both of the previously mentioned Health Council official documents indicated that Ahpra plays a role regarding the indirect regulation of all unregistered health professionals and also their education accreditation system. Therefore, it should not exclude unregistered health practitioners as if it is not under the supervision of Ahpra from the proposed principle 2. Therefore, this principle could be revised in the future

as follows; Public protection is our paramount objective in the National Registration and Accreditation Scheme. We act to support safe, professional practice and safety and quality of health services provided by health practitioners.