



4 May 2009

The Committee Secretary  
Senate Standing Committee on Community Affairs  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

By e-mail: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

Our ref: PRO09-6055

Dear Mr Humphery

### **Submission to Senate Community Affairs Committee Inquiry into the National Registration Scheme for Doctors and Other Health Workers**

PIAC welcomes the opportunity to make a submission to the Inquiry.

PIAC has undertaken a considerable amount of work on patient or health care rights over its 26 years of operation, in particular around patient safety, complaints and investigations processes and the development of an Australian Health Consumers' Charter. PIAC welcomed the endorsement of the Australian Charter of Healthcare Rights by the Australian Health Ministers in July 2008. PIAC participated in the consultation process that led to the Commission's draft charter, including providing a written submission in response to the Consultation Paper on the draft charter.

PIAC was central to the consultation process leading to the enactment of the *Health Care Complaints Act 1993* (NSW). PIAC also provided legal representation at the New South Wales Royal Commission into Deep Sleep Therapy (the Chelmsford Royal Commission) and was involved in related processes dealing with the specific issues at the Chelmsford Hospital, but also more broadly, about the handling of serious complaints about medical practice in NSW.

### **National Healthcare Complaints**

PIAC supports the general principle of national registration of health professionals and allied workers in Australia.

PIAC's primary concern to date, regarding the issues referred to in the Terms of Reference, has been the contents of the consultation paper, *Proposed arrangements for handling complaints, and dealing with performance, health and conduct*, (the Consultation Paper). This Consultation Paper proposed a model that meant that the proposed nine national registration boards would have the role of assessing, investigating and prosecuting complaints about health professionals. PIAC strongly believes that an independent body should undertake the assessment, investigation and prosecution of health complaints, with dedicated officers assigned to these tasks within that independent body.

Level 9, 299 Elizabeth St  
Sydney NSW 2000  
DX 643 Sydney  
Phone: 61 2 8898 6500  
Fax: 61 2 8898 6555  
[www.piac.asn.au](http://www.piac.asn.au)  
ABN: 77 002 773 524

PIAC made a submission in response to the Discussion Paper, *Maintaining consumer focus in health complaints: the key to national best practice*, a copy of which is attached. PIAC relies on the contents of that earlier submission as its primary response to the terms of reference of the Inquiry currently before the Senate Community Affairs Committee regarding the design of the Federal Government's national registration and accreditation scheme for doctors and other health workers. In that submission, PIAC outlined the principles that it believes should apply to any national scheme for healthcare complaints within the broader scheme of national registration.

PIAC supports the basic structure of the NSW health complaints model in which the NSW Health Care Complaints Commission (HCCC) and the registration boards are co-regulators, but with the HCCC having power to insist on investigation and prosecution where it believes it is in the public interest.

PIAC endorses the subsequent comments by the NSW Health Minister, The Hon John Della Bosca MLC, on 5 March 2009 when he said that:

... to ensure ongoing patient care and safety it was important a powerful, independent body be retained in NSW to handle complaints about health professionals<sup>1</sup>

### **Terms of Reference of Inquiry**

In response to the terms of reference of the Inquiry, PIAC is concerned that the biggest potential impact on state and territory health services is that the rights of consumers may be diminished if an independent body does not deal with health care complaints about health professionals. This will negatively affect consumers in particular in NSW and the ACT where independent bodies now undertake these tasks.

Unless there is an independent health complaints watchdog, consumers will not have faith in the health system. This has a negative impact on patient care and safety. On the other hand, a complaints body that can deal with both complaints about health professionals as well as health providers such as hospitals and aged care facilities, can not only identify breaches of professional standards, but also systemic problems. Systemic problems only rarely concern the conduct or performance of one particular category of health professional. A comprehensive and independent complaints body therefore positively enhances patient care and safety.

Looking at alternative models of a national scheme, PIAC believes that the NSW model of independent assessment, investigation and prosecution of serious health complaints could be replicated in a national scheme. A scheme of co-regulation between an independent complaints commission and the registration boards works in the most populous state in the Commonwealth, so there is no reason why it could not work nationally.

