COMMISSION OF INQUIRY NO. 1 OF 2005 MEDICAL BOARD OF QUEENSLAND

This is the annexure marked "JPO-9" mentioned and referred to in the Statement of JAMES PATRICK O'DEMPSEY dated this 17th day of May 2005.

Induction Workshop

Medical Board of Queensland

7 December 2004



Introduction and Objectives

The aim is to promote your understanding of five key matters.

- The legislative scheme (both primary and secondary).
- Role and function of the Board.
- Role and responsibilities of members.
- Role and functions of the Office.
- The budget process and content.

The Legislative Scheme

There are three key Acts and a raft of secondary

- gislation. The *Boards Registration Act 2004* and
- Regulation
 The Health Practitioner (Professional Standards) Act 1999
 The Health Practitioner Regustration Bos (Administration act 1999

Secondary Legislation

- Crime and Miscondurt Commission Act 2001 and Eppile Sector Solid Me2 (4094) Fam required to refer that has to the Commission where any action by promotions or Office staff may involve functionable.
- A code of conduct for Board members has been
- This scoop is you full a price of sager, it has been applied during the East thou as a sec.

Secondary Legislation

Financial Administration and Audit Act 1977 and Financial Management Standard 1997

- This act and regulation govern the financial management and reporting requirements of the departments and statutory authorities.
- The act requires each agency to have an approved FMPPM,
- This manual establishes the control and accountability systems within the operations of the Board and the Office to meet best practice in governance.
- Public v registrant funds

Secondary Legislation

Freedom of Information Act 1992

- This Act gives everybody a legally enforceable right to access documents held by the Office on behalf of the Board.
- The FOI decision maker is Mr Posner, Information Coordinator.
- The Executive Officer is the decision maker for internal reviews.
- 45 applications 5,837 documents 5,360 released 5 applications for internal review 2 for external review.

Secondary Legislation

Judicial Review Act 1991

- · This Act gives the public the right to request the reasons for a decision which adversely affects them and to seek a review of the decision in the Supreme Court.
- · Adverse decisions require information notice under registration Act - same form as statement of reasons.
- · Appeal rights v judicial review.

Secondary Legislation

Statutory Bodies Financial Arrangements Act 1982

- · This Act establishes the boundaries on the investment, and borrowing activities available to the Board.
- An investment policy consistent with this legislation has been approved by the Board.
- Policy maximises interest revenue while maintaining access to funds.

Secondary Legislation

Mutual Recognition Act 1992

- This Act provides for the registration of applicants who hold current registration in another participating jurisdiction.
- All States and Territories in Australia are participating
- Junsaictions.

 The Trans Tasman Mutual Recognition Act 1999 does not apply to the medical profession.

 AHMAC Working Party established to simplify mutual recognition deemed registration, consistent categories of registration, Australian Index of Medical Practitioners competency-based renewal consistent public access.

Board Role and Function

- The Board is established under s9 of the Registration Act 2001.
- Primary purpose of the Board is to achieve the objectives of the Act (s7), which are:

To protect the public by ensuring health care is delivered by registrants in a professional, safe and competent way.

To uphold the standards of practice within the profession.

To maintain public confidence in the profession.

Board Role and Function

In performing its role the Board has certain characteristics, which are:

- Board is a body corporate which may sue and be sued in its corporate name (s9).
- . Board does not represent the State (s10).
- Board is limited in its role to the functions detailed in s11 of the Act.
- In performing these functions the Board must act independently, impartially and in the public interest (s12)

Board Role and Function

- 'Public interest' is a commonly used term and we all have a general sense of its meaning.
- The public could be described as all actual and potential users of health care services.
- 'Public interest' is best described as all such individual users and potential users pooling together their personal interests and acting together to pursue quality professional services to their mutual advantage.

