Australian Hypnotherapists' Association

Response to

Australian Health Ministers' Advisory Council

Consultation Paper:

Options for Regulation of

Unregistered Health Practitioners

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ABOUT THE AUSTRALIAN HYPNOTHERAPISTS' ASSOCIATION

With over 650 members nationally the Australian Hypnotherapists' Association (AHA) forms the largest single group of professional clinical hypnotherapists in Australia. Its members practice in both the private and public sectors complementing other modalities, many members work closely with doctors, psychologists and psychiatrists.

Formed in 1949 and incorporated in 1956 the AHA has been seen as The Peak Body for professional clinical hypnotherapists in Australia for more than 60 years. In 1999 the association published the second edition of its standards' book titled "A Set of Competency and Proficiency Standards for Australian Professional Clinical Hypnotherapists". This work has been recognised throughout the profession as a de-facto standard for the training of clinical hypnotherapists.

The AHA has worked toward uniform standards, and registration of the profession. As well as raising training standards and providing on-going professional development, it also provides supervision, a code of conduct, a complaints procedure and accountability for its members.

ABOUT THIS SUBMISSION

The AHA welcomes the opportunity to contribute to the discussion about providing better protection to the public who may receive health care services from practitioners not currently registered. The AHA also supports measures for the adoption of some of the proposals in the AHMAC Consultation Paper which may afford the public greater protection and avenues for airing legitimate grievances.

The AHA supports the AHMAC process and strongly believes that bogus practitioners practising outside the present self-regulatory system increase risks to the public. However properly trained practitioners who practise inside their scope and within the ambit of an association reduce that risk. The AHA currently has a strict code of ethics and a strongly formulated complaints procedure both of which are designed to provide protection and accountability. All hypnotherapists registered with the AHA are bound by these procedures.

SECTION TWO – THE SCOPE

I*f you are a professional association, can you provide an estimate of the number of unregistered health practitioners you believe to be practising in your profession or field?*

As defined by the AHMAC paper provided, AHA membership represents presently unregulated practitioners. The membership of the Association is 650 which represents a significant proportion of practising hypnotherapists in Australia.

SECTION FOUR – THE PROBLEM

What do you think are the risks associated with the provision of health services by unregistered health practitioners?

The AHA recognises the potential risk as outlined in the AHMAC consultation paper but is of the view that Government is not necessarily best placed to manage this risk. The view of the Association is that Government and the profession should work together to safeguard both the public and the integrity of the allied heath professions.

The profession is already moving toward Voluntary Self-Regulation (VSR) with the formation of the Hypnotherapy Council of Australia Working Committee (HCA). This national body, formed in 2010 is an industry response toward strengthening self-regulation in the hypnotherapy profession. The formal establishment of HCA will take place in June 2011 and will represent the great majority of the industry including Association and Training Institutions.

To what extent have the risks associated with these activities been realised in practice?

The AHA believes that its high standards and requirements for strict adherence to its code of ethics have assisted in mitigating many of the potential risks outline in the AHMAC consultation paper. It also believes that hypnotherapy being non-invasive, has a lower level of potential risk than many other modalities.

Do you know of instances of actual harm or injury?

The AHA is not aware of any injuries resulting from the practice of hypnotherapy in Australia and certainly there have been no instances of such injury caused by any of its members in more than 60 years of practice.

SECTION FIVE – THE OBJECTIVES OF GOVERNMENT ACTION

What do you think should be the objectives of government action in this area?

Recent discussions in the UK resulted in a move away from strict government regulation in the area of allied health, particularly regarding hypnotherapy and psychotherapy due to the costs of administering such a scheme. Government guidelines and an industry VSR arrangement have been favoured over regulation. The AHA feels that this model would be appropriate for Australia given that the industry has already moved toward this goal with the formation of the HCA.

SECTION SIX – THE OPTIONS

What do you think of the various options?

Option 1: No change

The AHA disagrees with this position. As previously stated, the profession is already strongly committed to VSR and the Association has been a driving force behind this change for many years. The AHA has shown its commitment to increased professionalism and moving forward in issues of accountability and public safety by; establishing the HCA, raising training standards, enforcing a code of ethics, supervision of practicing therapists, working toward best practice and evaluating training courses.

Option 2: A voluntary code of practice for unregistered health practitioners

See below

Option 3: A national statutory code of conduct for unregistered health practitioners

The AHA supports a combination of options 2 and 3. As noted the profession is actively pursuing VSR (Option 2) and is committed to furthering this process. The Association further supports the establishment of a basic national statutory code of conduct for unregistered health practitioners modelled on the New South Wales Code of Conduct for Unregistered Heath Practitioners published by the Heath Care Complaints Commission (NSW).

