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Dear NRAS Review Implementation Project Secretariat

**RE: National Registration and Accreditation Scheme for the Health Professions - Consultation on the draft Health Practitioner Regulation National Law Amendment Bill**

The Royal Australasian College of Surgeons (RACS) welcomes the opportunity to provide comment concerning this consultation paper. RACS is the leading institution for the training of surgical practice for more than 7,000 surgeons and 1,300 surgical trainees and Specialist International Medical Graduates in Australia and New Zealand. RACS has contributed with a previous submission to its predecessor 2018 public consultation on the Regulation of Australia's health professions: Keeping the National Law up to date and fit for purpose.

The 2021 paper has been an exercise in determining if the proposed amendments correspond with the advice given by RACS to NRAS back in 2018. It does and RACS supports the amendments in principle, but questions Part 7: Delegation of the Ministerial Council's power to approve registration standards to an entity with respect to registration standards. It is unclear as to what the parameters are and who this 'entity' is. There also remain unresolved issues that NRAS needs to further clarify. There are three outstanding fundamental issues which have not been completely resolved from our 2018 submission. They are-

1. The importance of judicial fairness for medical practitioner which goes hand in hand with public safety
2. Defining a 'serious risk', what are the parameters?
3. Part 8 of the National Law is not adopted across all states (NSW and Qld differ)

As stipulated in AHPRA & National Boards' Regulatory Guide June 2020-

"...the jurisdictions of NSW and Queensland have declared that they are not participating in the health, performance and conduct process provided by Part 8, Divisions 2–12 of the National Law. By making this declaration and amending the National Law, each of those jurisdictions is known as a 'co-regulatory jurisdiction'

Part 8 of the National Law sets out the processes for notification and procedures relevant to investigating a registered health practitioner and any relevant actions required. Actions may be immediate, direct, dependent upon a health and performance assessment with reference to a health or professional performance and standards panel or a responsible tribunal. Onus appears to fall upon the shoulder of the National Boards and their use of discretionary powers.



NSW's decision not to adopt Part 8 means that health professional councils and the Health Care Complaints Commission would have a greater influence. This is also the case with Queensland and matters that relate to professional misconduct which are referred to their Office of the Health Ombudsman. How these amendments will impact on the utility of certain infrastructures has not been clearly outlined or identified in the Terms of References to this 2021 consultation. This is clearly a perennial issue stemming from our history of Federation.

The following is a detailed response to each of the amendment recommendations. RACS welcomes any opportunity to meet with representatives of NRAS to discuss any matter expressed in this submission.

Yours sincerely

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## UPDATING THE GUIDING PRINCIPLES AND OBJECTIVES OF THE NATIONAL SCHEME

### **Part 2: Amendment to National Law guiding principles**

*Insertion of a new paramount guiding principle: Support*

RACS supports public safety to be paramount, as for example highlighted under the case of *Health Care Complaints Commission v Do [2014] NSWCA 307* which state that the “protection of the public is the paramount concern”<sup>i</sup> as it relates to the objectives in Section 3A of the National Law.<sup>ii</sup> However, outlier cases should not diminish procedural fairness, natural justice and show cause. The jurisdiction of the National Law should be “protective in nature, not punitive” as stipulated in *Health Care Complaints Commission v Saedlounia [2017] NSWCATOD 5*.<sup>iii</sup>

### **Part 3: Cultural Safety for Aboriginal and Torres Strait Islander Peoples**

*New guiding principle – cultural safety, respect & elimination of racism Conditionally Support*

RACS has established our own Reconciliation Action Plan, which is reflected in key strategic documents included the *2019-2021 RACS Strategic Plan*.<sup>iv</sup> However the elimination of racism and other forms of discrimination should not be limited to one particular demographic. For example, prejudice against gender, sexuality, religious beliefs, persons of colour, and towards other cultures levelled at language must also be considered. RACS has broadly stated our position in our *Diversity and Inclusion Plan* in relation to our own fellowship; “A greater focus on developing a culture of inclusion within the surgical profession will lead to better patient outcomes as greater cultural competence is achieved.”<sup>v</sup>

