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**The Chair**  
**Psychology Board of Australia**  
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**Response to PBA Consultation Paper on Registration standards, 27 October 2009**

**Summary**

- The PBA's introduction of ordinary 'generalist' registration, with the novel processes of criminal background checks, English language proficiency, and professional indemnity insurance are welcomed.
- However, three issues in the PBA paper are highly contentious: the proposed 'specialist' registrations, the supervision and CPD arrangements.
- As these constitute the most significant changes to the profession in many decades, a 24 November deadline for feedback appears in undue haste. It does not allow for a credible consultation period. Also, because they appear *prima facie* to be potentially discriminatory and/or have inherent conflicts of interest, a delay for a full and proper consultation is formally requested.
- The proposal of specialist titles does not address the realities experienced by private practitioners of decades standing: 'specialist' titles completely fail to correspond to areas of practice in the industry; there is an enormous overlap of the specialities proposed; the public does not distinguish between nor understand the proposed specialities. It would lead to a restraint of trade and restriction of practitioners in the mental health workforce which would be without any corresponding benefit to the Australian community, and is unwarranted by the empirical data. It does not guarantee improved quality of service; it limits psychologist career trajectories.
- There remains active outcry about a perceived lack of consistency, transparency, and objectivity in the process of access to higher rebates under Medicare, as well as the excessive and punitive costs to appeal decisions. A fully transparent process, with better governance and appeal processes than is currently perceived to be the case is still being lobbied for; the PBA process has the potential to improve this but more detail is necessary, and requires a legitimate process of consultation and review.

- It is not sensible to implement the 'specialist' registration proposal whilst these issues remain live.
- These three contentious proposals may expose PBA board members to charges of conflicts of interest if they or their organisations gain financially, either from professional education charges, or college membership, or in any other manner. Their histories of employment, consultation, affiliation and remuneration should be made publicly available. Currently, the mix of the Board has prima facie inadequacies of a potentially serious nature.
- The independent business persons who have been the industry leaders of the Psychology profession for decades, will assert their legitimate expectation of fair hearings in this matter. The relevant considerations articulated here in a preliminary manner warrant a full and proper consultation and consideration by the Minister and Department under appropriate governance principles and administrative law.

### **Introduction:**

I thank and congratulate all persons concerned in raising the profession to the national level of attention over many years. I particularly thank the PBA in opening this discussion for the development of psychology in its service to the Australian community.

### **New features welcomed:**

I welcome many of the features of the PBA draft proposal. Appropriately, most of the proposed standards reproduce the existing State arrangements. The requirements for criminal background checks, English language requirements, and Professional Indemnity provisions are sensible additional requirements for psychological registration. The ordinary 'generalist' registration of all psychologists - reflecting all but one of the existing State arrangements - is appropriate.

### **Issues of contention:**

However, there are a number of very significant concerns which I regard as unwarranted or untenable. Four issues remain untenable: insufficient period of consultation, the proposed 'specialist' titles, and the 'supervision' and CPD arrangements

#### **- Lack of credible consultative process**

These proposals are the most radical reform of the profession in many decades. Some of the innovations demote the status or delete the existing rights of psychologists. The imposition of such dramatic changes with less than four weeks for consultation is manifestly inadequate. It does not lead to confidence in the new Board going forward. On the contrary, it is highly likely to create division and discord which will deprive the public of much-needed skill, as well as damage the profession.

#### **- Specialist titles, CPD and supervision proposals**

In my view these are unsatisfactory in any present form, and should not be implemented. I know of no systematic danger or harm in any jurisdiction which would warrant rushing these through in such haste. If there is any such a case, the evidence for it should be put squarely on the public record, and subjected to proper processes of debate and scrutiny. Looking at the evidence of the South Australian Psychology Board's utterly negligible numbers of substantiated complaints over the last ten years, I remain unconvinced of the necessity for such onerous and costly impositions in these. Further, even if implemented, I do not see that the proposed new regulations would *per se* guarantee any greater safety to the public, nor increase the quality of service to the public.

The twin proposals for supervision and CPD will clearly impose very substantial costs on practitioners - and generate very significant profits for the providers of any such services. If they also represent potential conflicts of interest with PBA members, it would constitute a most serious issue which would need to be addressed before these three issues should even be considered.

