C O R R E C T E D V E R S I O N

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

LEGISLATION COMMITTEE

Inquiry into the performance of the Australian Health Practitioner Regulation Agency

Melbourne — 29 May 2013

Members

Ms G. Crozier	Mr D. O'Brien
Mr N. Elasmar	Mrs I. Peulich
Ms C. Hartland	Mrs D. Petrovich
Ms J. Mikakos	Mr M. Viney

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Witnesses

Dr S. Parnis, President, and

Mr B. Prosser, Director of Policy and Public Affairs, Australian Medical Association (Victoria) Ltd.

The CHAIR — On behalf of the committee I welcome you both this evening and declare open the Legal and Social Issues Legislation Committee public hearing. Tonight's hearing is in relation to the inquiry into the performance of the Australian Health Practitioner Regulation Agency and we have before us Dr Stephen Parnis, president of the Australian Medical Association, Victoria, and Mr Bryce Prosser, its director of policy and public affairs.

All evidence taken at this hearing is protected by parliamentary privilege, as provided by the Constitution Act 1975, and further subject to the provisions of the Legislative Council's standing orders. All evidence is being recorded and witnesses will be provided with proof versions of the transcript within the next week. Transcripts will ultimately be made public and posted on the committee's website.

I now invite you to proceed with a brief opening statement if you wish, and then members will have questions relating to both your submission — thank you very much for providing that to us — and any comments you might make.

Dr PARNIS — Could I say that AMA Victoria supports this inquiry as a means of evaluating the effectiveness of the new national scheme which is now about three years into its life? We think that this is an appropriate time to assess its performance, and in general terms I think the key thing to be noted is that it started off performing quite poorly. That was certainly evidenced in terms of the feedback we received and personal experience I had in terms of colleagues I was working with and the number of hoops and the difficulties they experienced, to the extent of them even being unable to practice while their registration was not clear on the basis of problems that were occurring within the newly formed AHPRA. I should add, though, that with the passage of time the performance of AHPRA has, as far as the medical profession is concerned, improved quite substantially, and I think it is important that that be recognised.

I would like to go into a little bit of detail on some things. The concerns that the medical profession had started, after AHPRA's establishment, with the fact that the registration fee went up dramatically and the service deteriorated. As far as Victorian doctors were concerned, in 2009 we paid $415 each for medical registration. The following year it was $650 — the first year of the Australian or national medical registration. Did that correspond with an improvement in service? Clearly not at that stage, and as I will mention a little bit later in my submission, it put into question something that we have taken for granted and regard as an incredibly important service, and that is the Victorian Doctors Health Program.

With regard to cost effectiveness we were concerned that, certainly in the first year, a number of doctors were unable to verify their registration status; there were a lot of inaccuracies in terms of the way that data was recorded. Doctors were often given forms that were not fit-for-purpose and they often had to do things more than once. Attempts to communicate with AHPRA were frustrating, and that is probably the nicest way I could put it. But as I said, that was, I think, a very common experience in the first year of AHPRA's operation. I would say in terms of our feedback from the profession now that that has dramatically reduced; it is very rare to hear a complaint about the processes that AHPRA undertakes. So that is a good thing.

We noted, I think, the 2011 Senate inquiry into the performance of AHPRA, which had a number of fairly damning things to say. We note that the response of AHPRA, certainly at a national level, was to work fairly closely with the AMA and to take on board a number of our criticisms. Again, we want to acknowledge that and say that things have moved in the right direction.

With regard to the issue of the national scheme, the new legislation protecting the Victorian public, we think that the notion of national registration but state-administered disciplinary processes is very much the right way to go. There have been uncertainties, or transition issues I should say, in the context of the date of reports, resulting in different forms of administration, and that is almost inevitable when you go from an old system to a new one. But the system of having state-based management of disciplinary procedures is a very appropriate one and we strongly support it.