## INCREASING THE REGULATORY RESPONSES AVAILABLE TO RESPOND TO RISKS TO THE PUBLIC

### **Part 13: Reporting of scheduled medicine offences**

*Immediate report of offences & notifications if punishable by 12 months imprisonment Support*

This creates greater clarity for health practitioners and students to only report and notify their National Board if charged or convicted under the *National Law* s130 for a relevant event that is an "offence punishable by 12 months imprisonment or more."<sup>vi</sup> In this instance, a relevant event is an offence relating to the misuse of schedule medicines and poisons under the *Victorian Drugs, Poisons and Controlled Substances Act 1981* or the *Queensland Health (Drugs and Poisons) Regulation 1996* for example. Lesser offences should be accompanied with rehabilitation.

### **Part 17: Disciplinary action in relation to health practitioners while unregistered**

*National Boards & disciplinary action, avoid punitive measures for failure to renew Support*

The National Boards should be allowed discretionary powers when dealing with lapsed registrations which are minor indiscretions. Punitive measures reserved for conditions on renewal based upon a serious offence should be separated with a clear emphasis to be made under Part 7 of the *National Law*<sup>vii</sup> to avoid a harsh response to a minor error. National Board notification mechanisms and safeguards should also be continuously audited to show a fit for purpose and fair process.

### **Part 18: Mandatory notification by employers**

*Providing more clarification, assist employers with their obligations on notifiable conduct Support*

Improved clarification of the mandatory reporting obligations of employers to notify the Australian Health Practitioner Regulation Agency (AHPRA) is welcomed by RACS. However, we still emphasize that the public interest is the measuring stick in correlation with defining a notifiable conduct under s140 of the *National Law*.<sup>viii</sup> And because of multiple employment contracts we will require an improved streamlined process. This could come in the form of a shared investigative outcomes regime across jurisdictions - regulators, hospitals but also RACS given our role in training

### **Part 15: Advertising**

*Allow use of testimonials comparable to health advertising, increase penalty for breach Support*

RACS supports any amendment of the *National Law* which seeks to limit the scope of the prohibition on using testimonials in advertising, and to apply only to advertising undertaken by the registered health practitioner or their employer. In principle the practitioner cannot themselves provide testimonials, but patients are free to provide any statement they wish for discretionary publication by the practitioner or their employer. If the practitioner is found to be complicit, they should be referred to the relevant tribunal. RACS supports AHPRA's position that "Responsible advertising is a professional and legal obligation." But it must be noted that according to the AHPRA Annual Report 2019/2020, that there has been a reduction of 20% in low-to-moderate-risk advertising complaints since the previous year.<sup>ix</sup> RACS recommends a monitoring body which regularly reviews the accuracy of website claims and advertisement as well as scope for a first warning or caution to those who commit their first act of indiscretion in this particular realm.

#### **Part 16: Directing and Inciting Offences**

*Penalties increased for unprofessional conduct or professional misconduct* **Not Support**

RACS believes that the current provisions of the National Law are sufficient to equip regulators to deal with corporate directors or managers who commit such an offence. Hence RACS does not agree that penalties should be increased. RACS maintains its previous position and reasoning in that according to the AHPRA Annual Report 2019/2020, complaints regarding directing and inciting in relation to a medical practitioner remains low with only 2.<sup>x</sup> Previous AHPRA reports in 2018/2019 for example also show a low outcome at only 3.<sup>xi</sup> The effectiveness of s136 of the *National Law*<sup>xii</sup> remains unwavering it would appear, and explanations for penalties to be increased remains lacking.