Board Role and Function

- The results of this pursuit is legislation which assures them of safe and competent professional practice.
- Maintaining the public trust is essential for any profession that wants to keep the privilege of selfregulation.
- Self-regulation in this sense means that, with effective public input, professional groups govern themselves.
- · Self-regulation is not a right but a privilege.

Board Role and Function

- Society, in effect, contracts with the profession to regulate its own members in order to protect the public from harm.
- This contract means that the profession is bound by the ethical principle of 'doing no harm'.
- In addition to this the Board should also be concerned with 'doing good'.
- This requires the Board to take proactive steps to encourage quality practice not just minimally safe care.

Board Role and Function

In meeting the objectives of the Act the Board has a number of functions detailed in ST. of the Act.

These functions afficulated as services are as follows:

- Registering applicants for gare of or criticalist registration who are granting and competent to practise (divisions 1.5 and 9).
- Annually renewing the registration of those registrants who have recently of practice remisions stand 9).

Registration Services Part 3 of the Act

- · Restoring the registration of those who fail to renew their registration (divisions 5 and 9).
- · Canceling the registration of registrants under limited circumstances (divisions 6

Registration Services

- Reviewing conditions of registrants (divisions 7-8 and 9). Reviewing conditions of registratus (curvision 7-8 and 9).

 Registering special purpose applicants for:

 postgraduate study or training (6.132)

 supervised training to prepare for clinical examination (s.133)

 medical teaching or research (s.134)

 reductice in an area of need (s.135)

 study or heiding to obtain a dualification in a specialty (s.136)

 practice in the public interest (s.137)

 practice in general practice (s.138)

Registration Services

- Renewing special purpose registration for those who continue to meet the qualification and fitness to practise requirement (division 10).

 Registering those who are eligible for non-practising registration.

 Non-practising registration is defined as meaning the cessalfon of all medical practice activities including, but not limited to, the writing of remunerated or unremunerated prescriptions or specialist referrals.

 Establishing and maintaining a register—ReGIS (Part 9).

Practice Standard Services

- · Developing or adopting programs for the continuing professional education of registrants (s11 and s266).
- · Developing or adopting training programs in the practice of the profession (s11).

Practice Standard Services

- Informing registrants and the public about the operation of the legislative scheme (s11 and Part 4):

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Professional Standard Services

Structure for dealing with professional standards established in *Health Practitioner (Professional Standards) Act 1999* (246 pages and 404 provisions).

This Act has the same objectives as the Registration Act with two additions, being:

To provide a uniform system to deal with complaints, investigation and disciplinary proceedings relating to registrants, and the management of impaired registrants.

Professional Standard Services

 To provide a system to deal with complaints about registrants that is complementary to the Health Rights Commission Act 1991.

The Act provides a range of functions to the Board which are as follows:

 To receive complaints about its registrants and, if appropriate, refer the complaints to the Commissioner (assessment; s.48; s.51; s.53; s.54; s.63).

Professional Standard Services

- To consult and cooperate with the Commission in investigating and disciplining its registrants and in relation to complaints about impaired registrants.
- To immediately suspend, or impose conditions on, the registration of its registrants if the registrants pose an imminent threat to the well being of vulnerable persons (s.59).

Professional Standard Services

- To conduct investigations, whether because of complaints or on its own initiative, about the conduct and practice of its registrants.
- To deal with disciplinary matters relating to its registrants that can be satisfactorily addressed through advising, cautioning and reprimanding (Board level disciplinary action by Committee or by correspondence).



Professional Standard Services

- To bring disciplinary proceedings in relation to its registrants before panels or the tribunal (second and third tiers of disciplinary bodies).
- To implement orders of panels or the tribunal relating to the Board's registrants.
- To establish health assessment committees to assess the health of registrants who may be impaired and make decisions about impaired registrants.

Professional Standard Services

- To monitor its registrants' compliance with conditions imposed or other disciplinary action taken, or undertakings entered into, under this Act.
- To cancel or suspend, or impose conditions on, its registrants' registration as a result of action taken under foreign law.

