



Ensuring and maintaining quality assurance in chiropractic education and competency in Australia and New Zealand

Proposed arrangements for information sharing and privacy

National Registration and Accreditation Scheme

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1.1 The Intergovernmental Agreement

There are a number of clauses in the IGA that refer to information and the public register as follows:

1.17 *The role of the national agency will be to:*

- (a) *maintain up-to-date and publicly accessible national lists of accredited courses and registered practitioners with entries relating to individuals to include any conditions or restrictions on professional practice...*

1.18 *The national office will have the following functions:*

- (a) *maintain the national registers of health practitioners and lists of accredited courses...*

1.31 *The recognition of specialist qualifications (for example, medical and dental specialties) will be achieved by:*

- (a) *the relevant board being empowered to 'endorse' or 'notate' the registration of a suitably qualified practitioner, with this information entered on an integrated register against that practitioner's name;*
- (b) *public identification and communication of recognised specialties, specialist titles and approved qualifications, identified through the public registers and via guidelines issued by the relevant board (rather than via an extensive list of specialties and associated specialist qualifications listed in regulation under the legislation);*
- (c) *general statutory offences that prevent unregistered or unauthorised persons from using any title that could induce a belief that the person is endorsed as a specialist, or from holding themselves out as a specialist in one of the established specialties (rather than offences for use of the separate specialist titles); and*
- (d) *recognition of new specialties or specialty areas of practice on professional registers to be subject to the approval of the Ministerial Council.*

CCEA supports the principles contained within 1.17, 1.18 and 1.31 above.

1 Overview of information required to operate the scheme

CCEA supports the principles contained within this section and agrees that, in designing such a framework, an appropriate balance needs to be reached to enable the flow of information for the functions of the agency and boards, and protecting the privacy of that information.

CCEA suggests that a provision allowing the Board to provide copies of, or extracts of, all or part of the Register is included in the legislation. Usual practise is that each request is assessed individually. A small fee is usually required.

Proposal 3.1.1: It is proposed that all requests for information will indicate the purposes for which it is being collected.

Proposal 3.1.2: It is proposed that the national scheme legislation provide for the following key categories of information for the registration of individuals.

<p>a) Name and contact details</p>	<p>Full name and all previous names (including date of name change) will need to be provided. Applicants will also need to provide sufficient contact details to enable contact by phone, email, fax or mail. Registrants may opt to receive notification of renewals by email.</p> <p>In order to properly identify the individual, home address as well as nominated contact address will be collected. The contact address may be a workplace or another address. There will be requirements to keep contact details up to date.</p>
<p>b) Date of birth</p>	<p>In order to properly identify an applicant, date of birth will need to be collected.</p>
<p>c) Qualifications</p>	<p>In order to be registered, applicants will need to provide a transcript of qualifications obtained which entitle them to registration, the year obtained and the institution that awarded the qualification. Verification of qualifications may be required from the institution issuing the award.</p> <p>In addition, proof of satisfactory completion of a requisite examination or period of supervised practice (including date of completion) will be required, where relevant.</p>
<p>d) Overseas registration details</p>	<p>If applicants have overseas qualifications and have previously been registered overseas, they will be expected to arrange for the relevant regulatory authority to issue a Certificate of Good Standing directly to the board or relevant assessment body. A decision will be required as to whether this is required from the initial and most recent country of registration, or from all countries in which the applicant was registered, or for a specific time period.</p> <p>Additional requirements may include a work statement, evidence of competence to practice and of English language proficiency.</p>
<p>e) Details of recency of practice and other requirements</p>	<p>Some boards may require evidence of recency of practice for initial registration for practitioners returning to work or commencing work in Australia. Boards will also have powers to require other information for registration, including evidence of continuing professional development and qualifications for endorsement of registration.</p>
<p>f) Criminal record</p>	<p>Some State and Territory legislation empowers, but does not require, criminal history checking of applicants. Options for criminal history checking in the national scheme are discussed in the <i>Consultation Paper on Proposed Registration Arrangements</i> issued 19 September 2008. If a decision supporting criminal record checking as a condition of registration is reached, this information will need to be collected and recorded.</p>
<p>g) Professional indemnity insurance</p>	<p>Options for professional indemnity insurance arrangements under the national scheme are discussed in the <i>Consultation Paper on Proposed Registration Arrangements</i> issued on 19 September 2008. Again, if a decision supporting professional indemnity insurance as a condition of registration is reached, this information will need to be collected and recorded.</p>
<p>h) Registration details</p>	<p>Once registration is granted, then registration details will be recorded including registration identifier, date of first registration, renewal date, class of registration, division, conditions on registration, specialities and other endorsements.</p>