Because these three contentious issues represent the major part of the PBA's work if ultimately implemented, it would appear not adequate for any person to recuse themselves temporarily on such serious matters. In my view, full disclosure of relevant interests under well established governance and prudential principles is necessary in this case. Further, it should be noted that even a person who works as a lobbyist is now required to have a period of one or more years respite before 'conflict of interest' provisions lapse. For a stronger reason, that any PBA member has or may directly or indirectly profit, either personally or for their organisation, from the drafting of regulations or their administration should be forbidden. There appears to me to be a substantive question regarding the fees for supervision and CPD envisaged under the proposed arrangements. As such, for the protection of these PBA members, for the reputation of the profession, and for the protection of the public, it is sensible that these proposals not be enacted at this time.

### **Specialist Registrations:**

Notwithstanding my concerns already expressed, I have particular objections to the any implementation of so-called 'specialist' registrations.

Psychology *is* a specialist health profession. The further parsing into sub-specialist registrations such as clinical, counselling, community, health and forensic subgroups is unsustainable as a matter of both logic and long-standing practice. The proposed divisions merely reflect the current university arrangements for psychologists' education; by contrast, the reality of practice for psychologists is that ALL of the above skills must be used. The 1 or 2 years spent in a post-graduate psychological education will never adequately reflect the reality of what a psychologist will manage and adapt to in the following 3 or 4 decades of professional practice.

On this point most cogently, it should be noted that the profession of Psychiatry is a Specialist profession within Medicine. Psychiatry operates within clinical, counselling, community, health and forensic subgroups *without any division whatever into sub-specialties*.

Equally, *the specialists areas proposed do not correspond to actual areas of psychologist practice in the industry*: Family Therapy, Pain management, Trauma, Hypnosis, Vocational Counselling, Conflict Resolution/Mediation, Rehabilitation – amongst innumerable others, these fields represent the realities of psychological practice: should they also be afforded a 'specialist' registration? Where would this process of endless division and distinction end? And where is the benefit to the consumer, and how does it protect the public?

Whilst the proposal merely represents the current academic degree structure and do not represent any discrete real-world division in the profession whatsoever, the views of the most experienced and long-standing private practitioner bodies have not been expressed or represented in the paper for a rounded and mature debate. In my view these 'specialities' are best treated as interest groups and practices amongst many within the whole of the profession - as they have always been so regarded. Worse still, under the present proposal they risk the view that the arrangements are self-serving for a narrow group, and this outcome must be avoided for many serious reasons which may be obvious.

As noted, the profession of Medicine deals with them all as a single unit in the specialist field of Psychiatry. But even so, the skills in communication and influence using cognitive, emotional, behavioural and societal methods makes Psychology equally analogous to a profession such as the Law. Lawyers undertake essential university studies, but then specialise over the course of their careers into any of the myriad fields which the evolving situation of the law and the community finds itself. Psychology, like the Law, deals with these shifting and evolving realities of human psychological and social experience, in the changing cultural and economic milieu. To lock in specialist registrations such as these will ossify the profession in ways which may serve specialist interest groups in academia, but do not mirror the reality of practice nor serve the needs of the public.

The specialist proposal is counter-productive for a psychologist's career development. It essentially 'locks in' a psychologist to very narrow work options. To be locked into purely community, or forensic, or clinical hospital settings, is likely to lead to higher rates of burn-out, and to reduce the energy and efficacy of practitioners. Psychologists who want to move to more lucrative arenas such as Organisational and Industrial will be pointlessly excluded. Psychiatrists do not get locked in any such way. Other professions such as Physiotherapists, Lawyers, and Accountants do not get locked in any such similar way.

With the greatest respect, the repeated assertion that "safety of the public" seems a highly contentious refrain in the PBA paper. I also note with particular concern the statements on p20 of the

consultation paper that “it is necessary to delineate specialist areas of practice clearly in order to ensure that the public receives effective service from properly qualified and competent specialist psychologists who match the requirements of the individuals and organisations involved.”

Firstly, the evidence of significant patterns of harm by psychologists would have to be demonstrated. Where is the evidence for this? What are the empirical rates of proven harm from existing State registration boards? And what are the rates of successful litigation against psychologists? Are they so egregious that such anti-competitive and intrusive administration is needed? It is my understanding that existing empirical reviews of state registration board data finds conclusively that there is no statistically significant variation in the numbers of disciplinary proceedings between the different pathways to qualification.

Secondly, it would need to be demonstrated how the proposed regulations here provide any further protection than already exists. Psychological treatment holds none of the risks of medical interventions, nor of even herbal or naturopathic treatments, nor of physiotherapy treatments. The only regular causes of significant harm caused by psychologists is inappropriate sexual conduct and similar boundary violations; like all other breaches of existing ethical standards, this is already adequately administered, and the proposed arrangements add nothing to the already well-established provisions. There are duties of care and minimal competency standards to ensure that suicidal and psychotic clients are kept safe: however these are already well in place, and there is no evidence that non-APS or non-Clinical College or ‘generalist’ psychologists have higher rates of suicide or psychotic break. Indeed, it is my understanding that the only relevant examples in South Australia, for example, are the harsh comments of the Coroner regarding the School of Psychology Clinic of the University of South Australia – which itself, I believe, is an APS accredited Masters degree facility.

