

Message from the Chair

Dear Colleagues

This is the first *Update* from the Medical Board of Australia under the National Registration and Accreditation Scheme (the National Scheme). It outlines the details of the National Scheme and focuses on a series of new obligations for medical practitioners under the *Health Practitioner Regulation National Law Act 2009* (the National Law) as enacted in participating jurisdictions. Future editions will focus more on issues in contemporary medical practice and on lessons to be drawn from the Board's investigations.

The National Scheme, which includes 10 health professions, started in all states and territories except Western Australia on 1 July 2010. WA has now passed the necessary legislation and is expected to join the National Scheme in October 2010. The Medical Board of Australia includes members from all states and territories. The state and territory boards, operating as committees of the National Board, will still make decisions about individual practitioners in each jurisdiction. This will allow local decision making within a framework of national consistency. The work of the 10 National Boards is supported by the Australian Health Practitioner Regulation Agency (AHPRA).

National registration is something that many doctors have sought for a long time. It has not been easy to achieve in a federation. The National Law is legislation which has been adopted in each state and territory. It does not solve all the complexity for professionals working in different jurisdictions as other laws (such as drugs and poisons legislation) are still based in states and territories. The situation is similar to road law. Drivers need to be aware of the road rules wherever they are driving but they do not need to get a new licence to drive interstate.

With this *Update* you will also receive *Good Medical Practice*, the code of conduct for doctors in Australia. The code was developed by the Australian Medical Council at the request of the state and territory medical boards and issued in 2008. It was endorsed by all the Boards and has now been adopted by the Medical Board of Australia.

Good Medical Practice describes what the Board expects of all doctors registered to practise medicine in Australia. It was developed through an extensive consultation process involving many groups of doctors, professional organisations, medical educators, medical students, health administrators, community and consumer groups and many individuals. It sets out the principles that characterise good medical practice and makes

explicit the standards of ethical and professional conduct expected of doctors by their professional peers and the community.

It is also available on the Board's website www.medicalboard.gov.au. Rather than being a list of rules, it acknowledges the complexity and subtlety of the judgements doctors make as they work with their patients. *Good Medical Practice* is an important document and I commend it to you.

The Board encourages you to access its website regularly. It is a major means of communication for the Board and will give you access to much more detail than we can provide in this *Update*.

At the start of this new era in regulation, the Medical Board pays tribute to all the members and staff of the previous medical boards around Australia. Medical regulation in Australia started in Tasmania in 1837. For more than 170 years, many people have engaged generously in the work of regulating professional standards for medical practice in this country, so that Australians, rightly, can place their confidence in their doctors. This is the core purpose of medical regulation.



Dr Joanna Flynn
Chair
Medical Board of Australia

Due to renew? Do it now or risk losing your registration! See page 2 for details.

National registration: Benefits

- **Mobility:** Register once (general registration), practise across Australia
- **Uniformity:** Consistent national standards – registration and professional conduct
- **Efficiency:** Less red tape - streamlined, effective over time
- **Collaboration:** Sharing, learning and understanding of innovation and good regulatory practice between professions
- **Transparency:** national online registers displaying registered health practitioners, including current conditions on practice (except health-related conditions)

Registration due! Renew now!

Doctors who were due to renew their registration on 30 September and have not yet done so will lose their registration on 31 October if they do not act now.

Under the National Law, doctors have a one-month 'grace period' after their registration is due when they can still practise. However, under the National Law any practitioners whose registration was due on 30 September who do not renew by 31 October will be removed from the Register of Practitioners. The Board has no discretion to make exceptions.

To apply to register again, you must submit a new application and make a range of declarations of compliance with the Board's registration standards. Processing a new application for registration can take some time and involves extra costs. It involves criminal history checks and external verification of qualifications and identity.

The Medical Board of Australia has waived the late fee for 2010.

Quick check

To find out if you are due to renew your registration, go to www.medicalboard.gov.au and click on the Medical Register – follow the prompts to check your registration status and your registration renewal date.

What do I have to do?

If your registration was due on 30 September or soon after, and

you did not renew on time, go to www.medicalboard.gov.au and renew online before 31 October 2010 or within one month of your due date. If you don't renew, you will be removed from the Register of Practitioners.

