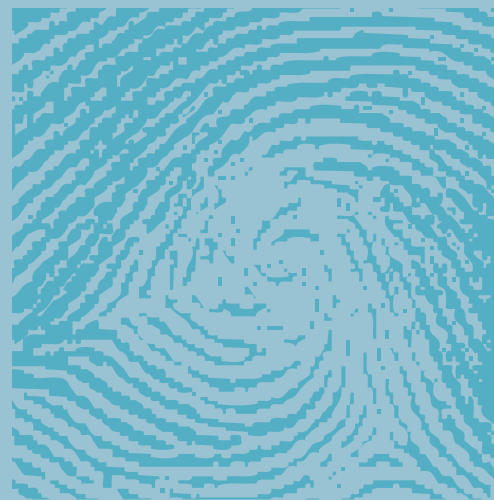


Regulation of the health professions in Victoria

Executive summary



Introduction

The services provided by Victoria's health professionals are fundamental to the delivery of high quality health care to all Victorians. Many health professionals, such as doctors, nurses, dentists, pharmacists and physiotherapists, are subject to regulation via statutory registration boards established under Acts of the Victorian Parliament. Others, such as occupational therapists, speech therapists, counsellors and complementary medicine professionals, are subject to self-regulatory arrangements, mostly administered by one or a number of peak professional associations. All have an obligation to act professionally and provide health services to the public that are of high quality.

Statutory registration boards play an important role in protecting the public and affording Victorians the confidence that our registered health professionals are well qualified to do the difficult jobs they do. In the event of poor performance or unprofessional conduct, registration boards have responsibility for investigating, imposing sanctions and assisting the practitioner to retrain or address any difficulties affecting their ability to practise.

There are 12 statutory health practitioner registration boards in Victoria. It is the Victorian Government's role to ensure that the regulatory framework that empowers these registration boards is responsive to community needs and is up-to-date and relevant. The Victorian model of health practitioner registration was introduced in 1993-94 with the passage of the *Nurses Act 1993* and the *Medical Practice Act 1994*. Since then, eight new Acts of Parliament have been passed and common core provisions to regulate the registered health professions have been introduced. However, not all health practitioner registration Acts have been updated to incorporate the most modern provisions.

In May 2002, the Victorian Parliament passed a series of significant reforms to the Medical Practice Act. These reforms introduced substantial new powers for the Medical Practitioners Board of Victoria (MPBV) to regulate practitioners who may be performing poorly. Powers to regulate corporate owners of medical practices were also introduced to prevent, if necessary, any corporate owner or manager who directs or incites a registered medical practitioner to act unprofessionally from continuing to own or operate a medical service.

There is now a need to examine the legislation and consider whether the reforms introduced since 1993-94 in various Acts should be extended to cover all the registered health professions. Such a review provides an opportunity not only to update all the health registration Acts, but also to review the Victorian model and ensure that the legislative framework satisfactorily equips our registration boards to protect the public and address emerging challenges in regulation of the health professions. As the Medical Practice Act contains the most up-to-date provisions, it provides the 'template' or model for examining the other Acts.

Aim of review

The aim of the review is to strengthen consumer and community confidence in the regulatory system for health professions and to ensure the maintenance of an up-to-date and responsive regulatory framework for the registered health professions.

The main objectives of the review are to:

- ensure an up-to-date and responsive regulatory framework that equips health practitioner registration boards to protect the public and address emerging challenges
- promote consumer and community confidence in the regulatory system
- ensure good links between mechanisms that ensure practitioner quality and those that ensure health system quality.

While the review focuses on registered health professions, issues of concern to unregistered or self-regulated health professions are also canvassed.

Principles for reform

There are a number of important principles that guide the review process and will underpin any recommendations to the Victorian Health Minister for reform. The Minister for Health, the Department of Human Services and the registration boards have a shared responsibility for ensuring these principles are applied.

Accountability: registration boards should be accountable to the Victorian community for their decisions and operations.

Transparency: the decision-making processes of registration boards should be open, clear and understandable to consumers and professionals.

Fairness: registration boards should maintain an acceptable balance between protecting the rights and interests of patients/consumers and those of the regulated health professionals.

Effectiveness: the regulatory system should be effective in protecting the public from harm and supporting and fostering the provision of high quality care and equity of access.

Efficiency: the resources expended and the administrative burden imposed by the health professions regulatory system should be justified in terms of the benefits to the Victorian community.

Flexibility: the regulatory system should be able to respond to emerging issues in a timely manner as the health care system evolves and the roles and functions of health professionals change.

Consistency: as far as possible, there should be consistency across Australian states and territories in the regulatory arrangements for the health professions.

Review process

To achieve its aims, the department will undertake a comprehensive examination of the system of health practitioner regulation in Victoria. This discussion paper summarises issues and concerns that have been raised by interested parties and outlines the main areas for possible reform. Questions throughout the paper are designed to elicit information and opinions from interested persons. Any views expressed in the paper do not represent a final position. In addition, submissions on matters not directly raised in the paper are welcome.

The discussion paper addresses:

Part A: The policy and legislative framework within which this review is being conducted and the current regulatory arrangements that apply to the registered health professions in Victoria.

Part B: Key proposals for general reform of the Victorian health professions regulatory system.

Part C: Key proposals for reform in relation to management of complaints and disciplinary functions.

Part D: Specific proposals for updating various health practitioner registration Acts.

Part E: Profession-specific proposals for reform.

Part F: Issues with regulation of the unregistered health professions.

