

Public consultation - revised Regulatory Principles for the National Scheme

Submission by the
Australian Physiotherapy Association

May 2021

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Executive Summary

The Australian Physiotherapy Association (APA) welcomes the opportunity to make a submission to the public consultation on the revised Regulatory principles for the National Scheme.

The APA considers safe and effective delivery of care to be necessary and essential. We support the ongoing review and updating of the regulatory principles in order to support balancing over-regulation of healthcare providers to improve patient outcomes and satisfaction, while avoiding negative consequences.

Overall, we support the draft revised regulatory principles and consider that the changes largely reflect the policy directions issued by the CoAG Health Council. The changes are written in a clear and comprehensive way which is easy to understand.

However, the APA suggests there are some areas in the draft principles which should be amended to better reflect the intent of the policy directions; particularly in order to further strengthen the key directions of the regulatory principles in relation to public protection, patient safety for all people in the community, regardless of age, gender, ethnicity, disability, sexual orientation, or beliefs, particularly higher risk cohorts. We therefore reiterate our suggestion to amend *Principle 2* to strengthen the focus on patient centred care and cultural safety. We also suggest the need to adopt more inclusive health and wellbeing language, and reflect a broader range of diverse population groups in *Principle 5*.

Overall, we also consider the revised regulatory principles to support the intent to protect the public and ensure high quality practice. We would strongly recommend increased emphasis overall in the regulatory principles regarding ongoing engagement with patients and consumer groups to support patient safety, including to the *Preamble* and *Principle 4*. On this matter, we welcome the new wording of *Principle 7*.

We also recommend revisions to content that references Aboriginal and Torres Strait Islander peoples and communities, including *Principle 5*. It is important that these statements are not presented as an addition, but instead reflect a sincere intent to build and support ongoing engagement and well developed partnerships, as well as cultural safe and secure practices.

Our feedback is structured around addressing the questions raised in the Public Consultation Paper and includes a table of APA proposed wording for the principles.

On behalf of the physiotherapy profession, we are pleased to inform this public consultation and look forward to continuing to support this work to ensure the revised Regulatory principles for the National Scheme is as effective and relevant as possible.

Questions for consideration

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

The APA considers safe and effective delivery of care to be necessary and essential. We support the ongoing review and updating of the regulatory principles in order to support balancing over regulation of healthcare providers to improve patient outcomes and satisfaction, while avoiding negative consequences.

Overall, the revisions to the regulatory principles largely reflect the policy directions issued by the CoAG Health Council and are written in a clear and comprehensive way which is easy to understand. The changes to the regulatory principles also generally contextualise the policy directions, and capture the high-level practice considerations that need to be taken into account.

The APA suggests there are some areas in the draft regulatory principles which should be amended to better reflect the intent of the policy directions, especially key consideration 1. “The Council supports that regulatory decision-making by Ahpra and the National Boards within the National Registration and Accreditation Scheme **must act in the interests of public protection, patient safety and support the safety and quality of health services.**” could be expressed more explicitly either in the Preamble or in Principle 2. See our suggestions below.

The revisions provide greater clarity to indicate that Ahpra’s work involves engagement with consumer groups, however we recommend additional wording is included to reflect the extent of this involvement. In order to further strengthen the key directions of the regulatory principles in relation to public protection, including vulnerable people in the community. To align more closely with the intent of the policy directions, we would recommend the inclusion of the following words in *Principle 2*:

*Public protection is our paramount objective in the National Registration and Accreditation Scheme. We act to support safe, professional **patient centred** practice and the safety, **including cultural safety**, and quality of health services provided by registered health practitioners.*

We recommend the term ‘vulnerable people’ is replaced with the term higher risk groups in Principle 5, as this is a clearer and more accurate term, that reflects intent of the statement. This term is also consistent with the language used by a range of health organisations, including World Health Organization and Department of Health. We would also suggest further inclusions to the statement as it relates to consideration of the public, as well as consultation with relevant patient-safety bodies and healthcare consumer bodies. This would both strengthen the intent, and more directly align with the wording in the policy directions regarding these areas.

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

Overall, the revised regulatory principles support the intent to protect the public and ensure high quality practice. In general the regulatory principles reflect that the following aspect should be considered when making decisions:

- The fact decisions are made in the interest of the public, not the individual practitioners;
- That Ahpra and the National Boards' scope of work is defined by the National Law;
- That Ahpra and the National Boards' are to work under a risk assessment framework; and
- The intention is not to punish practitioners.

The APA welcomes the new wording of *Principle 7* regarding ongoing engagement with patients and consumer groups to support patient safety. This is an important and essential ongoing process in developing standards, codes and guidelines. Engagement with consumer and safety groups is important as there are instances, for example in areas regarding boundary violations or cultural safety, where safety is determined by the patient.