Can I renew online?

The Board encourages doctors with general or specialist registration to take advantage of AHPRA's online renewal capacity. Only doctors with limited or non-practising registration are not able to renew online.

What if I don't want to renew?

If you do not want to renew your registration, do nothing and you will automatically be removed from the Register of Practitioners.

I have applied, how can I tell if my renewal has been processed?

If you apply and renew online, your renewal date will displayed on the Register as due in 2011.

If you apply in hard copy before the end of the grace period (ie: within one month of the due date), the registration date displayed on the Register will be updated when your application is processed. You will remain registered while your application is being processed and you will be entitled to practise during this time.

If you do not apply within one

month of the due date your name will be removed from the Register and will not be displayed at all until your new application for registration has been approved. You will not be registered and therefore you will not be able to practise during this time.

I have applied in writing, but the Register says my registration has expired. Can I practise?

If you have applied to renew your registration in hard copy, it will be processed as soon as possible. Until then, you can continue to practise. The registration date displayed on the Register will be updated when your application is processed. You will remain registered while your application is being processed and you will be entitled to practise during this time.

You must apply within one month of the due date or you risk losing your registration.

Certificate of registration

After you have successfully renewed online, AHPRA will in due course forward you a receipt and Certificate of Registration. Before this arrives in the post, you can print a copy of the statement *Renew Registration: Complete Payment Summary* after on-line renewal or you can print a copy of the details from the on-line public register which will show your new registration expiry date.

The National Registration and Accreditation Scheme

1 July 2010 marked the start of a new era in health practitioner regulation in Australia when health practitioners in 10 health professions (except those registered in Western Australia) became registered under the National Scheme. Western Australia has since passed the necessary legislation and is expected to join the National Scheme this month. With national registration, 10 National Boards replaced 85 boards based in states and territories. Health practitioners are now registered

under nationally consistent legislation, replacing 66 different Acts of Parliament.

The objectives of the National Scheme are to:

- protect the public by ensuring that only practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered
- facilitate workforce mobility across Australia
- facilitate the provision of high quality education and training of health practitioners

- facilitate the rigorous and responsive assessment of overseas-trained health practitioners
- facilitate access to services provided by health practitioners in accordance with the public interest and
- enable the continuous development of a flexible, responsive and sustainable Australian health workforce and enable innovation in the education of and service delivery by health practitioners.

The Medical Board of Australia: Who are we?

Members of the Medical Board of Australia (the Board) were appointed in August 2009 for three years. The Board met for the first time in September 2009 and now meets for one day every month.

The Board has 12 members, eight of whom are registered medical practitioners and four of whom are community members. Members of the Board were appointed by the Australian Health Workforce Ministerial Council (the Ministerial Council) after a public call for applications. The members of the Board are:

- **Dr Joanna Flynn, Chair**
Practitioner from Victoria
- **Prof. Belinda Bennett**
Community member from New South Wales
- **Dr Stephen Bradshaw**
Practitioner from the ACT
- **Dr Mary Cohn**
Practitioner from Queensland
- **Ms Prudence Ford**
Community member from Western Australia
- **Dr Fiona Joske**
Practitioner from Tasmania
- **Dr Charles Kilburn**
Practitioner from Northern Territory
- **Mr Paul Laris**
Community member from South Australia
- **Prof. Mark McKenna**
Practitioner from Western Australia
- **Dr Trevor Mudge**
Practitioner from South Australia
- **Ms Sophia Panagiotidis**
Community member from Victoria
- **Prof. Peter Procopis**
Practitioner from New South Wales

All of the members of the Board apart from Dr Flynn were members of their respective state or territory medical boards when they were appointed to the National Board. Dr Flynn is the former President of the Medical Practitioners Board of Victoria.

Board Chair: Dr Joanna Flynn

The Chair of the Medical Board of Australia, Dr Joanna Flynn, is in active practice in the inner Melbourne suburb of West Brunswick. A general practitioner, Dr Flynn was the President of the Medical Practitioners Board of Victoria for eight years until 2008, a member of that Board for 11 years before that and was the President of the Australian Medical Council (AMC) from 2003 – 2008.