I will briefly talk about the Victorian Doctors Health Program. You may already be aware but it has been functioning since the year 2000. It was established by both the Medical Practitioners Board of Victoria and AMA Victoria. It has been funded directly from registration fees paid by Victorian doctors. As I said, that has been brought into question as a result of the change to national regulation. The role of the Victorian Doctors Health Program or VDHP, if I can abbreviate it, is to provide education and prevention services, early

intervention, treatment and rehabilitation, and to ensure the wellbeing of medical practitioners and medical students — you spend a long time as a medical student. It is also there to encourage research into the prevention and management of illnesses in medical students and doctors, and to allow only identification and intervention for those who are ill and who are at risk of becoming impaired, and that is the way that it protects the public. It is also there to refer and coordinate services and facilitate appropriate support — and 'appropriate' is the key there, I think, for those who are ill, and, where possible, and I would say in the majority of cases, it can encourage rehabilitation, retraining and re-entry into the workforce. By comparison with other models in other states of Australia I think it is the Rolls Royce version of health care in terms of protecting the public, identifying problems that the medical profession may have, and hopefully nipping many of them in the bud before they become a problem.

It has been very successful. The fact is that the work of the health program is increasing each year, and the growth of that service is in referrals both from oneself and from colleagues or friends or family, particularly in the younger members of our profession. I think it is a positive sign — that people are recognising that there is the potential for problems and getting those things dealt with at the early stage.

In that regard it has required, at least in recent years, approximately $500 000 a year to fund, and for the service it provides I would suggest that is a real shoestring. Having said that, with the medical registration fee of $415 in 2009 we knew we had guaranteed funding. From the national system there was three years of funding available, and that was because of the reserves of the medical board of Victoria being allocated by the then health minister, Mr Andrews, to the ongoing function of that program. That ends in one month's time. The Medical Board of Australia has allocated $350 000 for the coming financial year.

Where to from there? The medical board conducted a fairly wide consultation process, and AMA Victoria submitted that we believed the system should continue in its current form, that the funding should continue to come from funds raised out of medical registration fees particularly given that initial very hefty jump of over 50 per cent in those fees. Because this does not just support the profession; this supports the public as well. It is an investment because the public has spent so much money in the training of students into doctors that if a health issue can be adequately dealt with and managed, then that doctor can practise in a society where the need for qualified medical practitioners has never been greater. That is a far better alternative than someone who is unable to practise medicine, or worse still has an illness that deteriorates and which results in a preventable adverse outcome for the public.

We see this as almost self-evident — the role of it. But the concern we have now is that the undertaking of the Medical Board of Australia to funding the health program may result in a potentially lowest common denominator approach. In other words, adequate funding for the less comprehensive services of other states and territories with the net result being that the Victorian Doctors Health Program is unable to continue in its current form, and I think that would be a tragedy. That is probably the key point that we wanted to mention.

The other key point that I think we should mention is the context of mandatory reporting that was introduced in the legislation in 2010. The AMA has opposed that process because we felt that it would undermine the potential for doctors to self-refer to another medical practitioner. What we sought at the time was a specific exemption, which is in place in Western Australia, where a doctor treating a medical practitioner is not legally bound to report on a mandatory basis from those categories if they felt that in the context of that therapeutic relationship they were able to treat, seek improvement or avert the risk of harm to the public and also see that the health issues that that doctor was experiencing — and an example may be alcohol addiction — could be addressed and dealt with. Because the other issue was, of course, that since 2010 as a doctor, if they go to a colleague — and we encourage all members of the profession to have their own medical care, particularly via a GP — and if they feel that that doctor is going to report them, the instant reaction will be to not seek that help. We are concerned about the net effect. That is something we would bring to the committee's attention. I think that is the end of what I would like to say, and I will leave it with you, Chair.

The CHAIR — Thank you very much, Dr Parnis. Mr Prosser, would you like to add anything further?

Mr PROSSER — No.

The CHAIR — Thank you very much for the detailed overview that you have given the committee in highlighting your concerns in relation to some of the issues. Could I get some clarification? In the first part of

your statement you spoke about the national body and about the importance of maintaining a state-based administration process or reporting process.

Dr PARNIS — I suppose I summarised it in terms of the disciplinary process.

The CHAIR — Disciplinary process, thank you.