#### **Part 23: Show cause processes**

*Boards can't waive show cause process when providing, an undertaking, conditions & referral* **Support**

Clear guidelines to a *show cause* process is supported by RACS provided the Board gives notice to a practitioner with ample time to reply based upon "the degree of risk to the community" and any immediate action taken<sup>xiii</sup>.

#### **Part 20: Interim prohibition orders (IPOs)**

*Regulators issue IPOs up to 60 days, AHPRA & Board can prohibit practitioner* **Not Support**

60 days is a long time for a surgeon not to be working especially when still incurring significant practice costs. This period may also unfairly damage a surgeon's reputation if claims were vexatious in nature. 30 days seems more appropriate. Another major concern expressed by our fellows relates to AHPRA taking anywhere between 18 months and 2 years to investigate a claim. It is not reasonable for a surgeon to simply stop practice while there is an investigation. Procedural fairness is an equitable principle. To cease practice for such a length of time would lead to the possible destruction of a surgeon's practice and reputation causing great duress.<sup>xiv</sup> An interim period with *show cause* is desirable provided an opportunity for the alleged unregistered or suspended practitioner to prepare a proper legal defence within a transparent process. The interim is in lieu of activating more onerous provisions under for example s41A(2)(a)(i) of the *Health Care Complaints Act 1993* (NSW) which "prohibits the health practitioner from providing health services or specified health services for the period specified in the order or permanently."<sup>xv</sup>

#### **Part 21: Public statements**

*AHPRA or National Boards may issue a public statement to protect the public* **Conditionally Support**

Ideally no comment should go to the public unless there is a clear risk of major community harm, procedural fairness should allow any investigation, and appeal to have concluded before public comments are made. Hence RACS agrees that a *show cause* process and a right to appeal to a relevant tribunal as proposed is the right path to take in the interest of procedural fairness. The mechanism is already in place for protection notices on the Health Care Complaints Commission website.<sup>xvi</sup> But the protection of the public with the issuing of public statements and warnings requires these before mentioned caveats to prevent any inadvertent harm to a practitioner's reputation and career.

#### **Part 14: Notifying former employers to protect the public**

*Expand Boards discretionary powers to notify existing employers & others* **Conditionally Support**

The expansion of any notification powers needs to be based on whether there is a 'serious risk to the public' as opposed to the Boards providing a mere caution. For example, amendments to the existing s206 of the *National Law*<sup>xvii</sup> requires an understanding and interpretation of a 'serious risk'.

#### **Part 25: Disclosure of information about registered practitioners to protect the public**

*Boards can inform employers if a notification or investigation reveals serious risk & take action*

**Conditionally Support**

The first course of action should be for comments not to be made unless there is a clear risk of major community harm and only after an investigation has been completed along with an appeals process should comments follow. Hence RACS supports such measures provided they emulate for example the safeguards already in existence as demonstrated under the Queensland law. The *Health Ombudsman Act 2013* (QLD) provides provisions to the Ombudsmen to notify an employer about a particular Queensland Civil and Administrative Tribunal QCAT decisions under s280, but more importantly that such notifications are dependent upon the seriousness of the matter under s279. This would suggest that notification of the medical practitioner's employer would only transpire if certain disciplinary or enforcement actions were under way.<sup>xviii</sup>

#### **Part 26: Disclosure of information about unregistered practitioners to employers**

*Regulators to notify employers about serious risks and other offences* **Support**

A serious risk needs to be clearly defined as it would be unreasonable to apply this power in instances where the practitioner is late in their registration payment. Any breach of title protection and practice restriction provisions like holding out or using a restricted title, should have consistent provisions across all states. Insurances will need to be made for example that NSW Health<sup>xix</sup>, SA Health<sup>xx</sup> and the Queensland Ombudsmen<sup>xxi</sup> codes of conduct are all uniform in this instance.