The APA suggests that regarding the protection of the public as mentioned in *Principle 3*, an important role of Ahpra is also to prevent non-registered practitioners from practicing and/or presenting themselves as registered practitioners. For the sake of clarity, we suggest to add:

Where it is discovered that a person falsely presents themselves to be a registered practitioner, then immediate and appropriate actions will be undertaken.

The APA also suggests there are some specific areas in the draft regulatory principles which could be amended to better reflect the intent of policy directions. These changes would provide further clarity on the requirements of Ahpra and the National Boards when determining whether to take regulatory action about a health practitioner.

To strengthen the focus on the role of Ahpra and the National boards to support patient safety and public protection, we suggest the following changes to the *Preamble*:

*These regulatory principles underpin the work of the National Boards and Ahpra in regulating Australia's health practitioners, in the **interests of public protection, patient health and safety, and to support the safety and quality of health services.** They shape our thinking about regulatory decision-making and have been designed to encourage a responsive, risk-based approach to regulation across all professions. They also consider community expectations of **the standards of practice by the registered practitioner** and reflect **CoAG directions.***

Greater emphasis on accountability across the profession and at various levels could further increase the intent and purpose of *Principle 6*, to improve the standard of practice. We recommend the following inclusion:

The primary purpose of our regulatory action is to protect the public and improve the standard of practice of registered health practitioners, not to punish

practitioners. When deciding on regulatory action we consider with at least equal weight:

- the expectations of the public and professional peers,
- community confidence in regulated health professions,
- the need to effectively deter other practitioners from engaging in similar conduct, **supported by ongoing training, development and best practices approaches.**

We would suggest the distinction between the role of Ahpra and the Board in *Principle 7* could be clearer. In particular, the role and purpose of Ahpra for example, in regulatory entry level requirements and accreditation standards, compared with the Board which is responsible for then maintaining regulator standards as well as holding a function as an educator to improve the role and practice of individual practitioners.

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

Overall, we find the content helpful, clear and relevant.

However, in order to provide well defined expectations, and support the practical intent to ensure issues are appropriately dealt with, we would suggest further clarification of the term 'timely' in *Principle 4*. This is particularly important when concerns are raised about a health practitioner. This clarity could be provided using a footnote that defines the term and points to a timetable detailing Ahpra response times. This could then be supported with guidance indicators to provide examples across some of the broader process steps when dealing with a complaint. For example, a suggested indicator to monitor the length of time taken to respond to a serious complaint and checked against the published timetable.

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

As mentioned above, the APA suggests some changes to the proposed wording of the principles.

Current preamble	Proposed preamble	APA suggested changes
These regulatory principles underpin the work of the Boards and AHPRA in regulating Australia's health practitioners, in the public interest. They shape our thinking about regulatory decision-making and have been designed to encourage a responsive, risk-based approach to regulation across all professions.	These regulatory principles underpin the work of the National Boards and Ahpra in regulating Australia's health practitioners, in the public interest. They shape our thinking about regulatory decision-making and have been designed to encourage a responsive, risk-based approach to regulation across all professions. The regulatory principles consider community	These regulatory principles underpin the work of the National Boards and Ahpra in regulating Australia's health practitioners, in the interests of public protection, patient health and safety, and to support the safety and quality of health services. They shape our thinking about regulatory decision-making and have been designed to encourage a responsive,

	expectations and reflect ministerial directions.	risk-based approach to regulation across all professions. They also consider community expectations of the standards of practice by the registered practitioner and reflect CoAG directions .*
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Current principle	Proposed principle	APA suggested changes
1. The Boards and AHPRA administer and comply with the Health Practitioner Regulation National Law, as in force in each state and territory. The scope of our work is defined by the National Law.	The National Boards and Ahpra administer and comply with the Health Practitioner Regulation National Law, as in force in each state and territory. The scope of our work is defined by the National Law.	
2. While we balance all the objectives of the National Registration and Accreditation Scheme, our primary consideration is to protect the public.	Public protection is our paramount objective in the National Registration and Accreditation Scheme. We act to support safe, professional practice and the safety and quality of health services provided by registered health practitioners.	Public protection is our paramount objective in the National Registration and Accreditation Scheme. We act to support safe, professional patient centred practice and the safety, including cultural safety , and quality of health services provided by registered health practitioners. *
3. We protect the health and safety 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.		We protect the health and safety 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. Where it is discovered that a person falsely presents themselves to be a