Also of significant concern to the PPAI is the Board’s third statement on p20 with regard to the West Australian industry suffering no restraints on trade. With respect, to quote an undergraduate truism, “Absence of evidence is not evidence of absence.” I am not aware of any review by the Australian Competition and Consumer Commission or any such similarly empowered or competent body who undertook any such investigation. No such study is cited. As a private practitioner, it is contrary to my direct experience of the industry. If this is so, confidence in the newly constituted PBA may well be seriously undermined by unsupported statements so far outside the PBA’s competence.

Specialist registration are deeply controversial, and remain opposed by the majority of Australia’s long-established private practice bodies. WA is the only state where specialist titles exist, and this itself remains controversial and disputed. Indeed, it remains *illegal* in some jurisdictions in Australia to advertise oneself as specialist practitioner. Amongst the several and long-held rationales for this are:

- The confusion to the public about any difference between alleged specialists
- the enormous overlap of the various so-called ‘specialist’ fields,
- the lack of empirical evidence for the greater effectiveness of ‘specialists’
- the anti-competitive Trade Practice effects of such a division,
- the reduction of the available health workforce from such a restriction
- the restriction on career flexibility and progress of practitioners.

Groups and individuals who have recently made public representations counter to this should be cordially reminded of professional collegiality and robust legal sanctions around this.

The ‘specialist’ proposal is unjustly discriminatory against the most senior and experienced psychologists in Australia. In the past, there were never enough Masters degree places in universities

for all of 4+2 pre-existing psychologists. This was when the great majority of our members qualified – the very psychologists in industry and the community who have built the profession to the high level it currently enjoys. At the very least, all psychologists presently in practice should be automatically grandfathered with full rights and entitlements into any new arrangements. This is the standard practice whenever new schemes for any maturing industry analogous to this are introduced; in my view, any other arrangement invites legal actions under administrative law principles.

I would add further that none of the specialities actually serve the public interest of protecting the consumers. The presence or absence of degrees or affiliations with industrial groups offers no guarantee whatever to the public against actual misconduct or incompetent practice. Neither the specialistic registration, nor type of qualification, nor the individual pathway to registration is a protection for the Australian public, and as such does not serve the requirements as per Section 3 of the present Queensland Bill. Whether the psychologist is merely a fresh graduate or has decades of professional experience, or whether a psychologist has an Honours+2 years supervised practice, an Honours+Grad Dip+1year supervised practice, a Masters, a PhD, or a PsyD, the protection of the public is *only* served by a proper complaints process and Board-administered review. – and a well-informed public who consume the services and are educated about what to expect from their treating practitioner.

#### **Further CPD issues:**

The imposts and demands for CPD are simply not practicable nor affordable to psychologists in private practice. It appears to me that these suggestions do not understand the exigencies of private practice, or of how private practitioners work. It would be far more appropriate for these standards and requirements to have been promulgated by experienced private practitioners.

Many of the same issues for the ‘specialist’ titles also apply to CPD and supervision issues. The model which is most efficient, economic and equitable is one in which it is recognised that the reality of professional efficacy develops not from a student-based or degree based competence, but from years of real world experience. The best professionals in any industry are those who have completed the minimum education and qualification requirements, but then undertake the real learning of the real world. The academic criteria are a necessary minimum, and Registration Boards serve the purpose of public interest and safety. The free and open marketplace has always been the greatest arbiter of efficacy for those who do not produce results.

I also hold concerns regarding ongoing entitlement for registration for people who will fall outside the CPD arena if, for instance, they have children or family responsibilities which suspend their capacity for CPD involvement, or who for instance work overseas or remotely – who could then in fact provide much wider and more inclusive and effective services to the community, but would be prevented from doing so by these sorts of provisions. Some form of guarantee for re-registration for such psychologists should be more robust and explicit in any future arrangement.