The CCEA supports proposals 3.1.1 and 3.1.2 as outlined above however suggests that practices addresses should also be collected as an additional source of contact.

CCEA also suggests that the legislation includes a penalty provision if contact information is not updated within 21 days of a change occurring.

Proposal 3.2.1: It is proposed that the national scheme legislation provide the boards with the power to collect employer details and other similar details in order to enable notification by the relevant board to employers when a practitioner's registration status changes or conditions are placed on practice.

There are two options to give effect to this arrangement:

Option 1: Require name and address of employer, public health organisations, private hospitals, day procedure centres or nursing homes at which the practitioner is accredited to be recorded on registration and updated on renewal.

Option 2: Provide the boards with a power to require the practitioner to provide these details to the board, as necessary.

CCEA supports Option 2 and suggests that the legislation includes a penalty provision if these details are not updated within 21 days of a change occurring.

3.3The unique identifier

Proposal 3.3.1: It is proposed that the legislation require that each registered health practitioner be allocated a unique identifier in the new registration system.

CCEA supports proposal 3.3.1.

Proposal 3.3.2: It is proposed that the national scheme legislation authorise NEHTA and Medicare Australia, to adopt, use and disclose the unique identifier allocated to practitioners in order to enable e-health developments and other information sharing in the public interest. It is further proposed that the legislation governing the operation of NEHTA and Medicare Australia provide appropriate protection for the information provided to these agencies by the national scheme.

CCEA supports proposal 3.3.2 and suggests that it is also important to differentiate locations

Proposal 3.4.1: It is proposed that the national scheme legislation provide a power for boards to require identity checking, through photo identification and a "100 point check" system.

There are three options to give effect to this arrangement:

Option 1: All boards to require identity checking on initial registration post 1 July 2010, but not for existing registrants.

Option 2: Boards to decide whether identity checking along the lines of Option 1 will be required in their profession.

Option 3: Boards to decide whether identity checking along the lines of Option 1 will be required for only some applicants for registration.

CCEA supports Option 1 however suggests that the Board should have the power to request identity confirmation from any registrant should it so desire.

3.5 Document checking on initial registration

CCEA agrees with the principles contained in 3.5.

3.6 Information to be collected on renewal

CCEA agrees with the principles contained in 3.6.

3.7 Information to be collected when investigating complaints/notifications and dealing with performance, health and conduct matters

CCEA agrees with the principles contained in 3.7.

3.8 Information to be collected for workforce planning purposes

Proposal 3.8.1: It is proposed that the national scheme legislation provide for the Ministerial Council to specify from time to time, certain data items that must be collected as part of registration and renewal of registration processes where these data items are needed for workforce planning purposes as long as there is a clear need for the data and it is not too burdensome. Note that provision will also be made for additional data to be collected on a voluntary basis.

Proposal 3.8.2: It is further proposed that the current voluntary paper-based labour force surveys conducted by current boards on behalf of jurisdictions be discontinued.

Proposal 3.8.3: It is further proposed that information collected purely for workforce planning purposes will not be made available for board/agency purposes.

CCEA agrees with proposals 3.8.1 and 3.8.2. It would be expected that the Ministerial Council contribute financially for the Boards to acquire this workforce data.

CCEA advises that, if information is not de-identified, then , each registrant would need to express consent for such data collection.

CCEA opposes 3.8.3. It believes that the collected workforce information should and is appropriate to be made available to the Boards.

Proposal 3.8.4: It is proposed that the national scheme legislation provide for the Ministerial Council to require that specified, de-identified information is provided to the Council and any of its committees for workforce planning analysis.

