

Consultation Paper

August 2011

Proposed mandatory registration standards:

- continuing professional development
- criminal history
- English language skills
- professional indemnity insurance, and
- recency of practice.

Proposed registration standard:

- grandparenting.

Summary

Requirements for the registration of the occupational therapy profession are currently set by the South Australian, West Australian, Queensland and Northern Territory governments. However, from 1 July 2012, national registration for the profession will commence and approved national mandatory registration standards will apply.

Mandatory registration standards

Section 38 of the *Health Practitioner Regulation National Law* (the National Law) as in force in each state and territory, requires the National Boards to develop and recommend to the Australian Health Workforce Ministerial Council (Ministerial Council) five mandatory registration standards.

The National Law also requires the Occupational Therapy Board of Australia (the Board) to undertake wide-ranging consultation on proposed registration standards.

This consultation paper seeks feedback on proposed mandatory registration standards for:

1. Continuing professional development (CPD) and CPD Guidelines
2. Criminal history
3. English language skills
4. Professional indemnity insurance (PII)
5. Recency of practice.

The five proposed mandatory registration standards that the Board must develop in accordance with the National Law are attached to this consultation paper (**Attachments 1 to 5**).

The Board's *Statement of Assessment against AHPRA's Procedures for Development of Registration Standards* is at **Attachment 6**.

Other Board proposals

Section 38 of the National Law also enables the National Boards to develop and recommend to the Ministerial Council other registration standards, including about the scope of practice of health practitioners registered in the profession and any other issue relevant to the eligibility of individuals for registration in the profession or the suitability of individuals to competently and safely practise the profession.

The Board is therefore also consulting on a draft grandparenting registration standard (**Attachment 7**).

The Board's *Statement of Assessment against AHPRA's Procedures for Development of the Grandparenting Registration Standard* is at **Attachment 8**.

Background

In July 2011, the Ministerial Council appointed the:

- Aboriginal and Torres Strait Islander Health Practice Board of Australia
- Chinese Medicine Board of Australia
- Medical Radiation Practice Board of Australia, and
- Occupational Therapy Board of Australia

to begin work 12 months in advance of their national registration commencing and to support the four 2012 professions when moving from state and territory based registration to national registration.

From 1 July 2012, each of the National Boards will have responsibility for the registration and regulation of their profession under the National Law.

However, before this can happen, a priority task for the four National Boards is to develop and consult on proposed registration standards, including the five mandatory standards.

The National Board's aim is to have the final mandatory registration standards submitted for approval to the Ministerial Council by December 2011, so that practitioners have time to familiarise themselves with the new national requirements for each of the four professions and to enable application for registration forms to be finalised before the professions are regulated under the National Registration and Accreditation Scheme from 1 July 2012.

Submissions

The Occupational Therapy Board of Australia is now seeking feedback on the draft mandatory registration standards and other board proposals – see **Attachments 1 to 8**.

Please provide written submissions by email, marked "Mandatory registration standards" to otboardconsultation@ahpra.gov.au by close of business on **7 October 2011**.

Submissions by post should be addressed to the Executive Officer, Occupational Therapy Board, AHPRA, GPO Box 9958, Melbourne, 3001.

The Board publishes submissions on its interim website www.ahpra.gov.au/NRAS.aspx to encourage discussion and inform the community and stakeholders.

We will not place on our website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the reference. Before publication, we may remove personally identifying information from submissions.

The views expressed in the submissions are those of the individuals or organisations who submit them and their publication does not imply any acceptance of, or agreement with, these views by the Board.

The Board also accepts submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include personal or

other sensitive information. Any request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act 1982* (Cth), which has provisions designed to protect personal information and information given in confidence.

Please let us know if you do not want us to publish your submission, or want us to treat all or part of it as confidential. A link to the National Law is available at www.ahpra.gov.au/Legislation-and-Publications.aspx

Attachments

August 2011

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1. Draft registration standard: Continuing professional development (CPD)

August 2011

Introduction

What the National Law requires

The National Law requires a registered health practitioner to undertake the continuing professional development (CPD) required by the Board as set out in an approved registration standard for the profession (section 128).

When a practitioner renews their registration, he/she must make a declaration about whether the CPD requirements have been met for the preceding period of registration (section 109). The Board may decide not to renew the practitioner's registration if the CPD requirements are not met (section 112).

The CPD requirements do not apply to a person granted 'non-practising' registration.

The Board is required to develop and recommend to the Ministerial Council, a registration standard about the requirements for CPD for registered occupational therapists (section 38).

To assist practitioners in understanding this standard, the Board also proposes CPD Guidelines.

What the Board is consulting on

The Board is consulting with stakeholders on the CPD standards and guidelines, specifically on but not limited to:

- 1.1 The minimum number of hours of CPD specified annually
- 1.2 The mix of CPD activities proposed
- 1.3 The proposed format of CPD record-keeping
- 1.4 The level of flexibility in how the CPD activities can be met
- 1.5 Whether first-time registrants will be able to meet these requirements
- 1.6 Whether transitioning registrants will be able to meet these requirements
- 1.7 The impact of these standards on professional associations that run CPD programs

The proposed registration standard for continuing professional development (CPD) is on the following page.

Occupational Therapy Board of Australia

Draft for Consultation

Continuing Professional Development (CPD) Registration Standard

Authority

This standard has been approved by the Australian Health Workforce Ministerial Council on <<date>> pursuant to the *Health Practitioner Regulation National Law* (the National Law), as in force in each state and territory, with approval taking effect from <<date>>.

Summary

All practicing occupational therapists must undertake Continuing Professional Development (CPD) as a condition of registration. This standard sets out the minimum requirements for CPD for occupational therapists.

Consumers of occupational therapy services have the right to expect that occupational therapists will provide services in a competent and contemporary manner that meets best practice standards. Continuing professional development is an interactive process to maintain and extend a practitioner's knowledge, expertise and competence throughout his or her career. Continuing professional development is an important component in the provision of safe and effective services.

Scope of application

This standard applies to all registered occupational therapist practitioners. It does not apply to students and practitioners who have non-practising registration.

Requirements

1. All practicing occupational therapists must complete a minimum of 30 hours of CPD per year directed towards maintaining and improving competence in their area of practice.
2. The CPD activity claimed must be directed towards maintaining and improving the practitioner's competence in their chosen area of practice. Continuing professional development activities should have clear goals and outcomes.
3. A CPD Record must be kept to document details of activities completed.
4. In addition to a written CPD Record, practitioners must keep evidence of completed CPD activities in a CPD Portfolio. This evidence must be retained for a five year period and must be available for audit by the Board.
5. Practitioners will be required to sign a declaration of compliance with the CPD Registration Standard when renewing their registration each year.
6. Periodic audits may be conducted to ensure that practitioners are compliant with this standard. If audited, a practitioner must produce their CPD Record and CPD Portfolio of evidence.

Transition to National Registration and CPD Requirements

The Board recognises that not all occupational therapists transitioning to the National Registration and Accreditation Scheme have been subject to CPD requirements.

Accordingly, the initial period to meet the requirements in the CPD Standard will be 17 months from 1 July 2012 to 30 November 2013.

From 1 December 2013 all registered occupational therapists will need to comply with this standard each year.

Definitions

Continuing professional development is the means by which members of the profession maintain, improve and broaden their knowledge, expertise and competence, and develop the personal and professional qualities required throughout their professional lives.

CPD Portfolio means a collection of documents which demonstrate professional development undertaken and its application to practice. The portfolio may include (but is not limited to):

- Evidence of formal learning activities undertaken or conferences attended
- Certificates issued upon completion of CPD activities by an approved training or education provider
- Records of any informal CPD learning activities
- Records of activity in the category 'engagement with the profession'
- Reflective descriptions of learning experiences and examples of how the learning has been applied in practice.

Practice means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in their profession. For

the purposes of this registration standard, practice is not restricted to the provision of direct clinical care. It also includes using professional knowledge in a direct nonclinical relationship with clients, working in management, administration, education, research, advisory, regulatory or policy development roles, and any other roles that impact on safe, effective delivery of services in the profession.