Combining options 2 and 3 would provide for public safety together with certainty and accountability for heath practitioners.

What do you think are the costs and benefits of the three options?

Option 1 attract no cost to Government or industry but is the least desirable option for both the pubic and the profession.

A combination of options 2 and 3 would attract a moderate initial cost to Government and industry due to the development of a basic code of conduct. However, this could be reduced substantially by simply transferring to the NSW government Code of Conduct for unregulated health care providers. Any ongoing cost would be industry borne through maintaining VSR which in probability would be more rigorous than a basic statutory code of conduct. Cost of Government administering a code of conduct proved to be a major factor in the UK decision to go down the path of VSR.

Option Three also provides the benefit of national consistency to providers and the public, whilst still empowering individual professional associations to set standards for professional admission. Furthermore, the establishment of a Voluntary Self Regulated Peak body for all Hypnotherapists and a National Code of Conduct will stop rogue operators moving between associations if a complaint has been made against them.

On balance, do you have a preferred option? What are your reasons?

The AHA supports the position advocated in options two and three. This may be achieved by including in the Code of Conduct a requirement that all health service providers must belong

to a professional association, using the existing Private Health Insurance (Accreditation) Rules 2008 as a suitable model and also thereby ensuring consistency with other areas of health care across industry.

EXTENT TO WHICH NATIONAL CONTINUITY IS DESIRABLE (SECTION 6.3.1.)

Do you think there should be a nationally uniform Code of conduct for unregistered health practitioners or are different Codes in each State and Territory acceptable?

For consistency as well as practitioner and public certainty, the AHA is strongly in favour of a nationally uniform Code of Conduct.

Should there be a centralised administrative body that administers the regulatory scheme, or should it be administered by each State and Territory government?

As it is preferable that those modalities which have set up their own VSR body be initially responsible as the administrative body rather than the federal or state or territory governments.

SCOPE OF THE SCHEME (SECTION 6.3.2.)

If a statutory Code of conduct were to be enacted, to whom should it apply?

The AHA believes that all who are broadly defined as health service practitioners, whether this is by community understanding or self-identification, and who are not covered by an existing scheme should be included in this process. This would be easier to regulate if all health practitioners were only able to practice if they belonged to an overseeing association of their modality.

Which practitioners, professions or occupations should be included?

As above, the AHA believes that all who are broadly defined as health service practitioners and are not covered through existing schemes should be included in this process.

Should it apply only to practitioners who deliver health services? If so, what should be the definition of a health service?

The AHA believes that if practitioners claim or imply that they are servicing a health need of a client, then they should be subject to the regime. However given the scope of modalities offered to the public it would be unfeasible for a Government to appropriately and with certainty define practice schemes.

Should it apply to registered practitioners who provide health services that are unrelated to their registration, for example, a registered nurse who is working as a naturopath or massage therapist?

The AHA believes that all health providers offering services in more than one modality need to have accreditation through all appropriate both professional associations.

Should it only apply to practitioners who directly deliver services, or should it also apply to those who deliver health services through the agency of another person, for example, the owners or operators of businesses that provide health services?

The AHA believes that to be consistent, it should apply to all practitioners.

ADMINISTRATIVE ARRANGEMENTS (SECTION 6.3.3.)

Do you have a preferred option for the legislative and administrative arrangements through which a Code of conduct for unregistered health practitioners is administered and complaints about breaches of the Code are investigated and prosecuted?

The AHA believes that, in as far as is possible, enacting legislation for this proposal is either an amendment to the Health Practitioner Regulation National Law Act or a supplementary piece of legislation in the same spirit.

What are your reasons?

Apart from the drafting and passage of certain Bills, all practical resources already exist within the State and Territory jurisdictions in some form.

CONTENT OF A NATIONAL CODE OF CONDUCT (SECTION 6.3.4.)

What do you think should be included in a national statutory Code of conduct?

The AHA endorses the NSW model.

Do you have any comments on the NSW Code of Conduct for Unregistered Health Practitioners?

As above the AHA endorses the NSW model.

What do you think are the strengths and weaknesses of the NSW Code?

The AHA believes the NSW Code of Conduct is perfectly adequate.

Do you think it provides a good model? What are your reasons?

As indicated throughout this subsection, yes, the AHA believes this to be a good model for reasons of its clarity and breadth.

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The AHA is a professional association and would like to be informed of the outcome of the consultation. The AHA would also attend relevant forums in any capital city should these take place.