

MEDICAL BOARD OF WESTERN AUSTRALIA

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25 March 2003

Mr Tony Hinton
Commissioner
Productivity Commission
PO Box 80
BELCONNEN ACT 2617

Dear Mr Hinton

RE: COUNCIL OF AUSTRALIAN GOVERNMENTS (COAG) REVIEW OF MUTUAL RECOGNITION ARRANGEMENTS

I refer to our meeting regarding the review of mutual recognition arrangements and have pleasure in submitting the following comments.

Overview

In general terms, the application of mutual recognition legislation generally operates appropriately for the registration of medical practitioners in Western Australia from other jurisdictions.

Throughout the year however, the Medical Board does identify a handful of applications for which the current framework of mutual recognition does cause some concern. It is in this context that the following comments are provided below.

1. Conditions on the practice of medicine.

The mutual recognition legislation states that the individual lodging the application for registration with the authority must complete a notice, which states, inter alia;

“that the person is not otherwise personally prohibited from carrying on any such occupation in any State, and is not subject to any special conditions in carrying on that occupation, as a result of criminal, civil or disciplinary proceedings in any State; and”

The aforementioned statement is readily understood in a scenario whereby a Medical Board/Tribunal delivers an Order following an Inquiry/Hearing into a doctor's conduct. It is not clear however, whether the entering into of undertakings by a medical practitioner outside that of formal “disciplinary proceedings” is also envisaged within this section of the Mutual Recognition legislation.

For example, a medical practitioner may enter into an undertaking with a Medical Board that they shall not undertake certain activities. The undertaking is not however, entered into following an Order of the Board/Tribunal but moreover is a voluntary undertaking provided by the medical practitioner that, should the practitioner fail to comply with, will presumably result in disciplinary proceedings against the practitioner.

It is recommended that Section 19(2)(f) of the Mutual Recognition Act should be extended to include the entering into of such undertakings.

2 Mutual recognition is based upon the premise that all jurisdictions have common registration categories.

Currently, there are differences in the categories of registration as detailed in various state legislation. This does occasionally result in difficulties when an Eastern states practitioner under a certain category of Conditional Registration applies for registration in Western Australia and the criteria applicable for registration is different to that applied by the participating jurisdiction.

As an example, postgraduate training in Western Australia is designed for Overseas Trained Doctors who seek to obtain short term registration appointments in order to undertake postgraduate training. The medical practitioner is expected to return to their country of origin after the completion of the postgraduate training so as to apply the skills obtained during their time in Western Australia.

We understand that certain participating jurisdictions do not limit registration to short term duration for postgraduate training nor is there an expectation that the registrant should return to their country of origin to apply the new skills. This can result in a mutual recognition applicant (with postgraduate training registration) holding the expectation that the same registration criteria applies in Western Australia.

You should be aware that a working party has been established by the Australian Health Ministers Advisory Council ("AHMAC") to consider nationally consistent registration categories. Whilst this may overcome the aforementioned issue, it is unclear currently as to when uniform registration categories will be achieved.

Should you wish to further discuss the work of AHMAC in this area, I am advised Mr Peter Harvey is the appropriate contact in the first instance. Mr Harvey's telephone number is (08) 8226 6191.

Should you have any queries in relation to the above, please do not hesitate to contact me.

Yours sincerely

PROF BRYANT STOKES, AM
Chair
Registration Sub-Committee
Medical Board of Western Australia