



Australian & New Zealand Association of Oral and Maxillofacial Surgeons Inc.

ABN No. 50 829 678 816

President:
*Associate Professor
Andrew Heggie*

Executive Officer:
*Ms Jacki Hocking
BBus (UTS), CPA*

14 April 2015

By email: mutual.recognition@pc.gov.au

and by post:

Mutual Recognition Schemes Study
Productivity Commission
Locked Bag 2, Collins Street East
MELBOURNE VIC 8003

Dear Sir,

Mutual Recognition Schemes – Issues Paper (January 2015)

The Australian & New Zealand Association of Oral and Maxillofacial Surgeons Inc is pleased it has the opportunity to make submissions (**attached**) in response to the Commission's issues paper.

Please do not hesitate to contact us if you have any questions, or would like to discuss any aspect of the submission in further detail.

Yours sincerely,


A/Prof Andrew Heggie
President

Attachment:

Submission on the Productivity Commission's Mutual Recognition Schemes – Issues Paper (January 2015) By Australian & New Zealand Association of Oral and Maxillofacial Surgeons Inc

Copy to: Mr James McAdam – Senior Advisor to Hon. Sussan Ley, Minister for Health

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1. About Oral and Maxillofacial Surgery

Oral and Maxillofacial Surgery is a unique specialty at the intersection of the medical and dental professions.

- The specialty is both a medical (surgical) specialty and a dental specialty.
- Practitioners must complete both a medical and dental degree.
- Practitioners are jointly regulated by both the Medical Board of Australia (“**MBA**”) and the Dental Board of Australia (“**DBA**”).
- Both the Australian Medical Council (“**AMC**”) and the Australian Dental Council (“**ADC**”) jointly assessed the qualifications to recognise the specialty.

To attain Fellowship of the Royal Australasian College of Dental Surgeons (Oral and Maxillofacial Surgery) (“**FRACDS (OMS)**”), practitioners must undergo six years of basic and advanced surgical training, similar to the nine other surgical specialties that are regulated solely by the **MBA** and the **AMC**.

The Australian & New Zealand Association of Oral and Maxillofacial Surgeons Inc (“**Association**”) is the professional representative organisation for the specialty in Australia and New Zealand and it has over 200 members.

2. Mutual recognition should not apply to Oral and Maxillofacial Surgery

The Association is concerned that the *Trans-Tasman Mutual Recognition Act 1997* (Cth) (“**TTMRA**”) is unclear that mutual recognition does not apply to Oral and Maxillofacial Surgeons. It has been suggested to the Association that mutual recognition does apply, even though this has unintended consequences.

Under Schedule 4 of the TTMRA, the various state and territory medical practice acts (which have been replaced with the Health Practitioner Regulation National Law) are exempt from the operation of TTMRA provisions “to the extent that they deal with the occupation of *medical practitioners*” (our emphasis).

The exemption for medical practitioners has been in place since the TTMRA commenced on 1 May 1998. The Association understands that a key policy rationale for exempting medical practitioners was because there was already a sophisticated developed registration system holding the public’s trust and confidence, including systems to register New Zealand practitioners. Mutual recognition for medical practitioners would have created another layer of complexity, leading to confusion for practitioners and the public.

In contrast, the occupation of “dental practitioner” is an occupation for which New Zealand practitioners are entitled to mutual recognition under the TTMRA.

Since Oral and Maxillofacial Surgery is meant to be jointly regulated as both a medical **and** dental profession, New Zealand Oral and Maxillofacial Surgeons are required to register as both a medical practitioner and a dental practitioner.

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On 9 August 2011, the then Minister for Health advised the Association that:

“Specialist registration [as an oral and maxillofacial surgeon] is available to dentists and medical practitioners who either hold a DBA or MBA approved qualification for the specialty The DBA and MBA approved qualification for oral and maxillofacial surgery is [FRACDS (OMS)]”.

On 5 June 2014, Martin Fletcher, CEO of the Australian Health Practitioner Regulation Agency (“AHPRA”) advised the Association that:

“Since 1 July 2010, [DBA] has set down the requirements for specialist registration in its Dental Specialist Registration Standard published on its website and summarised in previous correspondence to [the Association]. For [oral and maxillofacial surgery], I understand that this includes registration with the [MBA].