CCEA supports the intent of proposal 3.8.4 however requires clarification as to whether a registrant, who chooses not to provide non-essential information, would not be registered.

Proposal 3.8.5: It is proposed that the national scheme legislation requires that de-identified information relevant to workforce planning is made publicly available in a timely manner and by suitable means.

CCEA supports proposal 3.8.5.

Proposal 4.1.1: It is proposed that the national scheme legislation specify that the following categories of information in relation to each registrant are available on the public register:

- (a) Current name
- (b) Sex
- (c) Postcode of contact address and name of postcode area
- (d) Registration identifier
- (e) Date of first registration
- (f) Renewal date
- (g) Class of registration (where relevant)
- (h) Division (where relevant)
- (i) Conditions on practice (where relevant)
- (j) Date of suspension and date suspension is to end (where relevant)
- (k) Endorsed specialities (where relevant), and
- (l) Other endorsements (where relevant).

CCEA supports proposal 4.1.1 however recommends that the following amendments be considered:

1. *item c read 'preferred address for publication';*
2. *item m read 'disciplinary history'.*
3. *item j requires more thought when suspensions are pending investigation.*

Proposal 4.2.1: It is proposed that the national scheme legislation provide that Option 4 be adopted and that the names of practitioners de-registered for conduct reasons appear on the public register with an indication that they have been de-registered for conduct reasons.

CCEA supports Option 2.

De-registered providers should be removed from the public register. The Board would maintain a de-registered list containing a historic record of de-registration, such as non-payment of registration fees, retired, professional misconduct etc. Tribunal decisions will be available on the website.

Proposal 4.3.1: If conditions on practice relate to practitioner health or impairment issues, it is proposed that the national scheme legislation provide that the public register record that a health condition applies, with no further details appearing on the register. However, if specific restrictions on professional practice apply, they would appear on the register.

The agency could release information about health conditions in particular circumstances if it was judged to be in the public interest but the test would be a high one.

CCEA supports proposal 4.3.1 however suggests that there should be no distinction between whether a matter is conduct, performance or health impairment related. The health condition is not to be placed on the public register. This may lead to breaches of confidentiality, privacy and discrimination.

CCEA has concerns that the agency could release information and suggests that the agency should not release personal information except that which is on the Register.

4.4 Online public register

CCEA supports the proposal to make the register available online, with certain restrictions on how the register could be searched.

Proposal 4.5.1: It is proposed that there be a general power in the national scheme legislation to allow any person to obtain a copy of, or an extract from, the register on payment of the fee determined by the agency. It is proposed that the agency would have a power to refuse to provide a copy of the register to any person unless satisfied that it is in the public interest to do so.

CCEA agrees with the intent of proposal 4.5.1, provided its release is deemed acceptable to the requested reason.

Proposal 4.6.1: It is proposed that the national scheme legislation provide for the publication of tribunal decisions relating to registrants where it is in the public interest to do so.

CCEA agrees with proposal 4.6.1, providing the opportunity to de-identify is available where appropriate.

Proposal 4.6.2: There is a public interest in making board or committee decisions in relation to conduct matters public. It is proposed that decisions be published on the register of decisions on the agency's website.

There are two options to give effect to this arrangement:

Option 1: All conduct decisions of boards or committees are published (with patient details de-identified).

Option 2: Boards may order that certain decisions are confidential and order that the decision register contain a confidential information notice.

CCEA agrees with both Option 1 and Option 2 and suggests they be combined as follows:

- **All conduct decisions of boards or committees are published on the register and boards website (with patient details de-identified); and that**
- **Boards may order that certain decisions are confidential and order that the decision register contain a confidential information notice.**

When the boards and their committees or panels make performance management and health management decisions it is proposed that these not be published. These streams involve working co-operatively with the registrant to improve performance. This could be jeopardised by the publication of decisions.

CCEA is of the opinion that all outcomes should be published no matter whether a matter is conduct, performance or health impairment related.

However, if there could be some educational benefit to the profession from the publication of de-identified case studies relating to performance management or health management, the board should be able to exercise discretion to do so.