Dr Flynn has a long history in medical education and her work in medical regulation and accreditation spans more than 20 years. She chaired the AMC working group that developed *Good Medical Practice* which is now the cornerstone of the Board's professional standards framework.

In more than 30 years in general practice, Dr Flynn has worked in both metropolitan and regional areas of Australia, from Tasmania



to far north Queensland.

Dr Flynn said it was both a privilege and a responsibility to be appointed Chair of the first Medical Board of Australia.

“Our regulatory system is built to ensure that the trust that the public places in our profession continues to be well founded,” Dr Flynn said.

“This Board is working hard to ensure that the National Scheme does deliver benefits to both the public and the profession. We are striving to make sure that the principles built into the National Law – transparency, accountability, effectiveness, efficiency and fairness – really do shape the work that we do and the decisions that we make,” she said.

The Boards: Who does what in medical regulation

The national Medical Board is responsible for developing and approving registration standards, codes and guidelines, approving accreditation standards and negotiating the health professions agreement with AHPRA.

On 30 June 2010, many members of state and territory medical boards transitioned and became members of the state or territory board of the Medical Board of Australia in the National Scheme.

The National Board has delegated all matters to do with individual practitioners to the state and territory boards. These boards will continue to handle all registrations and notifications in their jurisdiction and make local decisions based on national standards.

The state and territory boards are supported by a range of committees that are made up of state and territory board members and, as necessary, external members. These committees have also been delegated some decision-making powers, but appealable decisions can only be made by the full state and territory board. The committees in each participating jurisdiction are:

- Registration Committee
- Notifications Assessment Committee
- Performance and Professional Standards Committee and
- Health Committee

Board functions

The Board's powers and functions are defined in the National Law. Functions include:

- registering qualified and competent medical practitioners
- registering medical students
- deciding the requirements for registration or endorsement of registration
- developing or approving standards, codes and guidelines, including—
 - accreditation standards
 - registration standards and
 - codes and guidelines
- approving accredited programs of study as providing qualifications for registration or endorsement

- overseeing the assessment of overseas-qualified applicants for registration and determining the suitability of the applicants for registration in Australia
- negotiating the terms of a health profession agreement with AHPRA
- overseeing the receipt, assessment and investigation of notifications
- establishing panels to conduct hearings about medical practitioners and medical students (only health and serious criminal matters in relation to students)
- referring matters about practitioners to responsible tribunals
- overseeing the management of registered medical

practitioners and students, including monitoring conditions, undertakings and suspensions imposed on the registration of the practitioners or students

- making recommendations to the Ministerial Council about the operation of specialist recognition and the approval of specialties
- with AHPRA, keeping up-to-date and publicly accessible national registers of registered medical practitioners and up-to-date national registers for medical students and
- advising the Ministerial Council on issues relating to the National Scheme and giving assistance or information required by the Ministerial Council.

Australian Health Practitioner Regulation Agency

The Australian Health Practitioner Regulation Agency (AHPRA) supports the National Boards in their core role of protecting the public. The Boards cannot enter into contracts and cannot employ staff. They rely on AHPRA to provide the human resources and infrastructure to enable the Boards to administer the National Law.

The role of AHPRA includes:

- providing administrative assistance and support to the National Boards and the Boards' committees
- in consultation with the National Boards, developing and administering procedures for efficient and effective operation of the National Boards
- establishing procedures for the development of accreditation standards, registration standards and codes and guidelines so that the National

Scheme operates in accord with good regulatory practice

- negotiating with each National Board on the terms of the health profession agreement
- receiving and dealing with applications for registration and with notifications; AHPRA staff manage these processes but decisions are made by members of the Board
- keeping up-to-date and publicly accessible national registers of practitioners and national registers of students (student registers are not publicly available) and
- providing advice to the Ministerial Council about the administration of the National Scheme.

There are AHPRA offices in every state and territory in Australia and the National Office is based in Melbourne.