Dr PARNIS — The key positive that I probably did not emphasise enough was that it is a welcome thing that as a medical practitioner now I can practise anywhere in the country without needing to go through the hoops that I have needed to go through in the past, and I have worked interstate. That is a very positive and good thing, and we would not want to see us step back from that achievement.

The CHAIR — Thank you for that clarification. Just in relation to the VDHP — that is probably your major concern — and the significant increase in fees that has occurred since the introduction of AHPRA, how do you think members will feel about a further increase — it is over a 50 per cent increase now — if they need to support such a program into the future?

Dr PARNIS — The feeling of AMA Victoria was quite uncompromising on that. They felt that, given the fairly significant jump in fees, within that total pool of funding there should be the ability to fund the program without any extra levy. To that end we have called for increased transparency in the administration of the finances of AHPRA. One of the concerns that the medical profession has had is that we clearly, by a long way, have the highest registration fees. The whole context of medical registration is that the state medical boards prior to the national body were all over 100 years old, all pretty much having been established in the 19th century, and they had developed real expertise. There are a number of categories. You go from student registration to provisional registration to general registration to specialist registration. Then there are special categories as well. There may even be temporary categories for registration.

We know that that is, by its nature, going to be more comprehensive than other professions have been, but we were concerned, given the relative opacity, I think, of the way the finances were being administered, at least as far as the profession was concerned, that we could not tell whether that money was being confined to the medical profession administration or whether that was cross-subsidising other health professions.

We believe there has been some improvement in transparency, and we look forward to seeing more of that. As I said, I think AHPRA has made some real progress over the last two to three years in terms of its performance, and I think financial transparency is one of those improvements. Your key point about the medical profession accepting another levy to do that — that would be a definite no.

Mr VINEY — Thank you for your contribution. Can you just advise me what negotiations have occurred with AHPRA in terms of the Victorian Doctors Health Program? Where are those discussions at in terms of how they perceive the program being maintained in the future?

Dr PARNIS — From our perspective, and we have a close association with the doctors health program as one of the founding members, is that it has been characterised by some uncertainty. We are aware that that $350 000 was pretty much a lifeline to the organisation. It does not answer the question of a 30 per cent shortfall in previous years' budgets and how that would impact on services. Again our understanding is that while the announcement from the medical board, because I think it was the medical board — the terms AHPRA and medical board are used interchangeably by so many in our profession — is that the announcement of ongoing funding for the doctors health funding is a positive but the detail really matters. The fear is — and we do not really have any detail for or against this — that the quantum allocated will not be enough to support the service in the form that it currently exists.

Mr VINEY — Are there ongoing discussions about this?

Dr PARNIS — Yes, indeed. There are a number of areas where the medical board, in particular its chair, have been having discussions. I am not privy to the latest discussions between the doctors health program — which is an independent body of course — and AHPRA or the Medical Board of Australia; the latest details are really the ones I have just given.

Mrs PETROVICH — Thank you for your detailed submission. Just further to that context around operating budgets, when you have so many categories of fees — which are obviously fairly complex — do you have a reporting mechanism which reports on the allocation of those fees, and is there enough transparency around budgets, allocation, audits and reporting around that collection and use?

Dr PARNIS — In general terms I would say that my reading of the information disclosed early on was that it was inadequate. But in terms of ongoing discussions and our perspective we are certainly pleased with the information that we have received about that detail, so our level of confidence about the concerns that we have — things like the fear that the money was leaking away from the administration of the profession — is getting there. Are we at the point where the members of my profession who are expert at assessing the finances are satisfied? I think we are heading in that direction. I think the direction is going the right way.

Mrs PETROVICH — So it is going the right way. Are we a way off before we have a satisfactory outcome?

Dr PARNIS — I could not give you a time on that, but it certainly would be an issue, because it lends itself to this question: if, within the current budget that AHPRA has as far as the medical profession goes, there is only so much that can be allocated towards the health programs, then it begs the question — and doctors are problem solvers — where could that money be sought from other areas of that budget? But as I said, the contingency that we have is that if you have gone up almost 60 per cent in one year, then the service that was set in stone prior to 2010 should be even more secure. The fact that it is not is a problem that needs to be solved — not by getting more money from the medical profession.