		registered practitioner, then immediate and appropriate actions will be undertaken.
When we are considering an application for registration, or when we become aware of concerns about a health practitioner, we protect the public by taking timely and necessary action under the National Law.	<i>Removed</i>	
<p>4. In all areas of our work we:</p> <ul style="list-style-type: none"> • identify the risks that we are obliged to respond to • assess the likelihood and possible consequences of the risks, and • respond in ways that are proportionate and manage risks so we can adequately protect the public. <p>This does not only apply to the way in which we manage individual practitioners but in all of our regulatory decision-making, including in the development of standards, policies, codes and guidelines.</p>	<p>In all our work we:</p> <ul style="list-style-type: none"> • identify the risks that we need to respond to • assess the likelihood and possible consequences of the risks • respond in ways that are proportionate and manage risks so we can adequately protect the public, and • take timely and necessary action under the National Law. <p>This applies to all our regulatory decision-making, the development of standards, policies, codes and guidelines as well as the way we regulate individual practitioners.</p>	<p><i>Comment: We would suggest further clarification of the term ‘timely’. This clarity could be provided using a footnote that defines the term and points to a timetable detailing Ahpra response times.*</i></p>
5. When we take action about practitioners, we use the minimum regulatory force to manage the risk posed by their practice, to protect the public. Our actions are designed to protect the public and not to punish practitioners. While our actions are not intended to punish, we acknowledge that practitioners will	When we learn about concerns regarding practitioners, we apply the necessary regulatory response to manage the identified risk posed by their practice, to protect the public. Our responses consider the potential impact of their conduct on the public including vulnerable people in the community and Aboriginal	When we learn about concerns regarding practitioners, we apply the necessary regulatory response to manage the identified risk posed by their practice, to protect the public. Our responses consider the potential impact of their conduct on the public with particular attention given to the safety of higher risk

<p>sometimes feel that our actions are punitive.</p>	<p>and Torres Strait Islander Peoples.</p>	<p>groups in the community and Aboriginal and Torres Strait Islander Peoples.*</p>
<p>6. Community confidence in health practitioner regulation is important. Our response to risk considers the need to uphold professional standards and maintain public confidence in the regulated health professions.</p>	<p>The primary purpose of our regulatory response is to protect the public and improve the standard of practice of registered health practitioners. Our responses are designed to not punish practitioners. When deciding on regulatory responses we:</p> <ul style="list-style-type: none"> • give at least equal weight to the expectations of the public as well as professional peers • consider the importance of maintaining community confidence in regulated health professions, and • consider the need to effectively deter other practitioners from engaging in similar conduct. 	<p>The primary purpose of our regulatory response is to protect the public and improve the standard of practice of registered health practitioners. Our responses are designed to not punish practitioners. When deciding on regulatory responses we:</p> <ul style="list-style-type: none"> • give at least equal weight to the expectations of the public as well as professional peers • consider the importance of maintaining community confidence in regulated health professions, and • consider the need to effectively deter other practitioners from engaging in similar conduct <p>supported by ongoing training, development and best practices approaches.*</p>
<p>7. We work with our stakeholders, including the public and professional associations to achieve good and protective outcomes. We do not represent the health professions or health practitioners. However, we will work with practitioners and their representatives to achieve outcomes that protect the public.</p>	<p>We work with our stakeholders, including patient safety bodies, healthcare consumer bodies and professional associations, to protect the public. We do not represent the health professions, health practitioners or consumers. However, we work with practitioners and their representatives and consumers to achieve outcomes that protect the public.</p>	<p><i>Comment: We would suggest the distinction between the role of Ahpra and the Board could be clearer. In particular, the role and purpose of Ahpra for example, in regulatory entry level requirements and accreditation standards, compared with the Board which is responsible for then maintaining regulator standards as well as holding a function as an educator to improve the role</i></p>

		<i>and practice of individual practitioners.</i>
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* As indicated in our preliminary submission.

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

In Objective of the review , it is stated that “The objective of the review is to make sure that the regulatory principles remain contemporary and keep pace with our changing and dynamic environment”. It is our view that for the principles to be *contemporary and keep pace with our changing and dynamic environment*, it is important that the principles reflect more strongly and more clearly the concern for providing safe health services to all cohorts of patients and consumers regardless of age, gender, ethnicity, disability, sexual orientation, or beliefs.

Conclusion

The APA supports the development of the revised regulatory principles to align with the CoAG Health Council policy directions encouraged a responsive, risk-based approach to regulation across all professions within the National Scheme. Overall, we feel the revisions support the general purpose and intention which is to acknowledge the importance of community confidence in the regulation of health care professionals.

We would be happy to discuss the issues we raise in this submission should that be valuable in the consultation process. We look forward to ongoing and collaboration with Ahpra.

Australian Physiotherapy Association

The APA vision is that all Australians will have access to quality physiotherapy, when and where required, to optimise health and wellbeing.

The APA is the peak body representing the interests of Australian physiotherapists and their patients. It is a national organisation with state and territory branches and specialty subgroups. The APA represents more than 29,000 members who conduct more than 23 million consultations each year.

The APA corporate structure is one of a company limited by guarantee. The APA is governed by a Board of Directors elected by representatives of all stakeholder groups within the Association.