... [DBA] and AHPRA, in managing applications for registration on behalf of the Board, are required to apply the principles outlined in [the TTMRA] when consideration applications for registration, with few exceptions.

The TTM principles have applied for over 15 years. They are based on equivalent occupation and allow any dental practitioner registered in New Zealand for an occupation to be registered in the (sic) Australia for the equivalent occupation and carry on the equivalent occupation in Australia.” (our emphasis)

AHPRA’s comments highlight the ambiguous application of the TTMRA to Oral and Maxillofacial Surgery. Where a New Zealand Oral and Maxillofacial Surgeon seeks registration in Australia, the TTMRA may apply for applications to the DBA for mutual recognition as a dental practitioner, irrespective of FRACDS (OMS). Mutual recognition would not apply to a MBA application, and the practitioner would have to be assessed against FRACDS (OMS).

This could lead to the unintended scenario where a person is deemed registered as a “dental practitioner” in the dental specialty of “Oral and Maxillofacial Surgeon” even though the practitioner:

- does not register or qualify for registration as a medical practitioner; or
- registers as a medical practitioner, but does not seek or is not eligible to be endorsed in the medical specialty of Oral and Maxillofacial Surgery.

The public would incorrectly assume that such a practitioner is dually registered. This is potentially a risk to patient safety.

If a specialty is part of the medical profession, the Association considers that mutual recognition should not apply. This would achieve the correct policy intent, that is, that New Zealand Oral and Maxillofacial Surgeons must obtain Australian registration as a medical practitioner in the same way as all other medical practitioners. This can be achieved by clarifying schedule 4 of the TTMRA.

Recommendation 1: The Association recommends that schedule 4 of the TTMRA be amended to exempt “the occupation of medical practitioners, including any occupation for which it is a mandatory requirement to be a medical practitioner”.

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3. Treatment of occupations without an equivalent Australian training course – Oral Surgeons

According to the DBA's list of specialties, Oral and Maxillofacial Surgery is:

"[t]he part of surgery that deals with the diagnosis and surgical and adjunctive treatment of diseases, injuries and defects of human jaws".

The capability to do complex jaw and facial surgery is one of the distinguishing features of the specialty of Oral and Maxillofacial Surgery. Worldwide, the specialty has continued to evolve in recent decades and this has culminated in the accreditation of the Royal Australasian College of Dental Surgeons training program in Oral and Maxillofacial Surgery by the AMC and ADC in 2006. Oral and Maxillofacial Surgery is one of the ten recognised medical surgical specialties in Australia.

Before the establishment of the specialty of Oral and Maxillofacial Surgery, the surgical branch of dentistry was known as "Oral Surgery". Practitioners were generally dental practitioners without medical qualifications who undertook a Masters Degree in Dentistry, in oral surgery. These practitioners undertook dental surgical procedures such as the removal of wisdom teeth. Today, the DBA defines oral surgery as:

"[t]he branch of dentistry concerned with the diagnosis and surgical management of conditions affecting the oral and dento-alveolar tissues."

The Association understands that no Australian university has offered a Masters Degree course in oral surgery since the early to mid-1990s. Most practitioners currently registered as "Oral Surgeons", completed the Masters Degree course in the 1980s and earlier and were largely registered in New South Wales and Western Australia who maintained this category before AHPRA and the national DBA commenced in 2010. However, overseas trained practitioners have also been registered as "oral surgeons" in recent years by the DBA without reference to an Australian course for "benchmarking".

The Association's view is that today's "oral surgery" specialty was always intended to be a closed, transitional specialty solely to allow existing NSW and WA oral surgeons to continue practising. In particular, there is no current Australian syllabus and qualification for assessing equivalence.

The TTMRA should not apply mutual recognition to occupations without an equivalent Australian training course. This would include closed, transitional or grandfathered occupations in Australia. In the context of "oral surgery", if a New Zealand dental practitioner practising in oral surgery sought mutual recognition under the TTMRA, there will be no Australian standard for which the New Zealand occupation could be assessed for equivalence.

Recommendation 2: Part 3 of the TTMRA should be amended to exclude the application of mutual recognition to specialties where there is no equivalent training course in Australia leading to a registerable qualification and closed, grandfathered or transitional occupations.

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