#### **Part 19: Requirement to provide records for preliminary assessment**

*Provide confidential information for preliminary assessment of notification, including records* **Support**

Enhancing a practitioner's power to provide their own and their patient's records during a preliminary assessment is supported. However, privacy issue and informed consent is an inherent problem, provided that the motivation to do so is measured by the need for transparency and timeliness in the complaints process. A simple guide with respect to compliance can be seen in the *Health Care Complaints Act 1993* (NSW) under s21A<sup>xxii</sup> with avenues for an administrative review by a civil and administrative tribunal under s41C.<sup>xxiii</sup>

### IMPROVING THE REGISTRATION PROCESS

#### **Part 8: Commencement of Registration**

*Commencement and timelines, post-dated up to 90 days by Board, processing applications* **Support**

RACS recognises the challenges faced by Boards when deciding to grant registration under s56(2) of the *National Law*.<sup>xxiv</sup> For example when "applications for registrants moving from student to general registration, interns moving to general registration and internationally qualified practitioners trying to meet the multiple requirements of National Boards, employers and immigration authorities."<sup>xxv</sup> Hence it may be of greater value and convenience for a Board to provide commencement of registration on a date to be determined.

#### **Part 9: Undertakings**

*Boards can impose conditions, not solely about a disciplinary measure, can refuse registration* **Support**

Providing an undertaking is a promise that is mandatory in nature in relation to an obligation that a practitioner will provide to the National Boards as a measure for registration and renewal. While this is an

important endeavour to ensure public safety, clearer guidelines are required as to how the national board will be legislatively empowered with respect to ss83<sup>xxvi</sup> and 112.<sup>xxvii</sup> The more pressing issue for RACS is the time frame for processing registration, and for a practitioner to be given ample notice to comply with an undertaking.

#### **Part 10: Withdrawal of Registration**

*Boards have power to withdraw registration if false or misleading, show cause available* **Support**

Withdrawal of registration without having to commence disciplinary proceedings against a practitioner who allegedly gave false and misleading information under Part 8 of the *National Law* is a quick response in the interest of public safety. Under s193<sup>xxviii</sup> of the *National Law* professional misconduct transpires when “the practitioner’s registration was improperly obtained because the Board was given false or misleading information.”<sup>xxix</sup> However, outlier cases should not diminish the need for procedural fairness, natural justice and show cause.

#### **Part 12: Renewal of registration during suspension period**

*Reforms require renewal of registration within one month following suspension period* **Support**

Returning from suspension requires a practitioner to re-apply for registration with an appropriate timeframe being one month. This period follows the return to practice and is inclusive of suitability for practice recommendations by the National Boards. Such recommendations are influenced by the parameters set under s150 of the *National Law* with any “further investigations” required.<sup>xxx</sup>

#### **Part 27: Use of alternative names**

*Practitioner may nominate one non prohibited alternate name to appear on public register* **Support**

The Fellowship at RACS is becoming increasingly multigendered, multicultural, and a reflection of Australia at large. Some practitioners have in the past ‘westernised’ their names but there is a gradual move toward using their non-English cultural names while other prefer their maiden name as a matter of principle or circumstances. RACS supports the autonomy of our fellows to do so.

#### **Part 28: Exclusion of information from registers**

*May remove information from the public register if poses a risk to practitioner, periodic review* **Support**

Removal of information from the public register such as the principle place of practice is required in cases where a practitioner is a victim of domestic and family violence. Amendment to s226 of the *National Law* may be required.<sup>xxxi</sup> Any decision to suppress must be based on police reports, court orders, statutory declarations which need to be supplied when practicable.

### **IMPROVING THE GOVERNANCE AND OPERATION OF THE NATIONAL SCHEME**

#### **Part 6: Clarifying the role and functions of the National Agency**

*AHPRA’s function and scope under the National Scheme* **Support**

The broadening role and function of the National Agency from providing advice to the Ministerial Council to doing anything necessary for an effective operation of the national registration and accreditation under s25 of the *National Law*,<sup>xxxii</sup> does not at first glance appear onerous.