Accreditation

The Australian Medical Council has been appointed to be the accreditation agency for medicine. The initial appointment is for the first three years of the National Scheme. The AMC has a range of roles including:

- accreditation of medical schools
- recognition and accreditation of medical specialties
- facilitation of assessment of international medical graduates (IMGs) by the specialist colleges for specialist registration
- conducting the assessment of the knowledge and clinical skills of IMGs seeking general registration and
- developing accreditation standards for medicine for approval by the Board, including providing advice to the Board on the recognition of overseas qualifications.

The Board at work

Since September 2009 the Board has focused on building the standards and policy framework that will underpin medical regulation in the National Scheme.

Registration standards

The Board developed and consulted on a number of registration standards applicable to all registered medical practitioners. These standards were approved by the Ministerial Council, as required under the National Law.

The registration standards are described in this *Update* and can be viewed in full at www.medicalboard.gov.au under *Registration standards*.

Specialties

Specialist recognition operates for the medical profession. The Board consulted on, and the Ministerial Council approved, a list of specialties for the medical profession and specialist titles for each specialty on that list. These came into effect on 1 July 2010 and are published at www.medicalboard.gov.au.

Code of conduct

The Board adopted *Good Medical Practice: A code of conduct for doctors in Australia*. The code was developed by a working group of the Australian Medical Council (AMC) and published in 2008. The Board adopted the code with minor changes to reflect the National Law.

A copy of *Good Medical Practice* is included with this *Update*. It describes what the Board expects of all doctors registered to practise medicine in Australia. It aims:

- to support individual doctors to provide good medical care and meet their professional responsibilities and
- to help the Medical Board in its role of protecting the public by setting and maintaining standards of medical practice

Medical practitioners whose professional conduct varies significantly from the standards set out in this code should be prepared to explain and justify their decisions and actions. Serious or repeated failure to meet these standards may have consequences for practitioners' medical registration.

Other guidelines

All the 10 health regulation Boards consulted on and approved the following guidelines which are common across the professions:

- Guidelines for advertising and
- Guidelines for mandatory reporting (see page 8 for more information)

Health Professions Agreement

The Board negotiated and finalised the terms of the first Health Professions Agreement (HPA) with AHPRA. Under the National Law, the Board cannot enter into contracts and or employ staff. It relies on AHPRA to provide the resources to enable it meet its statutory functions. The HPA includes service and quality measures and clear accountabilities.

Other initiatives

In its first 12 months, the Board has also:

- set registration fees
- made decisions about student registration – all medical students will be registered for the entire medical course
- set registration renewal dates – general, specialist and non-practising registrants will renew by 30 September each year; limited registrants and provisional registrants can be granted up to 12 months' registration and will renew at the expiry of granting of registration
- established a list of approved panel members
- approved a range of application forms and certificates
- prepared draft guidelines and registration standards for future consultation and
- set a work plan for the next 12 months that includes developing guidance for the profession on sexual boundaries and blood borne infectious diseases and developing a progression policy for doctors who have been practising in Australia with limited registration for some years, who, under the National Law, must now progress towards full registration.



Registration

The Board's primary role is to protect the public. The Board does this in two main ways:

1. by deciding who to register and
2. by dealing with issues that arise after a practitioner is registered through investigation, assessments and hearings.

Medical registration is not just an administrative function. Before granting registration, the Board must be satisfied that the individual practitioner is qualified, eligible and suitable for registration and that he or she is able to provide safe care to the Australian community. A decision to register a medical practitioner involves ensuring that the practitioner has complied, or will comply, with the Board's registration standards, many of which are detailed in this *Update*.

The Board informs the public about who is a registered medical practitioner through the publicly available, online national registers.

More detail about the types of registration granted by the Board are published on the website at www.medicalboard.gov.au.

IMG update

In 2006, just after Dr Jayant Patel became a feature of Australia's healthcare landscape, the Council of Australian Governments (COAG) announced the introduction of a nationally consistent process for assessing International Medical Graduates (IMGs). The Australian Medical Council (AMC) worked with state and territory medical boards, governments (through their health departments), colleges and other stakeholders to develop a process so that all IMGs registered to practise in Australia were first assessed to ensure they could provide safe care to the Australian community.