Victorian model of regulation

The review will assess the structure and function of the current Victorian model of health practitioner registration. This will include examining key features of the Victorian model and whether changes should be made in areas such as how the boards handle complaints and discipline, the membership of boards, the nature of the relationship between the boards and the Minister for Health and whether boards should have new powers to register specialists and act to maintain the professional competence of their registrants rather than simply respond to complaints. The review will also consider alternative models for structuring the legislative framework, which may improve the speed with which any reforms are implemented across the registered health professions.

Profession-specific reforms

The review also invites input on profession-specific proposals for reform. The department has already received some proposals for reform in areas such as:

- regulation of cosmetic surgery practice
- medical advertising
- prescribing rights for podiatrists and other health professionals
- nationally consistent registration arrangements
- regulation of midwives
- preventing deregistered practitioners continuing to practise as counsellors, psychotherapists etc.
- affording additional public protection through a form of negative licensing of unregistered practitioners.

The list of areas to be considered is not final and the department welcomes any suggestions for profession-specific proposals for reform.

Common core provisions across professions

The review will look at updating all the relevant health practitioner registration Acts to ensure that there are common core provisions across all professions.

Examples of such provisions may include providing boards with:

- performance assessment/review powers
- power to make professional indemnity insurance a condition of registration
- power to enter additional postgraduate qualifications on the register
- power to register students and address instances of ill-health.

Other core provisions may include:

- updating the definition of professional conduct
- updating the search, entry and seizure provisions
- changing the terminology in Acts from ‘complaint’ to ‘notification’
- establishing offences for a director or manager of a corporation to direct or incite a registered practitioner employee to engage in unprofessional conduct
- a requirement that boards be notified of outcomes of medical negligence cases.

Research Studies

In addition to publishing this paper and analysing submissions received, the Department of Human Services has commenced a number of studies that will inform the final recommendations for reform. These include:

- **Complainants:** a study of the experiences of a sample of complainants who have made complaints to one of five registration boards: the Medical Practitioners Board, the Dental Practice Board, the Psychologists Registration Board, the Chiropractors Board and the Nurses Board.
- **Alternative Dispute Resolution (ADR) techniques:** a study of the role of ADR techniques within registration board complaints management processes.
- **Self-regulation models:** A study of best practice models for self-regulation of the unregistered health professions.
- **National registration models:** An investigation of approaches and models for achieving a single or uniform system of registration for health professions across jurisdictions.
- **Naturopathy and Western herbal medicine:** a study of the risks, benefits and regulatory requirements for the professions of naturopathy and Western herbal medicine.

Further information on these initiatives is available from:

www.health.vic.gov.au/pdpd/workforce/pracreg/sys_review

Process and timetable for review

The Service and Workforce Planning Branch (Policy and Strategic Projects Division) of the department is responsible for conducting this review and consultation, with advice and assistance from the department’s Legislation and Legal Services Section.

The legislative reform program is determined by the Victorian Cabinet in light of many competing priorities. At this stage it is planned that, subject to Ministerial and Cabinet endorsement, any amendments required to the 12 Victorian health practitioner registration Acts arising from recommendations of this review will be put to the Victorian Parliament in the Spring 2004 sittings. The proposed timetable for the review is:

- Discussion paper released October 2003.
- Responses to discussion paper received by Friday 23 January 2004.
- Discussions with other government departments and bodies affected by the proposed legislation, for example, the Department of Justice and the Health Services Commissioner, Dec-Feb 2004.
- Further round of meetings with key stakeholders to present outcomes of public consultation process and discuss proposed policy recommendations, Feb-Mar 2004.
- Amendment Bill/s to Parliament Spring Sittings Sept-Nov 2004.

Information

Further information on this review is available from:

Ms Anne-Louise Carlton

Senior Policy Analyst

Service and Workforce Planning Branch

Policy and Strategic Projects Division

Tel: (03) 9616 6137 Fax: (03) 9616 7767

E-mail: Anne-Louise.Carlton@dhs.vic.gov.au

OR:

Ms Ann Fuller-Jackson

Tel (03) 9616 6111

Email: Ann.Fuller-Jackson@dhs.gov.au

Members of the Service and Workforce Planning Branch are available to meet with groups to discuss issues. Please contact Ms Fuller-Jackson on the above number to arrange a meeting.

Copies of discussion paper

The discussion paper is located on the Internet at the following address:

http://www.dhs.vic.gov.au/pdpd/workforce/pracreg/sys_review.htm

If you cannot access the website, copies of this discussion paper can be obtained by contacting:

Ms Natasha Del Din

Tel: (03) 9616 7523

Submissions

Those interested in commenting on the proposals may put in a written or taped submission. Submissions should be forwarded to:

Ms Anne-Louise Carlton

Senior Policy Analyst

Service and Workforce Planning Branch

Policy and Strategic Projects Division

Department of Human Services

GPO Box 4057

MELBOURNE 3001

Email submissions should be sent to:

Anne-Louise.Carlton@dhs.vic.gov.au

Submissions should be received by: Friday 23 January 2004.

Note: All submissions will be considered public documents and will be available to be viewed by members of the public on request, unless marked 'private and confidential'. A person may request access to your submission under the Freedom of Information Act 1982. If this happens, the Department of Human Services is under a legal obligation to give the person access to your submission (subject to any applicable exemptions set out in the Act). If you are an individual (as opposed to an organisation) and you do not want a person to access any of your personal details from the submission, the department will omit your personal details from the submission before giving the person access to it if you include the following statement at the front of your submission and sign it:

'I do not give permission for my personal details to be released to persons requesting access to my submission under the Freedom of Information Act.'

The review and discussion paper provide an opportunity for practitioners, professional associations and interested consumers to comment on proposals for reform of the Victorian health professions regulatory system. The department encourages all interested parties to use this opportunity to contribute to and inform the debate, by making a submission.