



Mental Health
Coordinating Council

Complaints Arrangements Submission

Attention: Practitioner Regulation Subcommittee
nraip@dhs.vic.gov.au

**National Registration and Accreditation Scheme for Health
Practitioners**

November 2008

Mental Health Coordinating Council
Rose Cottage
Callan Park
Rozelle
NSW
2039

For any further information please contact:
Jenna Bateman
Chief Executive Officer
E: jenna@mhcc.org.au
Tel: (02) 9555 8388 ext 102

Corinne Henderson
Senior Policy Officer
E: corinne@mhcc.org.au
Tel: (02) 9555 8388 ext 101

CONSULTATION PAPER
Proposed arrangements for handling complaints,
And dealing with performance, health and conduct matters

The Mental Health Coordinating Council (MHCC) is the state peak body for non-government organisations (NGOs) working for mental health throughout NSW representing the views and interests of over 200 NGOs. Our member organisations specialise in the provision of services and support for people with a disability due to mental illness. MHCC provides leadership and representation to its membership and seeks to improve, promote and develop quality mental health services to the community. Facilitating effective linkages between government, non-government and private sectors, MHCC participate extensively in public policy development.

The organisation consults broadly across all sectors in order to respond to legislative reform, sits on numerous National, State (NSW) and State Government Department (NSW) committees and boards in order to affect systemic change, and is a member of the NSW Health Complaints Commission Consumer Consultative Committee. MHCC also manages and conducts research projects and develops collaborative programs on behalf of the sector and is an accredited training and development provider for the sector.

MHCC thank the Practitioner Regulation Subcommittee for inviting us to provide input into discussions regarding the proposed arrangements for handling complaints, dealing with performance, health and conduct matters as part of the consultation regarding the National Registration and Accreditation Scheme for the Health Professions issued by the Practitioner Regulation Subcommittee, Health Workforce Principal Committee of the Australian Health Ministers' Advisory Council in October 2008.

MHCC support the decision signed by COAG in March 2008 to create a national registration scheme for health professionals under one national board. However we understand that the original agreement was to create a single registration body for nine categories of health professionals. This was later amended to a national scheme with nine separate national registration boards to be formed for each category of professionals. We do not support this development. MHCC unable to understand the rationale for this amendment to the original concept, assume that it is based on the question as to who might be responsible for funding one national registration board, as opposed to responsibility falling to the separate professions to fund their own boards.

We support a national accreditation scheme since it seems entirely appropriate that a national body oversee clinical and registration accreditation standards of both local and overseas professionals, streamlining interstate movement of professionals. This is likely to bring benefits to consumers in terms of uniform verification, flexibility and enhanced access to health professionals in rural, regional and remote areas of Australia.

However, MHCC are extremely concerned that the proposed model for complaints handling will result in the onus being placed upon the complainant to gather the evidence necessary to investigate a complaint, since national registration boards do not have the capacity to exercise this duty, or necessarily possess the expertise and skills of dedicated professionals.

In NSW, the protective role is conducted by the Health Care Complaints Commission (HCCC), an independent body with teams of skilled experts to conduct assessments; refer complaints for resolution or conciliation or make decisions not to proceed; and to conduct investigations with legal experts to progress proceedings. The HCCC has a co-regulatory role with numerous registration boards. In any dispute, the two bodies can negotiate how a matter may proceed.

The Commission acts to protect public health and safety by resolving, investigating and prosecuting complaints about health care established under the Health Care Complaints Act 1993.

The Act defines the scope of the Commission's work, which is to:

- receive and assess complaints relating to health service providers in NSW
- resolve or assist in the resolution of complaints
- investigate serious complaints that raise questions of public health and safety
- prosecute serious complaints

The consultation paper suggests that protection of public health and safety by resolving, investigating and prosecuting complaints is to become the responsibility of the nine registration boards, which will be primarily comprised of members of the particular health profession. This may well lead to investigations conducted *in camera* with little or no access to legal representation or appeal processes for the complainant. Conversely, the professional under investigation may well be allowed a right of appeal to his/her registration board. This model of self-regulation is totally contrary to principals of natural justice; transparency; review and appeal.

MHCC suggest that the nine boards will not easily replicate the skills of an independent body such as the HCCC, and that this will result in either a duplication or absence of skills across the boards. Moreover, it will result in additional costs to practitioners which will likely be passed on to users of health services.

We suggest that the community will respond negatively to this perceived lack of transparency in the management of complaints, possibly framing it as a response by Governments to suppress widespread community concern about the safety of health service users, and paying little heed to calls to improve complaint and disciplinary processes.

MHCC propose that it is totally inappropriate for a body registering and regulating a profession to conduct any stage of assessment, investigation or prosecution of allegations of professional misconduct, non-adherence to codes of conduct, standards and guidelines and professional incompetence. Should such a system be established, we believe this will represent a retrograde step from the existing independent and transparent process serving consumer interests in NSW, to a protectionist self regulatory model in which responsibility may fall to the consumer to gather the evidence necessary to initiate and conduct proceedings. We are also concerned that consumers may find that they are less able to participate in proceedings or have access to review and appeal.

Whilst MHCC support the current NSW system as conducted by the HCCC, we propose nonetheless that the system be reviewed in the light of evidence in other jurisdictions in Australia and overseas. The objective being to develop a model that is even more transparent and accountable than the one currently operational in NSW.

MHCC respectfully ask Ministers to reflect on the proposed new arrangements under the COAG agreement, not only as politicians and parliamentarians but as consumers of health services. We ask them to consider the degree to which they would have confidence in an investigation into their own health complaints matters if conducted under the self-regulatory model outlined in the consultation paper, as opposed to the existing independent NSW model or an improved evidence based model.