#### **The wider context of the national registration scheme:**

All psychologists have welcomed the cultural maturing of the Australian community and its improving understanding of psychological realities over recent decades. Initially a novelty, then a marginalised profession, it eventually proved its worth, gained mainstream recognition with programs such as Beyond Blue, and now attracts Medicare rebates. But the experience of those psychologists who have been in business successfully for decades (particularly those who did so successfully prior to the government subsidy through Medicare) has always been that the university-based learning was a necessary minimum qualification and foundation for the profession - but the needs of real practitioners in the enormously diverse needs of the Australian community was much better met by ongoing relationships and seminars with fellow practitioners who worked directly and

daily in the arena. These are often focused through individual networks. The academic realms, and the limited resources of government programs, simply cannot ever hope to be finessed and nuanced to the infinite variation and evolution of human phenomena.

The typical career pathway has long been that psychologists begin with studies in academia, move to government sectors, then to corporate milieu, then private practice. With respect, the proposed dominance of the academic community in the PBA represents a real concern to successful independent practitioners that the profession will be 'dumbed down' for the reasons described above. The complexity and co-morbidity of the real world is not easily reduced to simple statistical exercises or cherry-pecked research issues that can be presented neatly to undergraduate or post graduate levels – the effective practitioner who has survived in the open economy for years has done so *under the most stringent empirical conditions* – if they didn't get results that the customer wanted, their businesses failed. This fact has been completely ignored in the present arrangements. To ignore it any longer runs counter to any sensible competitive policy to foster efficiency as well as equity in the ways which the profession serves the community.

Whilst in previous decades there has been no need for a strong private practitioners lobby, but the controversy over the differential Medicare rebates, the trend in this PBA proposal ensures that this will increasingly be heard. I urge the PBA, and Department and Minister, to take much longer and thorough deliberations in any reform process; not to undertake principled debate and consultation processes risks damage to the good reputation of all.

#### **Legal advice and oversight for better governance:**

The State registration board in South Australia has, as a legislated requirement, the presence of a lawyer as Chairperson. This is a format I would commend for consideration by the new PBA. It would avoid any chance of perception regarding serious conflicts of interest in the present PBA regarding these three issues. It may be appropriate for legal opinion to be sought as currently constituted. If members of the regulatory authority stand to benefit from the regulations they draft, impose, or administer, the ramifications should be obvious.

I am and have been a member of numerous professional bodies in my years of practice. I have worked in academia and I regularly lecture prestigious professional bodies, such as, for instance, the Australian Society of Hypnosis, and have been published in their peer-reviewed journals. I have been a member of and served in executive capacities in bodies which represent private practising psychologists of decades standing, who have excelled as psychologist practitioners in business for themselves. After I had finished the basic university training, by luxury of circumstance I was peculiarly privileged to extensively view in advance the options of gaining my registration by further immersion in academia, or by real-world training with daily direct oversight by experienced practitioners for several years. I think that both pathways have value and validity. It was certainly my experience that I learned very much more from the practitioner milieu than the academic courses which I fully observed my peers complete, and because of this I specifically declined formal offers of PhD and Masters programs and choose a pathway with these private practitioners – who had survived and thrived by providing psychological services of the highest standard to the community for many decades. The success of these independent psychologists spoke for itself. I consider it egregious that this section of practitioners of excellence, at the peak of the profession, and who built the profession in its independent manifestation over many decades, appear to have been excluded in negotiating many of the Federal government's recent proposals. Indeed, many of my fellow private practitioners like myself employ and train APS Clinical College members and Masters graduates; from the standpoint of these psychologists, the startling clarity of the limitations of experience and effectiveness of psychologists with university degrees or professional memberships - but without the encyclopaedic experience of decades in the immense diversity of humanity in the real world - cannot be understated. The direct analogy with professions such as Law, Accountancy, and Politics is

apposite: No analogous health practitioner of any kind, nor any lawyer, business person, nor politician would ever agree to let loose their junior staff - no matter how well qualified or aligned - on their clients or constituents, unless they had significant real-world experience. My colleagues in these professions whose work involves close contact with mental health workers of all kinds are incredulous at the three contentious issues I have outlined above, and for the same reasons. The argument that mere qualifications, or speciality or college membership per se makes a better practitioner is not supported by any empirical evidence in this or any analogous mature profession. That this is a matter of ongoing complaint and dispute in the Medicare Better Access to Mental Health arrangements, and will remain so going forward should give pause, as the proposed arrangements deepen this inequity and iniquity. For these reasons it is my view that it is much more sensible for the PBA to begin its main business – to regulate with ordinary registration only - for its first 3 years. Any of the three contentious issues, if ever progressed in any form, must first have rigorous detailed scrutiny of their actual proposed regulations tabled, because currently the process and eligibility for accredited specialist titles, supervision and CPD are not adequately objectively defined. Hence it would be my advice that due diligence, full disclosure, proper governance and more credible consultation processes are most sensibly in order in the present context.

Yours sincerely,

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