Professional development activities means participation in formal and informal learning activities, such as attendance at courses or conferences, learning reflection, supervision, mentoring or coaching, involvement in communities of practice; peer review and support activities and evidence-based practice activities, as well as informal learning gained through experience and interaction with colleagues.

CPD Record - The record is the way in which the practitioner documents the CPD activity undertaken.

Related Documents

The Occupational Therapy Board of Australia has produced Continuing Professional Development (CPD) Guidelines. The guidelines expand on the requirements set out in this registration standard and are available on the Board's website.

Review

This standard applies from 1 July 2012. The Board will review this standard at least every three years.

Occupational Therapy Board of Australia

Continuing Professional Development (CPD) Guidelines

Introduction

These Continuing Professional Development (CPD) Guidelines have been developed by the Occupational Therapy Board of Australia (the Board) to supplement the requirements for CPD as outlined in the Board's CPD registration standard, pursuant to the *Health Practitioner Regulation National Law* (the National Law).

These guidelines explain the activities that qualify as CPD and provide advice on record keeping. These guidelines also provide an example of a CPD Record as well as other information to assist occupational therapists to establish and maintain an appropriate CPD Portfolio.

The relevant sections of the National Law are also attached.

Who needs to use these guidelines?

Under the National Law all practicing occupational therapists must undertake Continuing Professional Development (CPD) as a condition of registration.

These guidelines should be used in conjunction with the mandatory registration standard for CPD that applies to all practitioners except those with non-practicing registration and students.

Continuing Professional Development (CPD)

Background

Consumers of occupational therapy services have the right to expect that occupational therapists will provide services in a competent and contemporary manner that meets best practice standards. Continuing Professional Development (CPD) is an interactive process to maintain and extend the practitioner's knowledge, expertise and competence throughout his or her career. CPD is an important component in the provision of safe and effective services.

All practitioners must familiarise themselves with the requirements outlined in the CPD registration standard.

Requirements

As specified in the CPD registration standard:

1. All practicing occupational therapists must complete a minimum of 30 hours of CPD per year directed towards maintaining and improving competence in their area of practice.
2. The CPD activity claimed must be directed towards maintaining and improving the practitioner's competence in their chosen area of practice. Continuing professional development activities should have clear goals and outcomes.
3. A CPD Record must be kept to document details of activities completed.
4. In addition to a written CPD Record, practitioners must keep evidence of completed CPD activities in a CPD Portfolio. This evidence must be retained for five years and must be available for audit by the Board.
5. Practitioners will be required to sign a declaration of compliance with the CPD registration standard when renewing their registration each year.
6. Periodic audits may be conducted to ensure that practitioners are compliant with this standard. If audited, a practitioner must produce their CPD Record and CPD Portfolio of evidence.

Transition to National Registration and CPD Requirements

The Board recognises that not all occupational therapists transitioning to national registration have previously been subject to CPD requirements.

Accordingly, the initial period to meet the requirements in the CPD registration standard will be 17 months from 1 July 2012 to 30 November 2013.

From 1 December 2013, all registered occupational therapists will need to comply with this standard each year.

What counts as CPD?

Every year when you renew your registration, you will be required to sign a declaration stating that you have undertaken sufficient CPD to maintain your competence throughout the past year and that you commit to undertake sufficient CPD to maintain competence.

The Board recognises that people learn in different ways. Accordingly, the CPD may include formal and informal learning activities. Engagement with the profession can enhance individual development and reflection as well as contributing to competence and quality within the wider profession and health sector. Accordingly, participation in certain professional activities can also contribute to meeting the CPD requirement.

It should be noted that undertaking your day-to-day work duties **cannot** be counted as CPD hours. Continuing professional development activities must have a clear focus on developing and extending competence in the practitioner's chosen area of practice.

Under the National Scheme an occupational therapist must undertake a minimum of 30 hours of CPD as a specified requirement in the CPD registration standard. A mixture of activities from three categories is to be undertaken to make up the required 30 hours of CPD each year. The practitioner is not required to undertake CPD from all categories. The Board has limited the hours from each category to ensure a mix of learning experiences. An activity can only be applied to one category and cannot be counted more than once.

The three CPD categories are:

Category 1: Formal Learning Activities

A maximum of 20 hours of CPD per registration year can be compiled by completing:

- Tertiary courses leading to a postgraduate award
- Accredited courses
- Work-based learning contracts or other assessed activities
- Conferences, forums, workshops and seminars
- Undertaking research and presentation of work. This needs to be substantive, reference and evidence-based
- Publish an article in a peer-reviewed journal
- Author a book chapter
- Making health related presentations of new or substantially reviewed material (eg poster presentations, lectures, seminars, workshops)
- In-service education programs
- Journal clubs
- Developing evidence-based practice resources (eg completing systematic reviews, developing evidence-based guidelines)
- Distance education or online learning that includes an examination, assessment or certificate evidencing learning outcomes

Category 2: Informal Learning Activities

A maximum of 20 hours of CPD per registration year can be compiled by completing:

- Private study - reading books and journals with a clear relationship to development goals and area of practice
- Case presentations and reviews with colleagues
- Examining and reflecting on evidence-based resources (systematic review, evidence-based guidelines etc) and implementing changes in practice. This activity must be documented to count as CPD.

- Participation in a community of practice, with a record of activities completed
- Reflective journaling involving detailed reflection and writing with a focus on developing competence and quality of practice
- Online learning involving discussion, chat rooms, contribution to list-serves

Category 3: Engagement with the profession

A maximum of 10 hours of CPD per registration year can be compiled by completing:

- Accreditation activities (inspection teams, evaluation of accreditation reports)
- Activities to improve quality or reduce risk in practice, involving evaluation and report
- Participating in a clinical audit or similar review activity
- Supervision of undergraduate or post-graduate occupational therapy students
- Supervision of an occupational therapist undertaking a practice audit or program of supervised practice
- Providing supervision or mentoring to an occupational therapist. This does not include supervision of staff where this supervision is a usual responsibility of the work role. This activity must be documented to count as CPD.
- Participation in interest groups, committees, groups, boards etc. with a focus on health or professional issues
- Presenting in-service or training to health professionals or carers.

Keeping a CPD Portfolio

The CPD registration standard requires occupational therapists to keep a CPD Record detailing activities undertaken and evidence of their CPD activities (a CPD Portfolio) for a minimum of five years. The records should contain sufficient evidence to support any claims.

Practitioners should maintain the following:

1. A CPD Record for each year of activity, to include:
 - a. goals and outcomes for CPD;
 - b. details of CPD activity (date, activity time, provider or participants/resources) for each of the three CPD categories; and
 - c. a reflection on the contribution of that activity to your goal or enhancing your competence.
2. A portfolio of evidence of CPD activity completed. Examples of evidence include certificates or awards for courses completed, certificates of attendance for conferences or workshops, descriptions or notes of self directed learning activities completed, copies of literature reviews, case studies, journal club notes, reflective journal entries etc.

To assist practitioners the Board has developed a template, which can be used to maintain a CPD Record (Appendix 1) and an example of a completed CPD Record (Appendix 2).

Participating in a CPD Program

Practitioners who participate in a CPD program offered by a professional association or other body and approved by the Board can use evidence of completion of the requirements of that program to meet the requirements of the CPD Standard. The evidence must be retained for five years and must be available for audit by the Board.

A list of approved CPD programs will be available on the Board's website.

Failure to comply

In the event that a registrant fails to meet the requirements of the CPD registration standard the Board may; for example:

- a) place a condition on the practitioner's registration
- b) impose a condition on registration requiring the practitioner to successfully complete additional CPD activities in order to maintain and improve professional knowledge within a specified period.

Knowingly making a false declaration will be considered by the Board to be a professional misconduct matter and as such will be dealt with by the Board through disciplinary mechanisms available under the National Law.