Mrs PETROVICH — Obviously you ask questions. How is this reported to your association?

Dr PARNIS — The performance of the health program or AHPRA's performance?

Mrs PETROVICH — AHPRA's performance.

Dr PARNIS — I know we received correspondence emails from the Medical Board of Australia. Other than that I might ask Mr Prosser if he has any other information.

Mr PROSSER — Yes, I think that is our concern. There is not enough transparency. We need to know where the money is going, where it is allocated, in which professional bodies and where it is actually going to. That is why we are calling for more transparency.

Mrs PETROVICH — So you would say that there needs to be an audit process, some KPIs around that and some regular reporting on those allocations?

Mr PROSSER — That is right. I think that federally AMA is in conversation with AHPRA at the moment to try to progress that, so I think they are on the path of coming to an understanding and getting some clarity, but we are a way away from that at this stage. I could not tell you how far. We are certainly heading in the right direction, but there is still some way to go.

Mrs PETROVICH — Thank you very much.

Mrs PEULICH — Mr O'Brien has a related question.

The CHAIR — Thank you, Mrs Peulich. Mr O'Brien.

Mr O'BRIEN — Thank you for your evidence. Just following that line, it seems to me that in a sense you have a before case of these efficiencies, because of the way the various organisations were conducted for 100 years. I can obviously see the benefits of the national registration, but you are talking about other aspects of the national scheme that you think are not delivering value for money. Are you prepared or have you documented how it was previously conducted as efficiently as you like, with the fees, in terms of your previous budgets and then sought and obtained — if you have not obtained or sought it — a breakdown of the comparison within the AHPRA budgets?

Dr PARNIS — We have not. I say that because we were particularly interested in outcomes. The key outcomes from the profession's perspective were: what is happening to the registration fee and what is

happening to the services that it provides? I have been a medical practitioner for 20 years now, and I do not ever remember the fee taking a quantum leap. It was always a relatively small progression pretty much each year, I think. There was feedback about the doctors health program, which was established 13 years ago. There was always feedback on the operations of the board. I do not particularly remember looking at the finances as an individual, and I would suggest most doctors did not. They were more interested in the issues like transparency about the changes to structures that occurred.

We remember the change where VCAT was starting to be involved in the process when non-medical practitioners became a part of the medical board. But also the thing that most of us were aware of was this issue of transparency about hearings processes, because as medical professionals what we were interested in was where the problems were so that we could learn from those and also to see the cases, which went from relatively minor categories that were dispensed with, to the more serious ones, and the ultimate sanction, which was the cancellation of registration. They are the sorts of issues that are at the front and centre of our thinking. The financial issues really only became a key concern when we saw the big jump and the risk being posed to what we consider to be an essential service.

Mr O'BRIEN — I am just try to focus on that if I could, because it seems to be the case you make in your letter where you say:

> Under the previous state and territory boards there was a surplus of funds despite the registration fees being approximately 50 per cent less … Despite this surplus being transferred to AHPRA as part of the national contribution, the registration fees for medical practitioners increased markedly.

The obvious question is: why? If you are paying more, obviously there is a registration — —

Dr PARNIS — We were not happy with the answers we got back in 2010 about that.

Mr O'BRIEN — Lastly, have you provided how you used to do it? Let us take registration fees by doctors. I am paying, say, $500, and so much goes into various different parts of the budget. Now I am paying $600; can I not find a breakdown of where that has gone?

Dr PARNIS — With respect, it is the Victorian medical board, which was an arm of government, that had responsibility for that. It was not the medical profession itself.

Mr O'BRIEN — But I am talking about the information. Has it been obtained to get to the bottom of why there has been an increase in fees but a potential reduction in service?

Dr PARNIS — I am not aware if that is case.

