

Medico-legal Update 2009

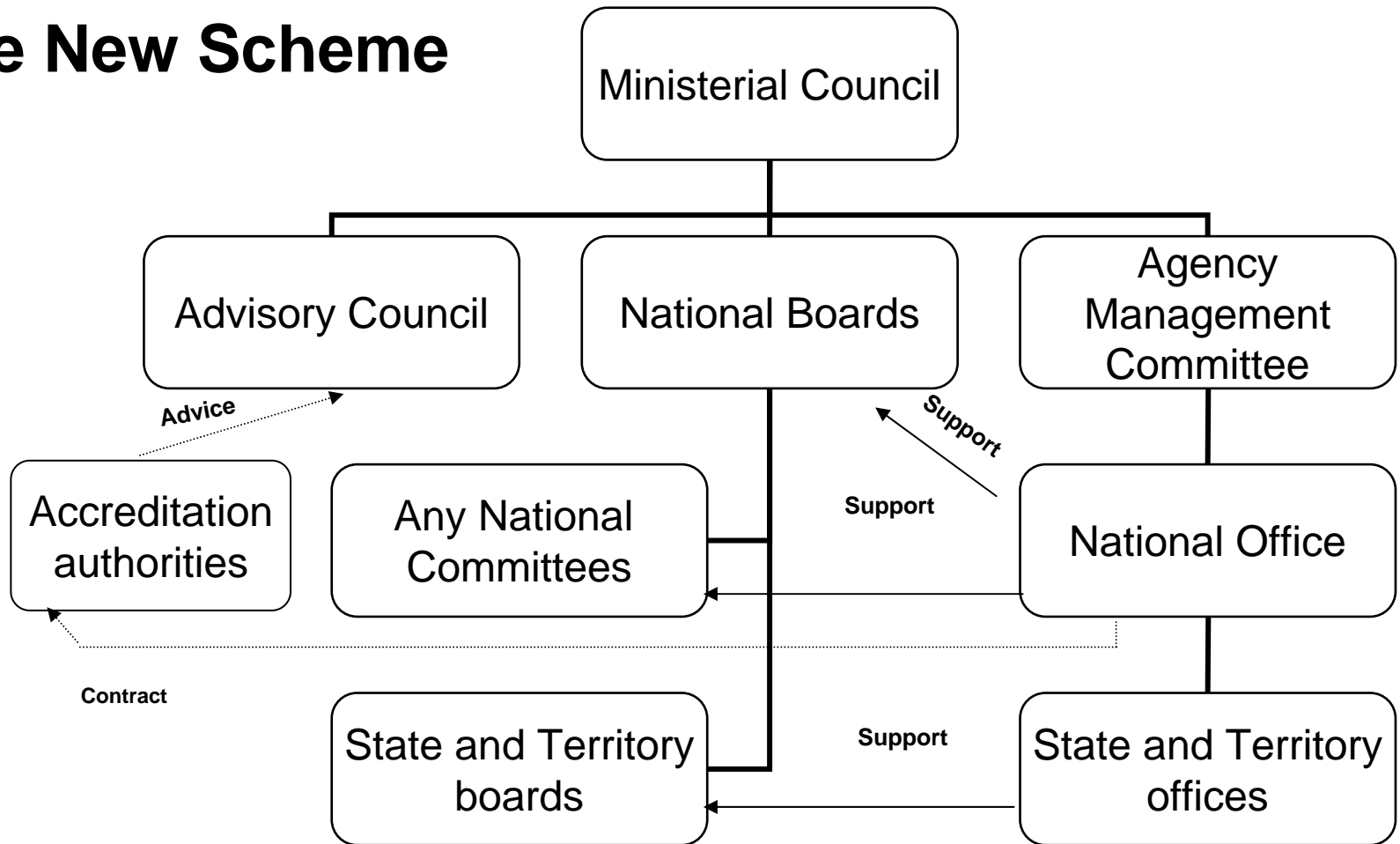
A/Prof Julian Rait, President, MDA National

Outline

- **National Registration and Accreditation Scheme for the Health Professions**
- **Mandatory Reporting of Colleagues**
- **Medicare Australia Audits**



The New Scheme



Key New Elements In The Draft Legislation

- **State and Territory boards**
 - **Mandatory reporting of colleagues**
 - **Criminal history and identity checks**
 - **Simplified complaints arrangements**
 - **Student registration**
 - **Independent accreditation processes**
 - **Mandatory continuing professional development**
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Registration Arrangements

Registration categories:

- **General**
 - **Specialist**
 - **Provisional**
 - **Limited**
 - postgraduate training or supervised practice
 - area of need
 - public interest
 - teaching or research
 - **Non-practising**
 - **Student**
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State and Territory Boards

- **State and Territory boards to be committees of the national board**
 - **Flexibility for national boards in smaller professions**
 - **Members of State and Territory boards appointed by Minister in the State or Territory**
 - **Agency office in each State and Territory with a national office in Melbourne**
 - **Registrations and complaints to be handled in State and Territory offices**
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Mandatory Reporting

- **Practitioners and employers (eg hospitals) must report a registrant who they believe has engaged in notifiable conduct**
 - **Notifiable conduct is:**
 - practising while intoxicated by drugs or alcohol
 - engaging in sexual misconduct in professional practice
 - placing the public at risk of substantial harm through either:
 - : a physical or mental impairment affecting practice, or
 - : a significant departure from accepted professional standards
 - **Exemptions for professional indemnity insurers and their staff & registered quality assurance committees**
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Simplified Complaints Arrangements