Definitions

Communities of practice – Communities of individuals engaged in a common practice, with a shared repertoire and history that interact over a period of time on a regular basis to share ideas and strategies, determine solutions and build innovations. Practice may be developed through a variety of methods including sharing of information and assets, discussion, networking and visiting, mapping knowledge and identifying knowledge gaps. (Lave, J. & Wenger, E. (1998) *Communities of practice: Learning, meaning, and identity*. Cambridge: Cambridge University Press).

Continuing professional development is the means by which members of the profession maintain, improve and broaden their knowledge, expertise and competence, and develop the personal and professional qualities required throughout their professional lives.

CPD Portfolio means a collection of documents which demonstrate professional development undertaken. The portfolio may include:

- Evidence of formal learning activities undertaken or conferences attended
- Certificates issued upon completion of CPD activities by an approved training or education provider
- Records of any informal CPD learning activities

- Records of activity in the category 'engagement with the profession'
- Descriptions of a learning experiences and examples of how the learning has been applied in practice

Practice means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in their profession. For the purposes of this registration standard, practice is not restricted to the provision of direct clinical care. It also includes using professional knowledge in a direct nonclinical relationship with clients, working in management, administration, education, research, advisory, regulatory or policy development roles, and any other roles that impact on safe, effective delivery of services in the profession.

Professional development activities means participation in formal and informal learning activities, such as attendance at courses or conferences, learning reflection, supervision, mentoring or coaching, involvement in communities of practice; peer review and support activities and evidence-based practice activities, as well as informal learning gained through experience and interaction with colleagues.

CPD Record is the method by which the practitioner documents the CPD activity undertaken.

Reflection is the process of thinking critically about one's practice. This may involve consideration of assumptions and alternative approaches, comparison to the practice of colleagues, considering the potential relevance and application to practice of new knowledge, acquired through reading, formal learning or other CPD activity.

Reflective practice journaling involves detailed reflection and writing with a focus on developing competence and quality of practice. A reflective practice journal entry might include the following: planning CPD, goal setting, a summary of a learning activity/new learning; interpretation of the strengths, weakness or relevance of the learning for practice; potential change to practice; action planned; additional learning or CPD required. A written record of reflection must be retained if reflective practice journaling is to be claimed as informal learning for CPD hours.

References

Roberts, A (2002) Advancing practice through continuing professional education: The case for reflection, *British Journal of Occupational Therapy*, 65(5), 237-241.

Review

These guidelines apply from 1 July 2012. The Board will review this standard at least every three years.

Appendix 1

Template: Continuing Professional Development Record

Name:

Registration Number:

Registration Period:

Development Plan

Goals	Outcomes

Category 1: Formal Learning Activities (Max 20 hours per registration year)

Date	Activity	Participants / Resources	Reflection	CPD Hours

Category 2: Informal Learning Activities (Max 20 hours per registration year)

Date	Activity	Participants / Resources	Reflection	CPD Hours

Category 3: Engagement with the Profession (Max 10 hours per registration year)

Date	Activity	Participants / Resources	Reflection	CPD Hours

Total CPD for the year (12 month period)

CPD Category	CPD Hours
Category 1: Formal Learning Activities (Max 20 hours per registration year)	
Category 2: Informal Learning Activities (Max 20 hours per registration year)	
Category 3: Engagement with the Profession (Max 10 hours per registration year)	
Total (minimum of 30 hours CPD per year)	

Signature:

Date:

Appendix 2

Example: Continuing Professional Development Record

Name: Sarah Therapist
Registration Number: 2246
Registration Period: 1 December 2013 – 30 November 2014

Development Plan **SAMPLE**

Goals	Outcomes
Improve knowledge and skills for complex home modifications	Competent to independently assess and document complex home modifications
Develop skills to locate and critically read articles relevant to my area of practice	Able to present article reviews at regional journal club meetings
Improve skills for assessment of accommodation needs	Confident to complete assessment and recommend services and options when a move to supported accommodation is being considered for older clients.

Category 1: Formal Learning Activities (Max 20 hours per registration year) **SAMPLE**

Date	Activity	Provider	Reflection	CPD Hours
2 Feb 2014	Workshop on complex home modifications	Senior OT staff from Disability Modification Service	Will need to look over revised Aust Standards for ramps and review sample diagrams with supervisor	6
April 2014	Online learning module: Reading for Evidence-based Practice	Centre for Evidence Based Healthcare	Material very new and challenging but critical appraisal tools help me to identify strengths and limitations of articles. Will print copies to use for private reading. Good to complete online quiz successfully!	4

Category 2: Informal Learning Activities (Max 20 hours per registration year)

SAMPLE

Date	Activity	Participants / Resources	Reflection	CPD Hours
19 Feb 2014	Practiced measuring for ramps and preparing drawings	Outreach supervisor and other junior staff	Found it difficult to work out gradients. Take calculator on visits and ask supervisor to check first 5 drawings after home visits.	1.5
12 May 2014	Read article in preparation and attended regional journal club Article Roberts (2012) Occupational Therapy Documentation Practices, Journal of Health Quality Practices, 5(2) pp 174-9	Regional journal club led by Community Health Senior	Difficult to contribute to discussion of study design and method. For next session, will prepare some questions about these aspects. My documentation practices were very similar to those in article, although I could consider using more occupational terminology.	3
19 June 2014	How to search Pubmed and the Cochrane database for free access articles and reviews	OT student presented workshop for staff	Surprising to see how many articles can be accessed free online. Identified possible search terms and will ask student to sit with me to practise searching next week.	2
30 June 2014	Read article : Jacobs (2009) Identifying capacity and preferences for supported community living, Oceanic Journal of Gerontology, 38(2) 72-81.	Independent reading	Community support options differ in the Islands region where this was written. The structured interview technique seemed a good way to establish client preferences and negotiate options. Could be applicable to our assessment service.	1
8 July 2014	Reflective Journaling: My documentation practices	Reflective journaling	Considered the approach I take to home visit reports. Emphasis on physical environment but less on how personal efficacy and routines will influence occupational performance at	1.5

Date	Activity	Participants / Resources	Reflection	CPD Hours
			home. Will review the way I frame questions to better identify client's perceptions about occupational performance at home. Will discuss with senior at next supervision session.	
1 October 2014	Read EBP Review: Effectiveness of short term activity programs for improving health indicators in older adults	Cochrane Systematic Review 2010/19	Programs that included exercise, environmental falls risk assessment and leisure activity planning were most effective. Will discuss this evidence at next interest group. Possibility of trailing program across sites.	1
22 October	Prepared and presented a case for OT Team review: Discussed circumstances of a client who recently returned to the unit shortly after discharge home.	OT Inservice	Discussion of issues that may have contributed to return to hospital after discharge. Identified ways to improve assessment to better identify barriers and issues with supports.	1.5

Category 3: Engagement with Profession (Max 10 hours per registration year)
SAMPLE

Date	Activity	Participants / Resources	Reflection	CPD Hours
5 March 2014	Aged care interest group considered new guidelines for activity programs.	WA South Aged Care Interest Group	Need to review condition and safety of 'shed' tools and ensure electrical testing has been done.	3

Date	Activity	Participants / Resources	Reflection	CPD Hours
7 April 2014	Supervised 2 nd year OT students practising initial interview skills	3 x second year OT students from City University	Students questioned use of a checklist of activities to guide initial interview. Effective open ended questions and some tools can help to identify valued occupations	2
22 May 2014	Presented inservice training for allied health assistants on the impact of loss of hearing and vision.	Allied health assistants – Northbridge Centre	Useful discussion about how health workers changing things in the environment can upset the routines and coping strategies of people who have vision or hearing loss.	1
8 November 2014	Aged care interest group discussed short term activity support programs	WA South Aged Care Interest Group	Discussed the implications of the Cochrane review on this topic for planning the pilot program. Offered to review draft program documentation.	3

Total CPD for the year (12 month period) SAMPLE

CPD Category	CPD Hours
Category 1: Formal Learning Activities (Max 20 hours per registration year)	10
Category 2: Informal Learning Activities (Max 20 hours per registration year)	11.5
Category 3: Engagement with the Profession (Max 10 hours per registration year)	9
Total (minimum of 30 hours CPD per year)	30.5

Signature: Sarah Therapist

Date: 5 December 2014

Extract of relevant provisions from the *Health Practitioner Regulation National Law (the National Law)*

Division 3 Registration standards and codes and guidelines

39 Codes and guidelines

A National Board may develop and approve codes and guidelines —

- (a) to provide guidance to the health practitioners it registers; and
- (b) about other matters relevant to the exercise of its functions.