It took two years of negotiation and development, but by mid-2008, the AMC had finalised four pathways to registration and the assessment processes that supported them. These were signed off by all states and territories. The four pathways are detailed on the AMC website (www.amc.org.au) and each involves the assessment of the skills, qualifications and experience of IMGs to ensure they can provide safe care in the particular role for which they are seeking registration. This could be in general practice, a hospital position, post-graduate training or as a specialist.

Under the new National Scheme, the types of registration that the Medical Board grants have been aligned around the country. IMGs may be granted limited registration for area of need, for postgraduate training or supervised practice, or for teaching and research depending on their position. All limited registrants work under supervision and are required to

undertake professional development relevant to their role.

IMGs come to Australia for many different reasons. Some come for experience and training and intend to return to their country of origin. Others wish to settle in Australia. For these IMGs there is generally an expectation that they will progress to general or specialist registration over a few years.

Australia has shortages of doctors in many fields and many geographic areas. The steps in recruiting a doctor from overseas involve working through immigration, state health authorities, Medicare, the AMC and the Medical Board. It is a complex process and it takes time.

The primary role of the Medical Board of Australia is to protect the public. The Board has a responsibility to ensure that the assessment processes for IMGs are robust and fair and that they allow competent qualified doctors to join our medical workforce. The stakes are very high. Failures in the checking and assessment processes can have serious consequences.

Two of the challenges the Medical Board faces now are to ensure that the national process introduced in 2008 is working effectively and is as streamlined as possible. The Board must also determine how best to ensure that IMGs who were recruited before 2008 are working safely, are receiving appropriate supervision and support and have a pathway to full registration. The Board will be consulting with the profession, the community and governments about this policy.

Immediate action

The Board has the power to take immediate action at any time. This is a serious step and the Board can only take this action if it believes that it necessary to protect the health or safety of the public because of a medical practitioner's conduct, performance or health.

Immediate action means:

1. suspension or imposition of a condition on the practitioner's or student's registration or
2. accepting an undertaking from the medical practitioner or student or
3. accepting the surrender of the medical practitioner's or student's registration.

Before taking immediate action, the Board must give the registrant notice of the proposed immediate action and invite them to make submissions to the Board. The Board must then have regard to any submissions made when deciding whether or not to take immediate action.

Registration standards

The following summary of the new registration standards aims to help medical practitioners to understand their obligations under the National Law.

The full details of the standards are published on the Board's website at www.medicalboard.gov.au. The Board encourages all practitioners who are uncertain about their obligations to read the full standard on the website.

The National Law requires the National Boards to develop registration standards about requirements for professional indemnity insurance, criminal history checks, continuing professional development, English language skills and recency of practice.

All registered medical practitioners must comply with these registration standards, which have been approved by the Ministerial Council. Non-compliance with the standards is grounds for further action, including refusal to renew registration or action under the health, performance and conduct provisions of the National Law.

Professional indemnity insurance

The National Law requires all health practitioners to have professional indemnity insurance (PII).

This registration standard does not apply to medical students and medical practitioners with non-practising registration.

The Board has approved the following insurers which meet the minimum product standards that apply to all medical indemnity insurers as defined in the *Medical Indemnity (Prudential Supervision and Products Standards) Act 2003 (Cwlth)*:

- Avant
- Invivo
- Medical Indemnity Protection Society Limited (MIPS)

→ Medical Insurance Group (MIGA) and

→ MDA National.

Additional information on specific requirements of the PII registration standard, including record keeping and audit, is available at www.medicalboard.gov.au under *Registration standards*.

Continuing professional development

All medical practitioners who engage in any form of medical practice are required to participate regularly in continuing professional development (CPD) that is relevant to their scope of practice. This involves maintaining, developing, updating and enhancing their knowledge, skills and performance to ensure that they deliver appropriate and safe care.

CPD programs of medical colleges accredited by the Australian Medical Council (AMC) meet the requirements of the Board's CPD registration standard for doctors on the specialist register.

The CPD requirements with which medical practitioners must comply depend on their registration type and on their level of experience.

This registration standard does not apply to medical students, new graduates applying for initial registration and medical practitioners with non-practising registration.

More information on the requirements on the CPD registration standard, including record keeping and specific issues related to registration categories, is published at www.medicalboard.gov.au under *Registration Standards*.