Alternatively, PIAC submits that the proposals in the Discussion Paper be changed so each state and territory is able retain its own preferred model of health care complaints, subject to minimum standards consistent with principles of effective complaint handling. There is no reason why the NSW HCCC, for example, could not operate as a co-regulator with national registration boards.

PIAC is a strong supporter of the concept of a charter of health rights and welcomed the adoption of the Charter of Healthcare Rights by Australian Health Ministers in July 2008. PIAC proposes that, in its preferred model of a national registration scheme for health professionals, not only should the conduct and performance of health professionals be measured against established professional standards by the peer review process, but also by their adherence to and compliance with the Charter of Healthcare Rights. This would give the scheme a stronger consumer focus.

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<sup>1</sup> The Hon John Della Bosca MLC, *NSW to make case for keeping Health Care Complaints Commission*, (Media Release, 5 March 2009).

In its preferred model, PIAC supports the establishment of only one national registration board for all health professionals and health workers. PIAC is concerned that the perpetuation of the current professional divisions through the proposed nine national health registration boards will stifle attempts to create a more diverse and flexible health system to meet Australia's health needs and maintain universal access to appropriate health care. PIAC points to the report of the Productivity Commission, *Australia's Health Workforce*, in which the Commission reported its finding that the current regulatory arrangements for health professionals are too rigid and too vulnerable to the 'considerable influence' of the professional groups.<sup>2</sup> The Productivity Commission recommended a national registration scheme for health professionals and allied workers but recommended that scheme be regulated by a single national board.

PIAC would welcome greater use of nurse practitioners in the Australian health system, and notes their greater use in comparable countries overseas. The small numbers of nurse practitioners in Australia and the restrictions on their ability exercise certain functions, including having the authority to prescribe medication in limited circumstances, is a direct result of the power and influence of the medical profession. Institutional structures such as the state medical boards reflect that power and influence. A single national board would be able to balance the maintenance of patient care and safety with the public interest in breaking down the monopoly that the medical profession claims over certain areas of patient care.

A single national registration board for health professionals and health workers would also:

- Provide national regulation of currently non-registered health professionals and allied health workers.
- Help diminish the notion of 'high status' and 'low status' occupations in healthcare.
- Encourage uniform basic standards across all health professions.
- Better regulate the use and allocation of labels such as a 'specialist' in health professions.
- Encourage the transferability of skills across professional boundaries.
- Better act as co-regulators with health complaints bodies when complaints concern more than one category of health professional and/ or systemic problems are identified.

### **Lack of public consultation**

Finally, PIAC would like to take the opportunity to comment about the lack of public consultation in this important area of public policy.

PIAC does not consider the 'by invitation only' meeting in Sydney on 21 October 2008, where there were only a handful of (mainly national) consumer groups invited, in any way adequate public consultation for the whole of Australia on the complaints aspects of the national registration of health professionals. Again, PIAC welcomes this Senate Inquiry as an opportunity for the public to express their views on these important issues.

There has been unfortunately little reporting in the media about these issues. Consequently there is little public awareness of the significant effects on consumer rights that the proposed model in the Discussion Paper would have in some states and territories. PIAC urges the Senate Community Affairs Committee to recommend that there is a broader public consultation, including with state and territory

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<sup>2</sup> Productivity Commission, *Australia's Health Workforce* (2005) xix.

based consumer organisations, about the next phase of the National Registration process, in particular after the release of any draft legislation about a national health complaints scheme. PIAC submits that there should be public fora on the proposals, not only in all the capital cities, but also in regional locations, well before any further legislative change in this area is put before any Parliament in Australia.

Yours sincerely

**(Ms) Robin Banks**  
Chief Executive Officer

Direct phone: +61 2 8898 6508  
E-mail: [rbanks@piac.asn.au](mailto:rbanks@piac.asn.au)

Encl: PIAC submission: *Maintaining consumer focus in health complaints: the key to national best practice*,  
24 November 2008