Example. A National Board may develop guidelines about the advertising of regulated health services by health practitioners registered by the Board or other persons for the purposes of section 133.

40 Consultation about registration standards, codes

(1) If a National Board develops a registration standard or a code or guideline, it must ensure there is wide ranging consultation about its content.

(2) A contravention of subsection (1) does not invalidate a registration standard, code or guideline.

(3) The following must be published on a National Board's website —

- (a) a registration standard developed by the Board and approved by the Ministerial Council;
- (b) a code or guideline approved by the National Board.

(4) An approved registration standard or a code or guideline takes effect —

- (a) on the day it is published on the National Board's website; or
- (b) if a later day is stated in the registration standard, code or guideline, on that day.

41 Use of registration standards, codes or guidelines in disciplinary proceedings

An approved registration standard for a health profession, or a code or guideline approved by a National Board, is admissible in proceedings under the National Law or a law of a co-regulatory jurisdiction against a health practitioner registered by the Board as evidence of what constitutes appropriate professional conduct or practice for the health profession.

128 Continuing professional development

1. A registered health practitioner must undertake the continuing professional development required by an approved registration standard for the health professional in which the practitioner is registered.
2. A contravention of subsection (1) by a registered health practitioner does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.
3. In this section – Registered health practitioner does not include a registered health practitioner who holds non-practising registration in the profession.

2. Draft registration standard: Criminal history

August 2011

Introduction

What the National Law requires

In accordance with the National Law, the Board is required to check an applicant's criminal history before deciding an application for registration (section 79). All applicants for registration are required to declare if they have a criminal history as part of the application process. The Board may also, at any time, obtain a written report about a registered practitioner's criminal history – for example, as part of an audit, or to check a statement made by a registrant renewing his/her registration (section 135).

The Board may decide that an individual is not a suitable person to hold general registration, if in the Board's opinion, the individual is not an appropriate person to practise the profession, or it is not in the public interest for the individual to practise the profession, after the Board has had regard to the individual's criminal history to the extent that is relevant to his/her practice of the profession (section 55).

The Board is required to develop and recommend to the Ministerial Council, a registration standard about the criminal history of applicants for registration, including the matters to be considered in deciding whether an individual's criminal history is relevant to the practice of the profession (section 38).

What the Board is consulting on

The Board is consulting on the Ministerial Council approved Criminal History Registration Standard that was implemented at the start of the National Registration and Accreditation Scheme (the National Scheme) on 1 July 2010 for the original 10 professions. (The other three National Boards for the 2012 professions are also consulting on the same document).

This is the only mandatory registration standard that is the same for **all** 10 National Boards. It was subject to wide-ranging consultation with stakeholders prior to approval by the Ministerial Council.

The Board considers it is important to have a consistent, fair and transparent standard that enables all National Boards to make equitable decisions about whether a health practitioner's criminal history is relevant to the practice of their profession.

- 2.1 **The Board proposes** to seek Ministerial Council approval for this registration standard to apply to the occupational therapy profession.

The proposed registration standard for criminal history is on the following page.

Occupational Therapy Board of Australia

Draft for Consultation

Criminal History Registration Standard

Authority

This standard has been approved by the Australian Health Workforce Ministerial Council on <<date>> pursuant to the *Health Practitioner Regulation National Law* (the National Law), as in force in each state and territory, with approval taking effect from <<date>>.

Summary

In deciding whether a health practitioner's criminal history is relevant to the practice of their profession, the Board will consider the 10 factors set out in this standard. While every case will need to be decided on an individual basis, these 10 factors provide the basis for the Board's consideration.

Scope of application

This standard applies to all applicants and all registered health practitioners. It does not apply to students.

Requirements

In deciding whether a health practitioner's criminal history is relevant to the practice of their profession, the Board will consider the following factors.

1. The nature and gravity of the offence or alleged offence and its relevance to health practice.

The more serious the offence or alleged offence and the greater its relevance to health practice, the more weight that the Board will assign to it.

2. The period of time since the health practitioner committed, or allegedly committed, the offence.

The Board will generally place greater weight on more recent offences.

3. Whether a finding of guilt or a conviction was recorded for the offence or a charge for the offence is still pending.

In considering the relevance of the criminal history information, the Board is to have regard to the type of criminal history information provided. The following types of criminal history information are to be considered, in descending order of relevance:

- a) convictions
- b) findings of guilt
- c) pending charges
- d) non-conviction charges; that is, charges that have been resolved otherwise than by a conviction or finding of guilt, taking into account the availability and source of contextual information which may explain why a non-conviction charge did not result in a conviction or finding of guilt.

4. The sentence imposed for the offence.

The weight the Board will place on the sentence will generally increase as the significance of the sentence increases, including any custodial period imposed. The Board will also consider any mitigating factors raised in sentencing, where available, including rehabilitation.

5. The ages of the health practitioner and of any victim at the time the health practitioner committed, or allegedly committed, the offence.

The Board may place less weight on offences committed when the applicant is younger, and particularly

under 18 years of age. The Board may place more weight on offences involving victims under 18 years of age or other vulnerable persons.

6. Whether or not the conduct that constituted the offence or to which the charge relates has been decriminalised since the health practitioner committed, or allegedly committed, the offence.

The Board will generally place less or no weight on offences that have been decriminalised since the health practitioner committed, or allegedly committed, the offence.

7. The health practitioner's behaviour since he or she committed, or allegedly committed, the offence.

Indications that the offence was an aberration and evidence of good conduct or rehabilitation since the commission, or alleged commission of the offence, will tend to be a mitigating factor. However, indications that the offence is part of a pattern of behaviour will tend to have the opposite effect.

8. The likelihood of future threat to a patient of the health practitioner.

The Board is likely to place significant weight on the likelihood of future threat to a patient or client of the health practitioner.

9. Any information given by the health practitioner.

Any information provided by the health practitioner such as an explanation or mitigating factors will be reviewed by the Board and taken into account in considering the health practitioner's criminal history.

10. Any other matter that the Board considers relevant.

The Board may take into account any other matter that it considers relevant to the application or notification. A Board will not require an applicant or registered health practitioner to provide further information that may prejudice their personal situation pending charges and the Board must not draw any adverse inference as a result of the fact that information has not been provided.

Note: The above factors have been numbered for ease of reference only. The numbering does not indicate a priority order of application.

Definitions

Criminal history is defined in the National Law as:

- Every conviction of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of the National Law,
- Every plea of guilty or finding of guilt by a court of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of the National Law and whether or not a conviction is recorded for the offence,
- Every charge made against the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of the National Law.

Under the National Law, spent convictions legislation does not apply to criminal history disclosure requirements.

Review

This standard will commence on 1 July 2012. The Board will review this standard at least every three years.

3. Draft registration standard: English language skills

Draft at August 2011

Introduction

What the National Law requires

In accordance with the National Law, the Board may decide that an individual is not a suitable person to hold general registration in the occupational therapy profession if in the Board's opinion, the individual's competency in speaking or otherwise communicating in English is not sufficient for the individual to practice the profession (section 55).

What the Board is consulting on

The Board is required to develop and recommend to the Ministerial Council, a registration standard setting out requirements for the English language skills that are necessary for an applicant to be suitable for registration in the occupational therapy profession (section 38).

The Board is consulting with stakeholders on the English language skills standards, specifically on but not limited to:

- 3.1 The evidence which will be accepted
- 3.2 The minimum test result levels
- 3.3 The timeframe for English language test results to have been completed
- 3.4 The effective communication requirements for all practitioners
- 3.5 The exemptions from the standard

The proposed registration standard for English language skills is on the following page.