Professional Standard Services

- To consult and cooperate with other Boards, foreign regulatory authorities and other relevant entities about the investigation and disciplining of its registrants and the management of its registrants who are impaired.
- To exercise other functions given to the Board under this Act.

In this section of the workshop I will address the role of members, conflictentiality requirements, conflict of interest requirements, delegations, representation issues and approaches to members.

Members Roles and Responsibilities

- The role of the chairperson is to lead and direct Board activities.
- Responsibilities of the chairperson include the following:
 - Setting the Board agenda in consultation with the executive officer and / or assistant registrar.

- Facilitating the flow of information and discussion at the Board meeting.
- Conducting Board meetings and other business.
- Ensuring the Board operates efficiently and effectively.
- Liaising with, and reporting to, the Minister.
- Reviewing Board performance.
- Supporting Board members in their performance.



- The collective role of the Board is predominately to:
 - (a) set corporate direction and goals
 - (b) oversee the plans of Office staff to achieve these goals
 - (c) review progress at regular intervals; and
 - (d) make those decisions required under the legislation.

Members Roles and Responsibilities

- Members are required to:
 - Familiarise themselves with their legal and statutory obligations.
 - Take reasonable steps to ensure that they are informed about the business of the Board to make informed decisions.
 - To be collectively responsible for Board decisions and to support and aghere to all such decisions.

- To exercise a dissenting view on particular decisions and have that view appropriately minuted.
- Cannot be absent without the Boards permission from three consecutive meetings.

- Confidentiality requirements are quite stringent.
- S196 of the Registration Act places a legal onus on members not to disclose information gained as a member unless the disclosure is provided for in this section.
- The maximum penalty should a member be found guilty of breaching this provision is 100 penalty units (currently \$7500).

Members Roles and Responsibilities

- S35 of the Registration Acts establishes a legal onus for members to disclose their interests in a matter being considered or about to be considered by a Board or a committee.
- It is clear from this section that the government expects that members are required to declare their conflicts and for the Board to make an informed decision about whether the member can take part in making any decision about the matter.

- S14 of the Registration Acts 2001 and s12 of the Health Practitioners (Professional Standards) Act 1999 enables the Board to delegate some of its powers and restricts the delegation of others.
- Delegadon marella have been developed uncer he Financia Augustration of A. Ulf Act 1977 and the Figure Practitioners (Professional Standards Act 1977)
- Work is the derivay in developing a delegation for the thirden registration Acis.

- In being appointed to the Board, members do not and cannot represent particular interest groups or government (ss10 and 12).
- The Fireman's Decision clearly articulates the duties of members.
- This decision, by Justice Street, made a number of comments which informed the duties of all members. These are as follows:

Members Roles and Responsibilities

- A member will be derelict in their duty if they
 use their membership as a means to promote
 the particular interests of any group which
 nominated them.
- The object of providing for interested professional or consumer groups to nominate members is three fold:
 - (a) One can be confident that an interested group will select a person whose personal attributes equip them for membership.

- (b) it promotes the confidence of that group in the Board.
- (c) it ensures that the Board as a single entity has available in its deliberations the views of the nominating groups.
- The presence of the second and third elements necessitates the highest standards of integrity in a member, both in thoughts and actions.

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- The consideration which must govern each member in Board affairs is the advancement of the public purpose for which Parliament has established it.
- A member must never lose sight of this governing consideration.
- In accepting membership on the Board, a person accepts the burdens and obligations of serving the community through the Board.

Members Roles and Responsibilities

- This demands constant vigilance by the member to ensure that they do not in the smallest degree compromise of sorrender the integrity and independence they must bring to Board affairs.
- There will always be different as in the opinions, approaches and philosophies of members.
- The predominating element which each individual must constantly bear in mind is the promotion of the public interest and the interests of the Board.