Mr PROSSER — Yes. It gets back to transparency. We have not seen it, and we are not sure where it has come from. You have seen the jump, but again you are going to nationalised system. There will be cross subsidies; there will be higher fees — probably administrative costs. But again, if you are taking all of the other states, pulling them together and providing the same services — and maybe not the same services with VDHP in Victoria, that is a concern and that is the concern that we have — —

Mr O'BRIEN — Ideally, there should be efficiencies.

Mr PROSSER — Exactly. That is why we need the transparency to see where that money is going.

Mr O'BRIEN — Are you happy? Because that is the only way I can see it, the before-and-after scenario, to find out what was conducted efficiently. If you can provide that breakdown, then we can ask AHPRA where that money has gone. Is that a process to engage in?

Dr PARNIS — We would welcome an assessment of that, but I think that those things would be at the behest of government and its statutory authorities, not part of the medical profession.

The CHAIR — I think Mr O'Brien is just trying to get on the nut of this issue about the allocation of moneys and how that money was allocated in the registration process pre and post-AHPRA, but if you cannot comment on that now or if you would like to take it on notice and come back to us with a more detailed answer, that would be fine without going through many documents.

Mr PROSSER — I think the only difficulty we have is that, like I said, we have got the Victorian system, the Victorian medical board. You are talking about cross country; we are AMA Victoria. Again, finding the details for every single state and territory is the difficulty.

Mr O'BRIEN — No, you could document the Victorian case, you could then provide that to us and then we could ask AHPRA to see how that correlates.

Mr PROSSER — That is possible. We can take that on notice.

The CHAIR — Thank you. If you would not mind taking that into consideration, we would appreciate it.

Mrs PEULICH — I apologise for not being here for the presentation, but perhaps just a follow-up on the direction of questioning that is now being considered. On page 2 of your submission you state that the potential for the national scheme to enhance the registration system for health practitioners is significant, but towards the end of the submission on the last page under 'Next steps' you float the idea of returning to a state-based registration system. Are you able to tease out your position?

Dr PARNIS — Sure. I will just read that last bit, but certainly I stand very much by that point that we can see economies, efficiencies and advantages to having a national body. It would not be our preference to return to state-based administration; we would see that as a regressive step. Again, having said that, we think that the current system of state-based administration of the disciplinary aspects of registration is a good one and appropriate. It works very well.

This is really, I suppose, saying that if that is where the state chose to head, we would not be happy with it, but again what we are saying is you would want to consider the pros and cons. You would look at the risks and you would look at the opportunities. We would think from where we sit here and now that many of the teething problems — not all — have been overcome, that there are advantages and that there is still some way to go, but overall we would not want a return to a series of seven or eight state and territory bodies that act relatively independently of each other.

The CHAIR — Could I follow up on your question, Mrs Peulich? What are the teething problems that have not been overcome as yet?

Dr PARNIS — I think the principal one is the issue of —

The CHAIR — The VDHP?

Dr PARNIS — the VDHP, and as I said, the question about the financials and seeing that that continues to head in the direction of transparency and accountability.

The CHAIR — Would you just see that disciplinary action that you talk about at a state-based level as a duplication process in any form with AHPRA?

Dr PARNIS — No, and I say that because it happens in each state and it happens in parallel, but it is not being duplicated because you are not going to have that dealt with in two jurisdictions or by two separate bureaucracies. I would say no to that.

Mr O'BRIEN — For further elaboration, if you like, you mentioned that the state-based disciplinary model is preferable in your opinion. Could you please elaborate on why you say that?

Dr PARNIS — It is closer to the people involved, it is closer to the population and it is closer to the affected people, or should I say the affected practitioners. These things can go on for years. It is sort of beyond the purview of this discussion, but it is a huge burden on a practitioner, even if they are exonerated. If you look at most investigations from the beginning and you include the health services practitioners, most of them are dealt with relatively quickly and in a straightforward manner. They are often on the basis of issues to do with communication. It is a positive thing that they can be dealt with to the satisfaction of the aggrieved parties and hopefully allow that practitioner to get on with things. If there was an issue, then they can hopefully address it, because most of these are not capital crimes, if you like.