Occupational Therapy Board of Australia

Draft for Consultation

English Language Skills Registration Standard

Authority

This standard has been approved by the Australian Health Workforce Ministerial Council on <<date>> pursuant to the *Health Practitioner Regulation National Law* (the National Law), as in force in each state and territory, with approval taking effect from <<date>>.

Summary

All internationally qualified applicants for registration or applicants who qualified for registration in Australia but did not complete their secondary education in English, must demonstrate that they have the necessary English language skills for the safe and competent practice of occupational therapy.

All applicants must be able to demonstrate English language skills at the required International English Language Testing System (IELTS) academic level or Occupational English Test (OET) level (see 'Definitions' below), or specified alternatives.

Scope of application

This standard applies to applicants for initial registration. It does not apply to students.

Requirements

1. An applicant who is:
 - a) internationally qualified; or
 - b) who did not undertake and complete their secondary education in English and in one of the countries specified under the

'Exemptions' heading below, must submit evidence or, in the case of test results, arrange for evidence to be provided of their competency in English language.

2. English language competence can be demonstrated by having completed one of the following tests of English language proficiency:
 - a) The IELTS examination (academic module) with a minimum score of 7 in each of the four components (listening, reading, writing and speaking); or
 - b) Completion and an overall pass in the OET with grades A or B only in each of the four components.
3. Results of the tests in 2(a) and 2(b) above must have been obtained within two years prior to applying for registration.
4. An IELTS or OET Test Report Form more than two years old will be accepted as current if accompanied by proof that the applicant has actively maintained employment as an occupational therapist using English as the primary language of practice in a country where English is the native or first language. Test results must comply with the current requirements of this policy.
5. Results of the tests in 2(a) and 2(b) above must be obtained in one sitting.
6. The applicant is responsible for the cost of the English tests.
7. The applicant must make arrangements for test results to be provided directly to the Board by the testing authority; for example, by secure internet login or as a formal transcript.

Exemptions

1. The Board may grant an exemption from the requirements where the applicant provides evidence that:
 - a) They undertook and completed secondary education that was taught and assessed in English in one of the countries listed below, where English is the native or first language; and
 - b) The applicant's tertiary qualifications in occupational therapy were taught and assessed in English in one of the countries listed below, where English is the native or first language:
 - Australia
 - Canada
 - New Zealand
 - Republic of Ireland
 - South Africa
 - United Kingdom
 - United States of America
2. The Board may grant an exemption for an application for limited registration in special circumstances, as described in the Health Practitioner Regulation National Law (the National Law) Part 7 'registration of health practitioners', Division 4 'limited registration' (see <http://www.ahpra.gov.au/Legislation-and-Publications/Legislation.aspx>). These special circumstance

exemptions will generally be subject to conditions requiring supervision by a registered occupational therapist and may also require the use of an interpreter.

3. The Board reserves the right at any time to revoke an exemption and/or require an applicant to comply with 2, 5, 6 and 7 under the heading 'Requirements'.

Definitions

IELTS means the International English Language Testing System developed by the University of Cambridge Local Examination Syndicate, The British Council and IDP Education Australia (see www.ielts.org/).

OET means Occupational English Test administered by the Centre for Adult Education (see www.occupationalenglishtest.org/)

An **Internationally qualified applicant** means a person who qualified as a health practitioner outside of Australia.

One sitting means the period of time set by the testing authority for completion of the test, for example IELTS states that the listening, reading and writing components of the test are always completed on the same day. However, depending on the test centre, the speaking test may be taken up to seven days either before or after the test date.

Review

This standard will commence on 1 July 2012. The Board will review this standard at least every three years.

4. Draft registration standard: Professional indemnity insurance

Draft at August 2011

Introduction

What the National Law requires

The National Law requires that a registered health practitioner must not practise their profession unless they have appropriate professional indemnity insurance (PII) arrangements in force. The Board may, at any time in writing, require a registrant to give the Board evidence of that he/she has appropriate PII arrangements (section 129).

When a practitioner renews their registration, he/she must make a declaration that he/she has not practised the profession during the preceding period without having appropriate PII arrangements in place, and that he/she will not practise the profession unless appropriate PII arrangements are in place (section 109). The Board may decide not to renew the practitioner's registration if he/she failed to have appropriate PII arrangements in place for the preceding period of registration (section 112).

The PII requirements do not apply to a person granted 'non-practising' registration.

The Board is required to develop and recommend to the Ministerial Council, a registration standard about the requirements for PII arrangements for registration in the occupational therapy profession (section 38).

What the Board is consulting on

The Board is consulting with stakeholders on the PII standards, specifically on but not limited to:

- 4.1 The minimum cover for a single claim
- 4.2 The additional cover requirements
- 4.3 Cover by third party arrangements
- 4.4 The appropriateness of recognising cover provided through union and professional membership
- 4.5 The evidence of adequate arrangements
- 4.6 The proposal to rely on a self-declaration that compliant insurance is in place

The proposed registration standard for professional indemnity insurance is on the following page.

Occupational Therapy Board of Australia

Draft for Consultation

Professional Indemnity Insurance (PII) Arrangements Registration Standard

Authority

This standard has been approved by the Australian Health Workforce Ministerial Council on <<date>> pursuant to the *Health Practitioner Regulation National Law* (the National Law), as in force in each state and territory, with approval taking effect from <<date>>.

Summary

All registered occupational therapists practising in Australia are required to have in place professional indemnity insurance (PII) arrangements that are continuous throughout the period of practice and that meet the requirements of this registration standard.

The practitioner must ensure that the cover meets the minimum level of cover and due consideration is given to additional cover, appropriate to the level of risk.

A registered occupational therapist must be covered by either an individual insurance arrangement or a third party's insurance arrangement, or both. However, if covered by a third-party, the cover must meet this standard.

PII arrangements must include run-off cover, unlimited retroactive cover and contain provisions for automatic reinstatement.

Scope of application

This standard applies to all registered occupational therapists. It does not apply

to student registrants or practitioners who hold non-practising registration.

Requirements

1. Occupational therapists must not practise in Australia unless they have PII arrangements in place:
 - a) for their full scope of practice, regardless of whether they are:
 - (i) employed or self employed;
 - (ii) practising fulltime, part-time or in a volunteer capacity; or
 - (iii) working in the private, non-government or public sector;
 - b) and note that different types of practice may require different levels of cover according to their individual scope of practice and risk.
2. Professional indemnity insurance arrangements must include:
 - a) a minimum of \$5 million in cover for any single claim;
 - b) provision of automatic reinstatement;
 - c) unlimited retroactive cover; and
 - d) run-off cover.
3. Furthermore, a higher level of cover may be required, and an assessment of the following factors should be considered by occupational therapists in order to determine their actual level of coverage:
 - (i) the practice setting and type of service being provided;
 - (ii) the client group;
 - (iii) the age and experience of the occupational therapist;
 - (iv) the number of clients to whom treatment, advice,

- guidance or care is provided;
 - (v) previous history of insurance claims and the type of claim made against the occupational therapist in the past, if any;
 - (vi) advice from PII insurers, professional associations or industrial organisations, including advice regarding the history and volume of professional liability claims experienced by other members of the profession;
 - (vii) current employment status; and/or
 - (viii) advice from an insurance broker.
4. Practitioners may be covered by either individual PII arrangements or by a third party. Examples of third party PII might include cover via the employer's insurance arrangement or cover provided or purchased through membership with an industrial organisation (union) or professional association.
- Occupational therapists covered by a third party PII arrangement must ensure that the policy meets this standard. However:
- a) if the third party PII arrangement does not meet this standard the practitioner must take out additional PII cover to ensure this standard is met;
 - b) if covered by an employer's insurance arrangement and practice is undertaken outside of the employment relationship, the practitioner is required to have his or her own PII in place to cover this practice; and
- c) if any area of the practitioner's practice is specifically excluded from PII cover, the practitioner must not practise in that area.
5. The Board notes that PII arrangements, particularly those provided by employers, may not provide cover for matters of a disciplinary character, which do not usually lead to awards of compensation to clients or other persons who have suffered detriment as a result of a practitioner's action. However, these matters may involve costs for practitioners. The Board does not require practitioners to have insurance cover for matters which do not involve potential awards of compensation against a practitioner eg breaches of professional codes or ethics. However, the Board strongly recommends that each practitioner consider whether they have this cover as part of their PII arrangements, whether as a practitioner or provided by an employer and if not, whether they wish to obtain it.
6. When applying for registration or renewal of registration, practitioners will be required to declare that PII arrangements are compliant with this standard, or will be in place, while they practise the profession.
7. The Board may require a practitioner to provide evidence that they have appropriate PII arrangements in place.
8. Occupational therapists covered by third party PII arrangements have a responsibility to understand the extent and features the cover under which they are practising. In this situation, unless provided automatically by the third party, the practitioner is not required to retain documentary evidence of the insurance policy. However, there may be circumstances when the practitioner is required to seek the documentation from that third party. In this instance, upon request the practitioner must provide a certified copy of the certificate of currency or a letter from the third party declaring that

their PII arrangement covers the practitioner.