Recency of practice

To ensure that they are able to practise competently and safely,

medical practitioners must have recent practice in the fields in which they intend to work during the period of registration for which they are applying.

The specific requirements for this registration standard depend on the field of practice, the level of experience of the practitioner and the length of absence from the field.

This registration standard also does not apply to medical students, applicants for provisional registration who will be undertaking an approved internship or medical practitioners who are applying for, or renewing, non-practising registration.

Additional information on the specific requirements of the recency of practice registration standard, including different periods of absence from practice and changes to field of practice, is available at www.medicalboard.gov.au under *Registration Standards*.

English language skills

All new applicants seeking registration are required to comply with this registration standard.

International medical graduates applying for medical registration and applicants who qualified for medical registration in Australia but did not complete their secondary education in English, must demonstrate that they have the necessary English language skills for registration purposes.

This registration standard does not apply to registered students. However, students will be required to comply with the standard when they apply for medical registration.

More information on the requirements on the English language skills registration standard, is published at www.medicalboard.gov.au under *Registration Standards*.

Mandatory reporting

The Board is aware that there is a significant level of concern about the mandatory reporting provisions of the National Law. Some of these concerns appear to be based on uncertainty about what the National Law requires practitioners to report, particularly about impaired doctors.

The Board encourages medical practitioners and students whose health is impaired to seek and receive good medical care. This will also reduce the likelihood of or need for a mandatory notification.

In relation to impaired health, it is only necessary for another health practitioner or an employer to notify the Board if a practitioner has:

- a. practised the profession while intoxicated by alcohol or drugs or
- b. placed the public at risk of substantial harm in the practice of the profession because the practitioner has an impairment.

An impairment or poor health in themselves are not sufficient grounds to trigger a mandatory report. A practitioner who recognises that he or she has an impairment and who obtains appropriate treatment or stops practising voluntarily before it affects practice does not need to be reported to the Board.

The Board has published guidelines for mandatory notifications. These are available on the Board's website at www.medicalboard.gov.au.

Registered health practitioners, employers and education providers have obligations to report under the National Law.

The WA Parliament has amended the National Law in relation to mandatory reporting in that state. Only in WA, practitioners who are in a treating relationship

with another practitioner are not required to make a mandatory notification to the Board.

Notifiable conduct in relation to registered health practitioners means the practitioner has:

- a. practised the profession while intoxicated by alcohol or drugs or
- b. engaged in sexual misconduct in connection with the practice of the profession or
- c. placed the public at risk of substantial harm in the practice of the profession because the practitioner has an impairment or
- d. placed the public at risk of harm because the practitioner has practised the profession in a way that constitutes a significant departure from accepted professional standards.

Immunity from making a mandatory report

The National Law provides protection from civil, criminal and administrative liability for persons who make a notification in good faith.

Mandatory notifications by health practitioners

Registered practitioners must report to AHPRA if, in the course of practising their profession, they form the belief that:

- a. another registered practitioner has engaged in "notifiable conduct" or
- b. a student has an impairment that, in the course of that student undertaking clinical training, may place the public at substantial risk of harm.

These obligations apply to all health practitioners registered

in the National Scheme, not just within professions.

The National Law also provides for a number of exemptions from the obligation to report. These are detailed in the National Law and in the mandatory reporting guidelines and include when the practitioner, who would otherwise have had a duty to report, has formed the belief that a practitioner's conduct is notifiable during legal proceedings or while preparing legal advice; is engaged by a professional indemnity insurer; is a member of a quality assurance committee; or knows that the Agency has been informed of the notifiable conduct.

Mandatory notifications by employers

Employers have a mandatory obligation to report an employee if they believe that their employee (a registered health practitioner) has behaved in a way that constitutes notifiable conduct.

Mandatory notifications by education providers

Education providers must notify AHPRA if they reasonably believe—

- a. a student enrolled in a program of study has an impairment that, in the course of the student undertaking clinical training as part of the program of study, may place the public at substantial risk of harm or
- b. a student for whom the education provider has arranged clinical training has an impairment that, in the course of the student undertaking the clinical training, may place the public at substantial risk of harm.

Contact the Medical Board of Australia
and AHPRA on 1300 419 495 or visit
www.medicalboard.gov.au.