- **Single point of contact for members of the public with assistance provided where required**
- **Complaints passed to the relevant board**

Complaints Arrangements

- **Separate tribunals in each State or Territory with specific arrangements established under State law**
- **Matters referred to tribunal where conduct occurred (if conduct occurred in multiple jurisdictions then on mailing address of registrant)**
- **Separate panels for health and professional standards as required by boards**
- **States and Territories able to opt out of default arrangements under National Law**

Next Steps

- **Proposed commencement date is 1 July 2010**
 - **Introduction Bill B into Queensland Parliament on 6 October 2009**
 - **State and Territory parliaments will consider enabling legislation (Bills C), with NSW introducing Part 1 into their parliament next week with Part 2 in November**
 - **Medical professionals and nurses will be subject to existing investigation regimes in each state**
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Medical Board of Australia members were announced on 31 August 2009:

- Dr Joanna Flynn
(Chair)
 - Professor Belinda Bennett
 - Dr Stephen Bradshaw
 - Dr Mary Cohn,
 - Ms Prudence Ford
 - Dr Fiona Joske
 - Dr Charles Kilburn
 - Mr Paul Lewis
 - Professor Mark McKenna
 - Dr Trevor Mudge
 - Ms Sophia Panagiotidis
 - Associate Professor Peter Procopis
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More Information?

Website – www.nhwt.gov.au/natreg.asp

**Questions – National Registration and
Accreditation Implementation
Project team**

**Contact project team – 02 6289 1531 or
NRAIP@dhs.vic.gov.au**

Medicare Australia Audits:

- In the 2008-09 budget the Australian Government announced the increased MBS Compliance Audit Initiative which:
 - increases the number of audits undertaken by Medicare Australia
 - expands the audit program to allow better coverage of specialists
 - requires providers to produce evidence to verify their Medicare claims when audited
 - introduces a financial penalty for Medicare providers who incorrectly claim above a certain amount
 - Claims are identified for audit by 4 processes:
 - a provider has used an item/s with a medium to high risk of non-compliance
 - a provider's claiming statistics appear unusual or irregular
 - a provider's claiming profile is different to their peers
 - a provider has been identified through a tip-off
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Medicare Australia audit of combination anti glaucoma medications:

- in October and November 2008, a large number of ophthalmologists received letters from Medicare
 - the letter informed ophthalmologists that ‘anomalies’ had been detected in their prescribing profile
 - the ophthalmologists were provided with a list of patients who had been prescribed these medicines and asked to identify if the PBS restrictions had been met in each of the patients on the list.
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Medicare Australia audit of combination anti-glaucoma medications:

- a number of concerns were raised by our Members about the manner in which the audit was conducted.
 - a 'written response was requested to explain these anomalies within 28 days of receipt of the letters
 - some lists included more than 50 patients, requiring ophthalmologists to spend a considerable amount of time reviewing their patient records, in order to respond to the audit.
 - in November 2008, MDA National met with representatives of Medicare Australia to discuss our Members' concerns about the manner in which the audit was conducted
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‘Strategic risk’ areas to be targeted by Medicare Australia include:

- Prescribing medicine outside PBS restrictions and authority requirements
 - Specialist attendances, with a focus on ‘upcoding’ and billing without a valid referral
 - The impact of corporate entities on providers and pharmacy behaviour
 - Unexplained growth in after hours items
 - The initiation and billing of diagnostic imaging and pathology services that are not clinically necessary
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Medicare Australia Audits:

- Under the *Increased MBS Compliance Audits* program, the Government will increase the number of audits on MBS services to ensure that medical practitioners are fulfilling the requirements of relevant MBS item descriptors and PBS requirements.
 - Audits on MBS claims will increase from less than 1% to over 4% of providers
 - Medicare can seek substantiating documents from doctors
 - Members are encouraged to immediately seek advice from their MDO's medico-legal advisory service if they are contacted by Medicare Australia.
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Medicare audit team ‘latest advice’:

- changes to the legislation with regard to financial penalties have not yet been introduced (and are thus still just proposed changes to Medicare system).
 - there is a current audit is in relation to all Medicare items that are required to be performed under a GA.
 - the audit involves a number of specialty groups, not just ophthalmologists but they are targeting 42610/42611 (tear duct probing).
 - They search for claims where no anaesthetic services are billed in conjunction with these items.
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Support Protect Promote

The provision of quality medico-legal advice to our Members is at the core of what we do at MDA National.

With more than ten years of experience in medico-legal support, and being a doctor myself, my primary concern is to protect the interests of our Members. I am there to provide advice and support to Members when things go wrong.

Being involved in a claim or complaint can be one of the most stressful events in a doctor's career. It is reassuring for our Members to know that they can obtain timely and expert assistance, 24 hours a day. At MDA National, we are there from the first phone call or notification, through to the conclusion of the matter, no matter how long it takes to resolve.

While the journey is an unwelcome one for our Member, we can ensure that it is not a lonely one and that there is a clear path ahead.

Dr Sara Bird, MDA National Medico-legal Support

Thank-you for your attention....