9. Non-compliance with this standard is a breach of the National Law and will lead to disciplinary action.
10. Periodic audits of practitioners may be conducted to ensure that practitioners are compliant with this standard.

Definitions

Automatic reinstatement is a provision in policies which allows for the limit of indemnity (amount insured) to be reinstated for new, unrelated claims, after one or more claims has been paid to the limit of the indemnity.

Third party cover: An individual may be covered by an employer's or education provider's insurance arrangement.

The employer or education provider's PII arrangements should provide sufficient cover for the occupational therapist's practice. The Board recognises that this may occur in various ways, for example, occurrence based arrangements in the public sector.

If the employed practitioner has practised before their current employment, cover for their previous practice will need to be covered by other PII – either an individual policy or another employer's or education provider's PII arrangements. Occupational therapists with multiple practices or employment must ensure that they have appropriate PII cover for each practice and job.

Practice means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in their profession. For the purposes of this registration standard, practice is not restricted to the provision of direct clinical care. It also includes using professional knowledge in a direct nonclinical relationship with clients, working in management, administration,

education, research, advisory, regulatory or policy development roles, and any other roles that impact on safe, effective delivery of services in the profession.

Professional indemnity insurance arrangements means arrangements that secure for the practitioner's professional practice insurance against civil liability incurred by, or loss arising from, a claim that is made as a result of a negligent act, error or omission in the conduct of the practitioner. This type of insurance is available to practitioners and organisations across a range of industries and covers the costs and expenses of defending a legal claim, as well as any damages payable. Some government organisations under policies of the owning government are self-insured for the same range of matters.

Retroactive cover means PII arrangements which cover the insured against claims arising out of or in consequence of activities that were undertaken in the course of the practitioner's professional practice, prior to the date of the commencement of the insurance.

Run-off cover means insurance that protects a practitioner who has ceased a particular practice against claims that arise out of or are a consequence of activities that were undertaken when he or she was conducting that practice. This type of cover may be included in a PII policy or may need to be purchased separately.

Review

This standard applies from 1 July 2012. The Board will review this standard at least every three years.

Draft at August 2011

Introduction

What the National Law requires

In accordance with the National Law, the Board may decide that an individual is not a suitable person to hold general registration in the occupational therapy profession if the nature, extent, period and recency of any previous practice of the profession is not sufficient to meet the requirements specified in an approved registration standard relevant to the profession (section 55).

Also, when a practitioner renews their registration, he/she must make a declaration that he/she has met any recency of practice requirements set by the Board in an approved registration standard for the profession (section 109).

The Board is required to develop and recommend to the Ministerial Council, a registration standard about requirements in relation to the nature, extent, period and recency of any previous practice of the profession by applications for registration in the occupational therapy profession (section 38).

What the Board is consulting on

The Board is consulting with stakeholders on the recency of practice standards, specifically on but not limited to:

- 5.1 The timeframe of five years to determine recency of practice
- 5.2 The scope of application
- 5.3 The methods proposed to demonstrate current competency
- 5.4 The ways that practitioners who have not met the recency requirements to re-enter the workforce

The proposed registration standard for recency of practice is on the following page.

Occupational Therapy Board of Australia

Draft for Consultation

Recency of Practice Registration Standard

Authority

This standard has been approved by the Australian Health Workforce Ministerial Council on XXXXXX pursuant to the *Health Practitioner Regulation National Law* (the National Law), as in force in each state and territory, with approval taking effect from XXXXXX.

Summary

This standard sets out how the Board will apply section 38(1)(e) of the National Law.

All registered occupational therapists are required to maintain their competence to practise. The Board requires that occupational therapy practice has been undertaken during the five-year period immediately prior to commencement of the registration period.

All registered occupational therapists are required to declare their practising status at renewal.

A practitioner who has been absent from practice for five or more years will be required to demonstrate his or her current practice competency to the Board in order to maintain or renew their registration as an occupational therapist.

Scope of application

This standard applies to all persons applying for initial registration or renewal of registration.

It does not apply to students or practitioners who have non-practising registration.

Requirements

1. Upon application or renewal of registration, all occupational therapists must declare whether or not they have practised within the five years before the first day of the renewal period.
2. Applicants returning to practice after an absence of five or more years are required to demonstrate current competence and registration will be at the Board's discretion. The Board may refuse registration or renewal of registration or grant registration/renewal subject to conditions.
3. Applicants returning to practice after an absence of five or more years will be required to complete the minimum of 30 hours of continuing professional development as set out in the Continuing Professional Development (CPD) Registration Standard. This must be completed in the 12 month period prior to applying for re-registration.
4. The Board's assessment of applications and renewals that do not meet the recency of practice requirement will take into account the following:
 - a. The practitioner's registration and practice history
 - b. The period of absence from the profession
 - c. Activities related to the practice of occupational therapy undertaken in the previous five years
 - d. History of CPD completed
 - e. Any additional study undertaken or qualifications obtained during the period of absence from practice.

5. At the Board's discretion the applicant may be required to complete:
 - a. An approved course of study or retraining program;
 - b. An approved mentoring or supervised practice arrangement; and/or
 - c. An approved examination or assessment of competence.

The Board will conduct periodic audits to ensure compliance with this standard.

If audited, registrants must provide documentary evidence of practice undertaken in the five years before the first day of the last renewal period.

Definitions

Continuing professional development

is the means by which members of the profession maintain, improve, and broaden their knowledge, expertise and competence and develop the personal and professional qualities required throughout their professional lives.

Practice means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in their profession. For the purposes of this registration standard, practice is not restricted to the provision of direct clinical care. It also includes using professional knowledge in a direct nonclinical relationship with clients, working in management, administration, education, research, advisory, regulatory or policy development roles, and any other roles that impact on safe, effective delivery of services in the profession.

Recency of practice means that a practitioner has maintained recent practice in the profession since qualifying or obtaining registration.

Review

This standard will commence on 1 July 2012. The Board will review this standard at least every three years.

6. Board statement of assessment against AHPRA's procedures for development of registration standards

The Australian Health Practitioner Regulation Agency (AHPRA) has *Procedures for the Development of Registration Standards* which are available at www.ahpra.gov.au.

Below is the Occupational Therapy Board of Australia's assessment of its proposed mandatory registration standards against the three elements outlined in the AHPRA procedures.

The proposed mandatory registration standards takes into account the objectives and guiding principles of the National Law (section 3)

Board assessment

The Board considers that its proposed mandatory registration standards meet the objectives and guiding principles of the National Law. In particular, the Board notes that the development of the registration standards on these five matters is required under the National Law and is not at the Board's discretion.

The proposed mandatory registration standards meet the consultation requirements of the National Law

Board assessment

The National Law requires wide-ranging consultation on proposed registration standards. The National Law also requires the Board to consult other boards on matters of shared interest.