- Approaches to members made by registrants who are subject to a complaint or an investigation are problematic.
- Legal advice on such approaches has indicated that generally these are neither desirable nor appropriate given that:
 - (a) it could place the member in a potential position of compromise.
 - (b) the process for dealing with complaints and investigations is clearly set out the HPPS Act 1999 and is a statutory requirement.

- · Given this advice:
 - (a) where such approaches are made to members on matters not related to complaints/investigations, the Board should be provided with any relevant information conveyed.
 - (b) where such approaches are made to members on matters related to complaints/investigations, the member should advise the person that it would be a breach of the legislation to discuss the matter with them.

Members Roles and Responsibilities

- Members are appointed on terms established by Governor in Council.
- Remuneration is established in schedule B of the appointing instrument (a copy of which has been circulated).
- Travel allowances for vehicles are as per directive 07/03 (a copy of which that been circulated).
- Accommodation in today and sand business phone calls is as per directive sand a copy of which has been circulated).

- Please note that purchase of alcohol is strictly prohibited under the relevant directive.
- Frequent flyer points obtained on Board business may only be redeemed for Board business (a copy of the guidelines for frequent flyer schemes has been circulated).

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Office Role and Functions

- · The Office is established under the Health Practitioner Registration Boards (Administration) Act 1999.
- The Office is a statutory authority directly responsible to the Minister for Health.
- The Office is established to provide the administrative and operation support necessary or convenient to help all thirteen Boards to perform their functions.

Office Role and Functions

- S22 of the Act establishes that the Office must provide this support under a Service Agreement which must include the following:
 - (a) details of the services to be provided
 - (a) details of the synthetic provided
 (b) the amount payable by the Board for these services.
 (c) how the amount payable is to be calculated.
 (d) how the amount payable is to be paid

Office Role and Functions

- (e) an arrangement by which the Executive Officer reports to the Board for monies collected, managed and disbursed for the
- (f) an arrangement by which the Executive Officer reports to the Board about the Office's performance under the Agreement.
- (g) the term of the Agreement and how it may be varied.

Office Role and Functions

- The Office is a public service agency under the Public Service Act 1998 and the Executive Officer is the Chief Executive Officer for the purpose of this legislation.
- The Executive Officer has the following responsibilities:
 - (a) ensuring observance of all legislation within the legislative scheme.
 - (b) maintaining proper internal controls and management information systems.

Office Role and Functions

- (c) managing the budget of the Office and the Board.
- (d) operational, administrative and marketing functions.
- (e) communication to and from the organisation.

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Office Role and Functions

- The services provided by the Office are detailed in the Service Agreement which is available on request.
- · Broadly these services are:
 - (a) Registration services
 - (b) Complaints management services
 - (c) Health Assessment and Monitoring services

Office Role and Functions

- (d) Board meeting support services
- (e) Professional advice and support services
- (f) Corporate support services

Office Role and Functions

- Under s23 of the Act the Board must obtain all its administrative and aperational support from the Office unless it can be demonstrated that the Office is incapable of providing the service.
 Under s33 of the Act a statutory review of the functioning of the egistation was recently undertaken by the Minister.

Budget Process and Content

- All amounts received by the Board are paid in to its funds and must only be applied for the purposes of the legislation (s38).
- The budget is made up of three parts being direct Board costs, salary related Service Agreement costs and non-salary related Service Agreement costs.
- The budget is based on recurrent activities and the Operational Plan for each year...

Budget Process and Content

- Monthly financial statements including a budget variance report are provided to the Board.
- The major source of revenue is the Annual Registration Renewal Fee.

Budget Process and Content Liste LL Grasses Adaus Fee Incine Fee

Registration Services

To implement the approved Plate from the Business Process Review of registration services.

To develop and implement a strategy for monitoring compliance with conditions reposed under the registration Acts.(NB. tices not reclude probationary conditions)

Operational Objectives 2004-2005

Registration Services

To jointly develop and implement standard processes for dealing with breaches of the registration Acts.

To develop and implement an information kit for new medical registrants.

To progress the AHMAC Working Party initiative for enhancements in mutual recognition.

