

Submission

No 20

## INQUIRY INTO THE OPERATION OF THE HEALTH CARE COMPLAINTS ACT 1993

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## NSW PHYSIOTHERAPISTS REGISTRATION BOARD

### **Inquiry into the operation of the Health Care Complaints Act 1993.**

The NSW Physiotherapists Registration Board, having received notification of the Parliamentary Inquiry in relation to the operations of the Health Care Complaints Commission (HCCC) and the Health Care Complaints Act 1993, submits the following comments.

The Board notes that the terms of reference for the Inquiry are as follows:

*That, pursuant to the functions of the Joint Parliamentary Committee on the Health Care Complaint Commission under s 65(1)(b) and s 65(1)(d) of the Health Care Complaints Act 1993 to report to both Houses of Parliament, with such comments as the Committee thinks fit, on any matter appertaining to the Commission or connected with the exercise of the Commission's functions to which, in the opinion of the Committee, the attention of Parliament should be directed, and to report on any change that the Committee considers desirable to the functions, structures and procedures of the Commission, the Committee examine the operation of the Health Care Complaints Act 1993, with particular reference to:*

- 1. the identification and removal of any unnecessary complexities in the New South Wales health care complaints system;*
- 2. the appropriateness of the current assessment and investigative powers of the Health Care Complaints Commission; and*
- 3. the effectiveness of information-sharing between the Health Care Complaints Commission and Area Health Services and Registration Authorities in New South Wales,*

*and report to Parliament on any matters connected with the Committee's statutory functions.*

The Board has statutory responsibility under the provisions of the Physiotherapists Act 2001 for the protection of the health and safety of the NSW public by providing mechanisms to ensure that physiotherapists are fit to practise. The Act also vests in the Board the power to deal with complaints regarding the conduct of a registered physiotherapist or the provision of a physiotherapy service by a registered physiotherapist. The legislation provides the Board with a range of options for dealing with complaints and disciplinary proceedings that enable the Board to effectively manage the majority of complaints or professional conduct matters. The Board currently receives an average of 30 complaints per year.

As part of the process of reviewing complaints referred to the Board, a committee of the Board consults with a representative of the HCCC. This consultation is regarded as a valuable and crucial element of the assessment of complaints. The independent consideration by a third party is beneficial for the health consumers of NSW and enhances the Board's capacity to ensure that standards of practice are appropriate. In the Board's experience this consultation and assessment of complaints received by the Board has worked efficiently and in the interests of the NSW public.

Where complaints allege serious deficiencies in standards of practice or conduct and an investigation is required, the Board strongly supports the carrying out of the investigation by a separate body, being the HCCC. A key issue for the Board and for other registration boards has been the timeliness of the investigations and the formal submission of a

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complaint to the relevant Tribunal. It is understood that there are likely to be many factors impacting on the HCCC's management of an investigation and the resourcing is potentially a major challenge. However, it is essential that these more serious matters are brought before the appropriate Tribunal within a reasonable timeframe. The Board is aware that Tribunals for other health professions have dealt with complaints that were initially lodged with the relevant board as much as 4-5 years before. While this is not the norm, it remains a concern that members of the public may feel that "the system has let them down" and members of the profession may regard it as unreasonable to provide definitive responses regarding matters that occurred some time ago.

Overall, the Board is satisfied with both the appropriateness of the assessment and investigative powers of the HCCC and also the information-sharing arrangements in place between the Board and the HCCC. In the Board's view, the current circumstances provide an effective mechanism for dealing with the current level of complaints. Further the Board has not experienced any difficulties with unnecessary complexities in its dealings with the HCCC. It is however acknowledged that this may be an issue for the Tribunals or a factor in the 'in-house' investigative processes of the HCCC.

Sue Hardman  
Registrar  
Physiotherapists Registration Board

8 December 2008