The Board is ensuring that there is public exposure of its proposals and the opportunity for public comment by undertaking a six week public consultation process. This process includes the publication of the consultation paper and draft registration standards on the website. The Board has also drawn this paper to the attention of the 13 other National Boards, State and Territory Occupational Therapy profession boards, professional associations and governments.

The Board will take into account the comments it receives when finalising its draft standards for submission to the Ministerial Council for approval.

The proposed mandatory registration standards take into account the COAG principles for best practice regulation

Board assessment

In developing the draft mandatory registration standards for consultation, the Board has taken into account the Council of Australian Governments (COAG) *Principles for Best Practice Regulation*.

As an overall statement, the Board has taken care not to propose unnecessary regulatory burdens that would create unjustified costs for the profession or the community. The Board makes the following assessment specific to each of the five draft mandatory registration standards.

- The **Continuing Professional Development (CPD) Registration Standard** sets out the requirements practitioners need to maintain and improve competence in their area of practice, thus ensuring the safety and quality of services provided to the public. The minimum of 30 hours per year proposed by the Board is consistent with the requirement of Occupational Therapy Australia (the association) and can be achieved through a wide variety of activities making it achievable for all practitioners. Pro rata transitional requirements have been taken into consideration, as well as an extended initial period for compliance, to ensure that those practitioners registering for the first time are not disadvantaged.
- The proposed **Criminal History Registration Standard** is the same as the Ministerial Council approved registration standard that was implemented by the first 10 National Boards on 1 July 2010 and explains the factors that the Board will take into account in reviewing criminal history. The approved registration standard was subject to wide-ranging public consultation in 2009 prior to the start of the National scheme, and was largely consistent with the way state and territory registration boards assessed the criminal history of health practitioners in relation to registration matters across the 10 professions.

The intent of having the same registration standard as the other 10 National Boards is to ensure that a consistent, transparent and equitable framework is applied to Board decisions on the sensitive matter of whether a person's criminal history is relevant to the practice of their profession. The Board considers that differing criminal history registration standards will risk imposing unjustified additional costs due to national processes needing to be changed to accommodate a different standard of criminal history for the profession and there may be an increased risk of inconsistent or incorrect decisions being made due to the different requirements, which in turn may have a negative impact on a person seeking registration or may pose a risk to public safety.

- The **English Language Skills Registration Standard** requires that practitioners have the necessary English language skills for the safe and competent practice of occupational therapy in Australia. The standard is consistent with the English language requirement used by the Occupational Therapy Council (Aust & NZ) Inc for the purposes of assessing English language skills as per the NOOSR Country Education profiles. The tests proposed refer to standards used by the International English Language Testing System (IELTS) academic level or Occupational English Test (OET) level. In proposing a minimum IELTS score of 7 or completion and an overall pass in the OET the Board is ensuring consistency with other national boards for internationally qualified applicants, or those who have not completed their secondary education in English. The proposed standard also provides that the Board may grant an exemption for an application for limited registration in special circumstances. These special circumstance exemptions will generally be subject to conditions requiring supervision by a registered occupational therapist and may also require the use of an interpreter.
- The **Professional Indemnity Insurance (PII) Registration Standard** requires arrangements to be in place to ensure compensation is available to cover the actions against a practitioner, should this be necessary. The Board has determined a minimum amount of PII cover for any single claim having regard to industry standards. The proposed standard specifies that practitioners must be covered by either an individual insurance arrangement or a third party's insurance arrangement or both, provided the cover is compliant with this registration standard. The Board has avoided imposing onerous documentation requirements to avert the potential to add to costs to practitioners, employers and consumers.
- The **Recency of Practice Registration Standard** requires practitioners to maintain their competence to practice. The standard does not impose costs on registrants or the public, but may involve some costs for boards in monitoring compliance, in line with their role in protecting the public from unsafe health practitioners. The standard also provides for ways that practitioners who have not met the recency requirements to return to practice, to promote workforce participation. It is consistent with the arrangements used by state and territory boards.

Further, the Board specifically addresses the four COAG principles as follows:

- (a) The Board considered whether the draft mandatory registration standards may result in an **unnecessary restriction of competition** among health practitioners. The draft registration standards do not restrict competition among health practitioners. Rather, the draft standards promote the public interest in ensuring that the public receive safe, high-quality health care and that practitioners are suitable to practise, maintain their skills and competence, are appropriately insured and have adequate English language skills.
- (b) The Board considered whether the draft mandatory registration standards result in an **unnecessary restriction of consumer choice**. Rather than restricting consumer choice, the draft standards support consumer choice by ensuring that practitioners have the necessary skills, qualities and competence to practice safely.
- (c) The Board considered that the **overall costs** of the draft standards to members of the public and/or registrants and/or governments **are reasonable in relation to the benefits to be achieved**. While there are a number of requirements that a practitioner must satisfy to qualify for registration, this is consistent with the objectives and guiding principles for the National Registration and Accreditation Scheme and is appropriate to ensure that practitioners have the necessary qualities, knowledge and skill to practice the profession, for protection of the public.
- (d) The Board has **procedures in place to ensure that the standards remain relevant** and in the public interest over time. The standards will be reviewed within three years of their commencement, including assessment against the objectives and guiding principles in the National Law and the COAG principles for best practice regulation. However, the Board may choose to review an approved registration standard at an earlier point in time, if it is necessary to ensure the standard's continued relevance and workability.

7. Grandparenting registration standard

Draft at August 2011

Introduction

What the National Law enables

Special grandparenting provisions for registration are set out under Section 303 of the National Law. An individual may be eligible to apply for registration until 1 July 2015 even if the person does not hold an approved qualification for registration, but does have other relevant qualifications, training, or experience practising the profession.

The grandparenting provisions are broad. The intent is to ensure that practitioners who are legitimately practising the profession (particularly in those jurisdictions that did not require registration) are not unjustly disadvantaged because they are not automatically transitioned to the National Registration and Accreditation Scheme (the National Scheme) as a state or territory registrant or because they do not hold an approved qualification.

It is important to note that all of the other eligibility for registration requirements set out in section 52 of the National Law apply to people seeking registration using the grandparenting provisions.

What the Board is consulting on

The Board is consulting with stakeholders on a draft grandparenting registration standard, which sets out the proposed requirements of the Board with respect to applying the grandparenting provisions of the National Law. Specifically on but not limited to:

- 7.1 The definition of practice
- 7.2 The evidence needed
- 7.3 The type of assessment which may be required to determine competency

The proposed registration standard for grandparenting is on the following page.

Occupational Therapy Board of Australia

Draft for Consultation

Grandparenting Registration Standard: Transitional Arrangements for Qualifications

Authority

This standard has been approved by the Australian Health Workforce Ministerial Council on <<date>> pursuant to the *Health Practitioner Regulation National Law* (the National Law), as in force in each state and territory, approval taking effect from <<date>>.

Summary

From 1 July 2012, registration is required in all states and territories to practice as an occupational therapist.

Practitioners who were registered with any one of the Australian Occupational Therapy Registration Boards (WA, SA, NT, Qld) on 30 June 2012, will automatically transition to the National Registration and Accreditation Scheme commencing 1 July 2012.

Occupational therapists who, as at 1 July 2012 are practising occupational therapy and who do not automatically transition into the National Scheme on 1 July 2012, must apply to be registered. In states and territories which do not have registration prior to 1 July 2012, most occupational therapists hold an approved qualification, as listed on the Board's website. Those therapists who hold an approved qualification (within the meaning of section 53) are eligible to apply for general registration under section 52 of the National Law, and it is not anticipated that they will apply under the grandparenting transitional arrangements.

Practitioners who do not meet the qualification requirements under section 53 may be eligible to apply for registration under the grandparenting transitional arrangements.

Until 1 July 2015, individuals may be eligible to apply for registration under the 'grandparenting' provisions if they meet the requirements of section 303 of the National Law.

The intent of the grandparenting provisions is to ensure that practitioners who are legitimately practising the profession are not unjustly disadvantaged because they are not automatically transitioned into the National Scheme as state or territory registrants or because they do not hold an approved qualification.