It has worked well. The liaison between the medical board and the health services commissioner has been a positive one over the years that it has been in place in Victoria. I cannot remember how long the health services commissioner had — it was her role, but obviously she has moved on to other things now. That is a good thing; when something works well, you do not want to lose it.

Mr O'BRIEN — It is important for local and state knowledge in certain areas, and you say the disciplinary area. Are there any other areas — you talked about finance in a sense perhaps being at this stage better run in your earlier evidence. Are there areas we need to think about where you think it is the best place for the state to deliver?

Dr PARNIS — I would make a positive comment and say that the availability and the accountability of the people involved at state level is a good thing. As a profession we know that we have got the ability to channel our concerns, and I think that has proven itself in that we presented that large number of concerns we had over 2010 directly to the Victorian part of AHPRA. They have learnt from those things, and that is a good thing, so I think there is confidence between the profession and the bodies that do this job. Obviously there is always a degree of tension, because it is a form of check, regulation and potential threat, but we recognise it is an absolute necessity, and we think that by and large the system as it is is good.

Mr VINEY — I know that Ms Mikakos wanted to ask some questions, which clearly she is unable to do. To be frank I do not know the detail of her questions, but I invite you to comment on the issue of overseas-trained doctors and whether the process with AHPRA has — you have commented that over time there has been an improvement in terms of the way these things are working generally for your profession. Your submission does not deal with it, but I am inviting you to make some comment if there is any experience out of the management and handling of overseas-trained doctors through this process? Has it improved?

Dr PARNIS — It is an incredibly complex area, and that was the case well and truly before the national board came into being. Why is that? Because you want to have the balance of protecting our society. As a medical practitioner you have the ability to do things that in most other contexts would be considered to be assault. You are privy to things that are very intimate, that involve the highest level of ethics, respect and power that you have over your patients because of the vulnerability they have. That is the risk of protection.

By the same token, there are people who come from other parts of the world, and how do you compare our system, our standards and our way of doing things with literally a world of medical training, a world of different ways of doing things? That has been the challenge not just for the medical boards of Victoria and Australia but also for the colleges that have responsibility for each of the specialist areas, because often the colleges have a role. I am an emergency physician, so it would be for my college to also have a role in assessing and liaising with the medical board whether someone coming from another country — any country — has qualifications that are comparable with what we have here.

The workforce imperatives are profound, so for at least the last 10 to 15 years we have been making it our mission as a country to call doctors from other parts of the world. We have needed it, but to speak of the ethics of taking doctors from countries where the need for medical services is often much greater than ours is a different one. I do not have that figure, but again it would be interesting to know whether the disciplinary proceedings that have taken place at the medical board involving doctors who have received recognition of overseas qualifications is any different to Australian doctors. I honestly do not know. This is a question I believe you may have asked, Ms Mikakos.

Ms MIKAKOS — Yes. I might need a prescription on the way out.

Dr PARNIS — My office is down the road. It is a complex area. In general terms the number of overseas doctors coming into Australia to work now is less than it was. We face a separate issue now where there are so many doctors being trained but we have concerns about their ability to train through to independent practice. There will always be. The medical profession is even more a part of the global community than Australia is. We have interchange with our colleagues. Most of the Australian colleges are dual country — they have Australian and New Zealand members — so the international aspect of the profession and its regulation is an important one. We have had interchange only in the last week with colleagues from the British Medical Association and a number of Asian associations, talking not only about a number of clinical issues but also about issues to do with the regulation of the profession as well, because what happens over there often comes this way or vice versa.

Mr VINEY — In your experience has there be an improvement, or any change at all, in relation to the handling and management of overseas-trained doctors and their registration in Australia? If you do not have a comment, that is fine.

Dr PARNIS — The only comment I would make is that each case forms a precedent, so if someone comes from a particular medical school and has a particular background, that lends the examining authority — whether it is the college or the medical board — to understand something more of where they have come from. That is the best I could probably say.

The CHAIR — I do not believe there are any further questions, so on behalf of the committee I thank you both, Dr Parnis and Mr Prosser, for your attendance this evening. We appreciate your time, and your evidence has been most helpful. Thank you again.

Committee adjourned.