Operational Objectives 2004-2005

Professional Standards Services

To finalise implementation of the approved recommendations from the Complaints and HAM Review Project as follows:

(a)final drafting, design and printing of policy information sheets and complaints brochure;

(b)develop expert witness register; and (c)complete all required templates.

Professional Standards Services

To implement Version 1 of the Professional Standards Module.

To finalise the review of administrative procedures and protocols.

To improve our processes and co-operation through effective communication with related organisations.

To review the role and responsibilities of investigators.

Operational Objectives 2004-2005

Professional Standards Services

To develop and implement processes and protocols (including an information package) for Board level disciplinary hearings.

To develop and implement a strategy for monitoring compliance with undertakings, conditions, and suspensions initiated under the Health Practitioners (Professional Standards) Act 1999.

Operational Objectives 2004-2005

Professional Standards Services

To develop and progressively implement a stakeholder education strategy.

To finalise the reduction of the investigation backlog and to establish an ongoing strategy for management of future caseloads.

Health Assessment and Monitoring Services

To finalise implementation of the approved recommendations from the Complaints and HAM Review Project as follows: At final drafting, design and printing of policy information sneets and HAM brochures; (b) negotiating and implementing legislative amendments.

To implement Version 1 of the Professional Standards Module.

Operational Objectives 2004-2005

Health Assessment and Monitoring Services

To develop and progressively implement a stakeholder education strategy.

To enhance administrative procedures and protocols.

Operational Objectives 2004-2005

Policy Development and Statutory Compliance

To finalise development of a policy position on 'Recency of Practice' and prepare an implementation strategy.

To finalise development of an integrated communication strategy for all Boards suscifically addressing newsletters and the recesse of standards/guidelines developed or adopted by the Boards.

Policy Development and Statutory Compliance

To assist the Boards in implementing any requirements identified from the Board governance self-assessment.

To inform, negotiate and implement amendments to the Health Practitioners (Professional Standards) Act 1999 and the registration Acts.

To inform, negotiate and implement a realistic policy for fees established under the Regulations of each registration Act.

Operational Objectives 2004-2005

Policy Development and Statutory Compliance

To schedule and undertake reviews of service standard measures

To commence a review of services to ensure they are accessible to all ethnic communities.

To continue to develop and implement strategies to improve the work environment and enhance intra Office communication.

Operational Objectives 2004-2005

Corporate Support Services – Human Resource Management

To develop a procedure manual for each position in the Corporate Sarvicas Unit.

To review and enhance the induction policy and procedures with a specific focus on induction in each Unit).

To refine and focus staff development and training.

Corporate Support Services – Financial Management

To evaluate the internal audit function including the need to establish an internal audit committee.

To develop and implement financial systems appraisals.

Operational Objectives 2004-2005

Corporate Support Services – Financial Management

To implement all requirements of the International Financial Reporting Standards.

To evaluate the five year financial modelling and its integration with the budget.

Operational Objectives 2004-2005

Corporate Support Services - Records

Management

To finalise implementation of the approved recommendations from the records management evaluation project.

To finalise the review of the role responsibilities and organisation of information management.

Corporate Support Services - Information Technology

To implement the approved recommendations retating to REGIS from the Business Process Review of registration services

To establish a portal server to enable delivery of on-line corporate services.

To develop and implement policy and procedures for archiving of electronic documents.

Operational Objectives 2004-2005

Corporate Support Services – Information Technology

To evaluate the telephone system and propose costed options for enhancement of client services.

To continue implementation of the Project for an integrated website for the Boards and the Office.