It is further proposed that there be a power to remove decisions from the register of decisions at the discretion of the relevant board. This will allow old decisions to be removed when no longer relevant.

CCEA supports this principle.

Proposal 5.1.1: It is proposed that the national scheme legislation use the private sector provisions of the *Privacy Act 1988* as the basis for the privacy arrangements in the national scheme.

CCEA supports this proposal.

Proposal 5.2.1: It is proposed that the existing Commonwealth private sector privacy regime and National Privacy Principles are incorporated by reference into the national scheme legislation.

CCEA supports this proposal and recommends that the Privacy Act is deficient regarding electronic access and lodgement and this should be developed.

Proposal 7.1.1: It is proposed that the national scheme legislation prevents the adoption of the scheme's health practitioner identifier for other purposes by other bodies. The legislation would also need to exempt the adoption and use of the identifier for e-health purposes subject to legislation providing appropriate protections being in place to oversight such e-health activities.

CCEA supports the use of a dedicated numeric identifier for each registrant and is of the opinion that there is merit in initiating a registration identifier that can be used for all of these identified circumstances. CCEA suggests that, it is important to differentiate practice locations.

Proposal 7.2.1: It is proposed that the national scheme legislation provide for de-identified information from the registration system to be available to government agencies and to appropriate classes of other persons for research and statistical purposes.

CCEA, agrees with this proposal and requests that reciprocal data-sharing be available.

Proposal 7.3.1: It is proposed that the national scheme legislation governing the release of information by the agency and the boards will set out the circumstances when material will be forwarded to the PSR.

CCEA supports this proposal.

Proposal 7.4.1: It is proposed that the national scheme legislation governing the release of information by the agency and the boards enables the release of information to Medicare Australia and specifies the purposes for which the information is to be released.

CCEA supports this proposal.

Proposal 7.5.1: It is proposed that the privacy framework to apply to the agency authorise the disclosure of relevant information to the DIAC for purposes under the *Migration Act 1958*.

CCEA supports this proposal.

Proposal 7.7.1: It is proposed that the national scheme legislation enable the sharing of de-identified information with State and Territory government bodies for specified purposes and the notification of identified practitioners who pose a public health risk.

CCEA supports this proposal.

Proposal 7.8.1: It is proposed that the national scheme legislation provide that whenever a board identifies that the health of a patient who is not directly involved in a case under investigation may have been adversely affected by a practitioner, the board must notify the relevant State or Territory health department so that remedial action can be taken.

CCEA supports this proposal.

7.9 enforcement agencies

The national scheme legislation will provide a general power to share information with law enforcement bodies. This may arise as a result of a police service investigating and charging a person in relation to a breach of the national scheme legislation.

It may also arise when a law enforcement agency is investigating a matter arising from the enforcement of a law of any State or Territory or of the Commonwealth.

CCEA supports this principle.

7.10 Criminal record checking

If mandatory criminal record checking is agreed, there may be a case for an electronic linkage to check criminal record.

CCEA supports this principle.

Proposal 7.12.1: It is proposed that the national scheme legislation make appropriate provisions to cover the sharing of information with New Zealand registration authorities consistent with the TTMRA.

CCEA supports this proposal.

Proposal 7.13.1: It is proposed that the national scheme legislation give boards powers to exchange information with international registration bodies.

CCEA supports this proposal.

Proposal 8.1: It is proposed that the national scheme legislation make the boards the repository of last resort with the power to take possession of patient health records when a practitioner has defaulted on their obligations.

CCEA supports this proposal in principle, but acknowledges that this would be impractical and problematic.

GENERAL COMMENTS

CCEA would like to provide the following general comments:

- It considers the primary purpose of registration to be the registration of health practitioners in the interest of public protection, not the collection of workforce data.
- The issues of registration and workforce data need to be kept separate.
- It is important that the public register contains relevant information in the public interest.
- Standardised conditions on the register may not work as has been discovered in New Zealand.
- The paper appears to indicate that the sharing of information is in one direction from the boards to other agencies. CCEA is of the opinion that the boards will also need to be able to obtain information from other agencies.
- Proposals 7.3, 7.4, 7.5 all mention the agency but don't appear to reflect the Boards' control.