#### **Part 7: Delegation of the Ministerial Council’s power to approve registration standards**

*Ministerial Council to delegate approval registration & standards powers to any entity* **Not Support**

RACS is concerned with the lack of clarity and definition as to what constitutes an appropriate entity who will be given the power to approve registration standards, and what is deemed as ‘appropriate’ under the proposed new insertion of s12(2) within the *National Law*. Natural justice is also applicable here for any practitioner and student consistent with Part 8 Division 3 Subdivision 7 of the *National Law* under ss150, 150A or 150C proceedings which requires “that they obtain legal advice from a medical defence organisation or a legal practitioner.”<sup>xxxiii</sup>

### **Regulation Schedule 1: Oversight of accreditation functions by National Health Practitioner Ombudsman (NHPO)**

*NHPO to review National Board responsibilities, improve oversights* **Conditionally Support**

RACS can appreciate the merit associated with “new configurations of justice bodies”<sup>xxxiv</sup> and ‘Ombudsman-like’ institutions which attempt to meet the demands of justice, access and equity for vulnerable groups when accessing grievance and “the network of machinery for health services and the health professions.”<sup>xxxv</sup> However, RACS would like to reiterate our position from our 2018 submission that splitting may also create a lack of consistency and fairness when two different entities deal with one practitioner. Also, there is the possibility that they may come up with two different outcomes for a multifaceted matter with interlocking evidence.

### **Part 22: Referral to another entity following preliminary assessment**

*Reduce delays and resourcing problems relating to notification assessments* **Not Support**

What concerns RACS is what would constitute an appropriate entity who will be given the power to accept referral of matters after a preliminary assessment of a notification from the national Boards?

### **Part 24: Discretion not to refer matters to a tribunal**

*If a Board reasonably believes there is no public interest in doing so* **Support**

The lessening of any administrative burden on National Boards is a proposition understood and accepted by RACS. RACS notes that this principle is supported in the *Health Professional Council Authority Bench Book for The Use of Committees, Councils, Panels and Tribunals* where it argue that a Council or Tribunal's role is not necessarily designed to make a finding of “fact or determination of the merits of any complaint” but rather its-

“... purpose is protection of the public... where serious allegations have been made which, if true, could require suspension or cancellation of the appellant’s registration, but the evidence is incomplete and further investigation is needed.”<sup>xxxvi</sup>

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<sup>i</sup> *Health Care Complaints Commission v Do* [2014] NSWCA 307. At [34] <http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NSWCA/2014/307.html>

<sup>ii</sup> *Health Care Complaints Act 1993* - 41C Administrative review by Civil and Administrative Tribunal [http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/nsw/consol\\_act/hcca1993204/s41c.html](http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/nsw/consol_act/hcca1993204/s41c.html)

<sup>iii</sup> *Saedlounia v Medical Council of New South Wales* [2015] NSWCATOD 53. At [17] <https://www.caselaw.nsw.gov.au/decision/58730a39e4b058596cba3384>

<sup>iv</sup> *Strategic Plan 2019-2021 Business Plan 2020*, RACS p.14 <https://www.surgeons.org/resources/reports-guidelines-publications/strategic-plans>

<sup>v</sup> *Diversity and Inclusion Plan*, RACS p.2 <https://www.surgeons.org/en/about-racs/about-respect/what-we-have-done/promoting-diversity-and-inclusion>

<sup>vi</sup> *Health Practitioner Regulation National Law (NSW)* No 86a of 2009 s130 Registered health practitioner or student to give National Board notice of certain events <https://www.legislation.nsw.gov.au/view/whole/html/inforce/current/act-2009-86a#sec.130>

<sup>vii</sup> *Health Practitioner Regulation National Law (NSW)* No 86a of 2009 Part 7 Registration of health practitioners <https://www.legislation.nsw.gov.au/view/whole/html/inforce/current/act-2009-86a#pt.7>