Statistics 2003-2004

Table 1: Funds Provided by the Boards Under the Service Agreements 2002-2003; 2003-2004; 2014-2006

Board	Service	Service	Service
A Service of the late of the service.	Agreement Funding	Agreement Funding	Agreement Funding
The second second second	2002-2003	3003-3084	2004-2006
Chiropractors	69928	89002	82853
Dental	369324	438146	450054
Dental Techniciens and Dental Prosthetists	62712	78576	81069
Medicul	2401104	2696626	2908127
Medical Radiation Technologists	212300	216715	228712
Occupational Therapists	101478	97626	99170
Optometricis	68912	88508	71827
Osteopeths	37646	36386	29630
Phermecials	397684	379406	441598
Physiotherspists	215584	188046	178013
Podiatriets	48980	41224	40594
Psychologists	660692	629080	671740
Speech Pathologists	114580	107036	102880
TOTAL.	4880884	6050878	5384067

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Table 2: Number of Registrants	an at 20 tuma	2004 2002	2002 and 2	004
Table 2. (Addition of Megistratite	as at 50 Julie	2001, 2002,	2003 alia 2	004
Register	2001	2002	2003	2004
Chiropractors*		550	568	616
Chiropractors and Osteopaths*	575		100	-
Dentiats	1970	2017	2141	2282
Dental Specialists	212	226	235	257
Dental Technicians	626	658	684	709
Dental Prosthetists	146	142	143	144
Medical Practitioners**	8081	8231	8512	8696
Medical Practitioners and Specialists**	3635	3931	4023	4216
Radiation Therapists***			207	232
Medical Imaging Technologists***			1350	1505
Nuclear Medicine Technologists***			64	91
Occupational Therapists	1315	1429	1545	1695
Optometrists	695	726	776	824
Osteopaths*		86	80	83
Phermacists	3456	3590	3712	3893
Physiotherapists	2678	2809	2908	3104
Podiatrists	300	324	343	374
Psychologists	2854	3073	3302	3579
Speech Pathologists	814	837	862	940
TOTAL	27357	28629	31455	33239

| Statistics 2003-2004| | Table 3: New Registrations Approved in the Period 1 July 2003 - 30 June 2004 | | Register | Trans-Tesmen Mutual Recognition (Australia) | Non Mutual Recognition | Non Mutua

1 - July 2003 - 20 June 2004 1 - 2003 1 - 2004	Processor Proc	Statist	tics	200	3-20	004	
		Table 4: Number and Type : 1 Ju	of Meetings uly 2003 – 30	Serviced b June 2004	y the Office	In the Period	
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cel 22 1 64 4 91 celorium Thompsies 13 - 7 - 20 celorium Thompsies 11 5 4 - 20 central 9 - - 9 - - 4 copietrs 9 - 1 3 3 3 3 colorium color 10 - 10 1 0 1 0 1 3 13	cale 22 1 64 4 91 color Rediation Technologies 13 - 7 2 20 qualification 11 0 4 - 20 coparts 4 - - - 4 coparts 9 - 1 3 13 sochianzipite 10 - 10 1 21 sittine 0 - - 6 - 6	Dentel					
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	ations 8 6	Pharmacists	9			3	13
		Physiotherapiels	10	da bela	10	1	
	Highwigte 19 39 3 47	Podatilata					
		Psychologists	12	34 (A. 46 (A.)	32	3	

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Old	tistics	s 20	03-2	004	
Table 5: Complain (Pro	ts* and investig fessional Stand				
Board	Number of Investigations as at 1/7/03	Number of Complaints' Received to 30/06/04	Investigations	Number of investigations Completed to 30/06/04	Number of Investigations as at 30/06/04
Chiropractors	5	13	2	3	4
Dental**	19	33	5	18	6
Dental Technicians and					
Dental Prosthetists	::41	6	en nie belie • i	San San San 🔸	0.00
Medical***	233	232	37	96	****175
Medical Radiation		-			
Technologists					
Occupational Therapists		2	1	1	
Optometrists		. 1		•	•
Ostropaths			1		1
Pharmacists	11.	50	30	34	7
Physiotherapists		4	. 2	. 2	-
	4	. 1	•	1	3
Podiatrists					
Psychologists**** Speech Pathologists	18	45	13	11.	20