Scope of application

This standard applies to all applicants for general registration under section 303 of the National Law.

Requirements

Section 303(1) of the National Law states that an individual who applies for registration as an occupational therapist before 1 July 2015 may be qualified for general registration in the profession if the individual:

- a) *holds a qualification or has completed training in the profession, that the National Board considers is adequate for the purposes of practising the profession;*

The Board considers completion of an approved occupational therapy qualification adequate for the purposes of practising the profession.

or

- b) *holds a qualification or has completed training in the profession, and has completed any further study, training or supervised practice in the*

profession required by the Board for the purposes of this section;

For the purposes of 303(1)(b), a person who holds an occupational therapy qualification not listed as an approved qualification, meets the requirement if he or she has successfully completed the Phase 1 and Phase 2 assessments administered by the Occupational Therapy Council (Aust & NZ). The applicant must provide the Board with a Certificate of Practical Completion.

or

- c) *has practised the profession at any time between 1 July 2002 and 30 June 2012 for a consecutive period of five years or any periods together which amount to five years.*

In accordance with section 80(d) of the National Law, the Board may require applicants to complete an examination or assessment. This may, for instance, comprise a period of supervised practice and assessment against the Australian Minimum Competency Standards for New Graduate Occupational Therapists.

Applications for registration under grandparenting provisions

Applicants for general registration in accordance with section 303(1)(a) must provide satisfactory evidence of their occupational therapy qualification.

Applicants for general registration in accordance with section 303(1)(b) must provide satisfactory evidence of their Certificate of Practical Completion or written authority for the Board to obtain this information directly from the Occupational Therapy Council (Aust & NZ).

Applicants for general registration in accordance with section 303(1)(c) must

provide the following evidence, or equivalent to the satisfaction of the Board:

- a) A minimum of six references, from people who can be contacted by the Board, attesting to their practice as a clinical occupational therapist, at least four of which must be from occupational therapists eligible for general registration (other than under section 303 of the National Law) and two from either employers or supervisors;
- b) Documentary evidence of practising occupational therapy for a minimum of five years fulltime, or part-time equivalent between 1 July 2002 and 30 June 2012;
- c) Copies of position descriptions for all positions held during the period of practice, which describe the nature of qualifications or knowledge required, skills required and duties performed;
- d) Without breaching obligations of confidentiality and privacy or employer policy, six de-identified case studies which illustrate clinical occupational therapy practice with clients. Each case study must provide an account of the client's case history and rationale for occupational therapy intervention and include a summary of the initial assessment undertaken including the rationale for any assessment tools used, interpretation of assessment results, goals set, occupational therapy intervention, use of occupational therapy knowledge, skills, theory and evidence in planning and conducting intervention, methods used to evaluate the intervention and the clinical outcomes achieved.

The Board may require applicants to provide additional evidence of their qualifications, training or further study. The Board may also require an applicant to undertake an assessment in accordance with section 80(1)(d) of the

National Law. This may, for instance, include assessment against the Australian Minimum Competency Standards for New Graduate Occupational Therapists.

Definitions

Approved program of study means an accredited program of study approved under section 49(1) by the National Board and included in the list published by AHPRA under section 49(5).

As a transitional arrangement, the National Law also enables a program of study that provides a qualification for registration in a registering jurisdiction (WA, SA, NT, Qld) to be taken to be an approved program of study as if it had been approved by the Board under the National Law.

A list of approved programs of study will be published on the Board's section of the AHPRA website.

Approved qualification – for occupational therapy – means a qualification obtained by completing a Board approved program of study for the profession. Approved qualifications will be listed on the Board's website.

Practice means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in their profession. For the purposes of this registration standard, practice is not restricted to the provision of direct clinical care. It also includes using professional knowledge in a direct nonclinical relationship with clients, working in management, administration, education, research, advisory, regulatory or policy development roles, and any other roles that impact on safe, effective delivery of services in the profession.

Reference

Rodger, S. Springfield, L. Banks, B and Ryan, S. (2010) *Australian Minimum Competency Standards for New Graduate Occupational Therapists (ACSOT) 2010*, Fitzroy, OT Australia Ltd.

Review

This standard will commence on 1 July 2012 and will expire on 1 July 2015.

8. Board statement of assessment against AHPRA's procedures for development of registration standards – *Grandparenting registration standard*

Draft at August 2011

The Australian Health Practitioner Regulation Agency (AHPRA) has *Procedures for the Development of Registration Standards* which are available at www.ahpra.gov.au.

Below is the Occupational Therapy Board of Australia's assessment of its proposed grandparenting registration standard: Transitional Arrangements against the three elements outlined in the AHPRA procedures.

The proposed Grandparenting registration standard: transitional arrangements takes into account the objectives and guiding principles of the National Law (section 3)

Board assessment

The Board considers that its proposed grandparenting registration standard meets the objectives and guiding principles of the National Law. In particular, to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practice in a competent and ethical manner are registered; to enable the continuous development of a flexible, responsive, and sustainable Australian health workforce; and that the National Scheme is to operate in a transparent, accountable, efficient, effective and fair way.

The proposed standard meets the consultation requirements of the National Law

Board assessment

The National Law requires wide-ranging consultation on proposed registration standards. The National Law also requires the Board to consult other boards on matters of shared interest.

The Board is ensuring that there is public exposure of its proposals and the opportunity for public comment by undertaking a six week public consultation process. This process includes the publication of the consultation paper and the draft registration standard on the website. The Board has also drawn this paper to the attention of the 13 other National Boards, State and Territory Occupational Therapy profession boards, professional associations and governments.

The Board will take into account the comments it receives when finalising its draft standards for submission to the Ministerial Council for approval.

The proposed standard takes into account the COAG principles for best practice regulation

Board assessment

In developing the draft grandparenting registration standard, the Board has taken into account the Council of Australian Governments (COAG) *Principles for Best Practice Regulation*.

The grandparenting registration standard: transitional arrangements set out, for transparency, how the broad grandparenting provisions of section 303 of the National Law are to be applied to occupational therapy. The Board's decision to develop a registration standard means that the standard must be submitted for approval by the Ministerial Council; an approach that supports best practice regulation.

The Board specifically addresses the four COAG principles as follows:

- (e) The Board considered whether the draft grandparenting registration standard: transitional arrangements may result in an **unnecessary restriction of competition** among health practitioners. The draft registration standard does not restrict competition among health practitioners. Rather, the standard provides clarity and certainty to practitioners who may not otherwise be eligible to apply for general registration because they do not hold an approved qualification. The intent is to ensure that practitioners who are legitimately practising the profession (particularly in those jurisdictions that do not currently require registration) are not unjustly disadvantaged because they are not automatically transitioned into the National Scheme

as state or territory registrants or because they do not hold an approved qualification.

- (f) The Board considered whether the draft grandparenting registration standard results in an **unnecessary restriction of consumer choice**. Rather than restricting consumer choice, the draft standard supports consumer choice by ensuring that practitioners who currently practise the profession, and who are suitably trained and qualified to practise in a competent and ethical way, are eligible to apply for national registration. A nationally registered practitioner will be able to practise the profession in any Australian state or territory.
- (g) The Board considered that the **requirements** of the draft grandparenting registration standard to members of the public and/or registrants and/or governments **are reasonable in relation to the benefits to be achieved**. The Board considers that it is appropriate to ensure that practitioners have the necessary qualities, knowledge and skill to practice the profession, for the protection of the public. The draft registration standard does not impose an additional cost burden – the National Law sets out the grandparenting provisions and this draft registration standard provides clarity and certainty in how the provision are to be applied for the benefit of the profession, the public and employers, including governments.
- (h) The Board has **procedures in place to ensure that the standard remains relevant and in the public interest over time**. The grandparenting provisions of section 303 of the National Law apply until on 1 July 2015. Therefore, this standard is time limited with an expiry date of 1 July 2015. The Board may choose to review an approved grandparenting registration standard at any time, for example if it is necessary to ensure the standard’s continued relevance and workability.