<sup>viii</sup> *Health Practitioner Regulation National Law (NSW)* No 86a of 2009 S140 Definition of notifiable conduct [http://classic.austlii.edu.au/au/legis/nsw/consol\\_act/hprnl460/s140.html](http://classic.austlii.edu.au/au/legis/nsw/consol_act/hprnl460/s140.html)

<sup>ix</sup> AHPRA Annual Report 2019/2020 p.91 <https://www.ahpra.gov.au/Publications/Annual-reports/Annual-Report-2020.aspx>

<sup>x</sup> AHPRA Annual Report 2019/2020 pp.27, 86 <https://www.ahpra.gov.au/Publications/Annual-reports/Annual-Report-2020.aspx>

<sup>xi</sup> AHPRA Annual Report 2018/2019 p.77 <https://www.ahpra.gov.au/Publications/Annual-reports/Annual-Report-2019.aspx>

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- <sup>xii</sup> *Health Practitioner Regulation National Law (NSW)* No 86a of 2009, s136 Directing or inciting unprofessional conduct or professional misconduct <https://www.legislation.nsw.gov.au/view/whole/html/inforce/current/act-2009-86a#sec.136>
- <sup>xiii</sup> Australia Health Practitioner Regulation Agency, *Immediate action - When and why does a Board take 'immediate action'?* <https://www.ahpra.gov.au/notifications/further-information/guides-and-fact-sheets/immediate-action.aspx>
- <sup>xiv</sup> RACS Sustainability in Healthcare Working Group, comments made by Working Group members
- <sup>xv</sup> *Health Care Complaints Act 1993* (NSW) s41A Prohibition Orders and Public Statements [http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/nsw/consol\\_act/hcca1993204/s41a.html](http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/nsw/consol_act/hcca1993204/s41a.html)
- <sup>xvi</sup> Health Care Complaints Commission., *Public statement and warnings*, NSW Government <http://www.hccc.nsw.gov.au/Hearings---decisions/Public-statements-and-warnings/Public-Statement-and-Warnings>
- <sup>xvii</sup> *Health Practitioner Regulation National Law (Queensland)* - s206 National Board to give notice to registered health practitioner's employer and other entities [http://classic.austlii.edu.au/au/legis/qld/consol\\_act/hprnl509/s206.html](http://classic.austlii.edu.au/au/legis/qld/consol_act/hprnl509/s206.html)
- <sup>xviii</sup> *Health Ombudsman Act 2013* Part 19 - Particular Notices given by Health Ombudsman [http://classic.austlii.edu.au/au/legis/qld/consol\\_act/hoa2013162](http://classic.austlii.edu.au/au/legis/qld/consol_act/hoa2013162)
- <sup>xix</sup> Code of conduct for unregistered health professionals, NSW Health <https://www.health.nsw.gov.au/phact/Pages/code-of-conduct.aspx>
- <sup>xx</sup> Unregistered Health Practitioners, SA Health <https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/clinical+resources/education+and+training/system+improvement/unregistered+health+practitioners>
- <sup>xxi</sup> Unregistered health practitioner notifications, Office of the Health Ombudsman Queensland <https://www.oho.qld.gov.au/for-providers/make-a-notification>
- <sup>xxii</sup> *Health Care Complaints Act 1993* NSW - s21A Power of Commission to obtain information, records and evidence [http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/nsw/consol\\_act/hcca1993204/s21a.html](http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/nsw/consol_act/hcca1993204/s21a.html)
- <sup>xxiii</sup> *Health Care Complaints Act 1993* NSW - 41C Administrative review by Civil and Administrative Tribunal [http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/nsw/consol\\_act/hcca1993204/s41c.html](http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/nsw/consol_act/hcca1993204/s41c.html)
- <sup>xxiv</sup> *Health Practitioner Regulation National Law (NSW)* No 86a of 2009 - s56 Period of general registration <https://www.legislation.nsw.gov.au/view/html/inforce/current/act-2009-86a#sec.56>
- <sup>xxv</sup> COAG Health Council., *Summary of the draft Health Practitioner Regulation National Law Amendment Law 2017* See in table Stage 1 for website link and then at p.15 <https://www.coaghealthcouncil.gov.au/Projects/Health-Practitioner-Regulation-National-Law>
- <sup>xxvi</sup> *Health Care Complaints Act 1993* (NSW) s83 - Conditions of registration <https://www.legislation.nsw.gov.au/view/html/inforce/current/act-2009-86a#sec.83>
- <sup>xxvii</sup> *Health Care Complaints Act 1993* (NSW) s112 - Decision about application for renewal <https://www.legislation.nsw.gov.au/view/html/inforce/current/act-2009-86a#sec.112>
- <sup>xxviii</sup> *Health Practitioner Regulation National Law Act 2009* (Qld) s193 Matters to be referred to responsible tribunal <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2009-045#sec.193>
- <sup>xxix</sup> Australian Health Practitioner Regulation Agency., *Tribunal hearings Fact Sheet* May 2016 p.1 <https://www.ahpra.gov.au/notifications/further-information/guides-and-fact-sheets/tribunal-hearings.aspx>
- <sup>xxx</sup> *Health Practitioner Regulation National Law* (NSW) 2009, s150 Suspension or conditions of registration to protect public [NSW] [http://classic.austlii.edu.au/au/legis/nsw/consol\\_act/hprnl460/s150.html](http://classic.austlii.edu.au/au/legis/nsw/consol_act/hprnl460/s150.html)
- <sup>xxxi</sup> *Health Practitioner Regulation National Law* (NSW) 2009, s226 - National Board may decide not to include or to remove certain information in register <https://www.legislation.nsw.gov.au/view/html/inforce/current/act-2009-86a#sec.226>
- <sup>xxxii</sup> *Health Practitioner Regulation National Law* (NSW) 2009, s25 - Functions of National Agency <https://www.legislation.nsw.gov.au/view/html/inforce/current/act-2009-86a#sec.25>
- <sup>xxxiii</sup> Medical Council Of NSW., *Guidelines For The Conduct Of Proceedings Pursuant To Part 8 Division 3 Subdivision 7 Of The Health Practitioner Regulation National Law* (NSW) 2009 'Powers Of The Council For The Protection Of The Public' (Including Section 150 Proceedings) 2010 p.1 <https://www.childabuseroyalcommission.gov.au/sites/default/files/MCN.0002.001.0041.pdf>
- <sup>xxxiv</sup> Carney, T., 'Vulnerability: False Hope for Vulnerable Social Security Clients?' (2018) 41(3) *University of New South Wales Law Journal* (Advance). p.817 <http://www.unswlawjournal.unsw.edu.au/wp-content/uploads/2018/09/Carney.pdf>
- <sup>xxxv</sup> Carney, T., Walton, M., Chiarella, M., Kelly, P., 'Health Complaints and Practitioner Regulation: Justice, Protection or Prevention?' (2017) 26 *Griffith Law Review* 65. Sydney Law School Legal Studies Research Paper No. 17/58 July 2017 p.26 [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3005691](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3005691)
- <sup>xxxvi</sup> Baker, B (Solicitor Advocate, For NSW Crown Solicitor)., *Health Professional Council Authority Bench Book For The Use Of Committees, Councils, Panels And Tribunals* 2015 pp.22-23 [https://www.mcnsw.org.au/sites/default/files/hpca\\_bench\\_book\\_-\\_v1\\_0\\_-\\_pdf6\\_-\\_version\\_1\\_-\\_2015.pdf](https://www.mcnsw.org.au/sites/default/files/hpca_bench_book_-_v1_0_-_pdf6_-_version_1_-_2015.pdf)