A Submission to the Productivity Commission

A Review of the Mutual Recognition Agreement (MRA) and the Trans Tasman Mutual Recognition Arrangement (TTRMA)

Prepared by: **The Australian Council of Physiotherapy Regulating Authorities Inc**

Date Submitted: 15/04/03

1. Introduction

The Australian Council of Physiotherapy Regulating Authorities Incorporated (ACOPRA) is a national standards advisory body for physiotherapy practice in Australia. It:

- Assesses the qualifications of overseas trained physiotherapists who wish to be registered to practise in Australia.

- Accredits new and existing physiotherapy programs in Australian universities.

- Advises Commonwealth Government agencies and Physiotherapists Registration Boards in Australia on legislative matters relevant to a consistent national approach to physiotherapy registration.

- Is responsible for the oversight of the Australian Physiotherapy Competency Standards.

Its membership includes one nominee from each of the Physiotherapists Registration Boards, and one nominee each from the Australian Physiotherapy Association and the Schools of Physiotherapy in Australia.

ACOPRA Inc oversees the Australian Examining Committee for Overseas Physiotherapists (AECOP) in its assessment of the qualifications of overseas-qualified physiotherapists seeking registration to practise in Australia. The former Australian Examining Council for Overseas Physiotherapists (AECOP) Inc was established to assist physiotherapists who qualified overseas to obtain registration in Australia and thus enable them to continue to practice their profession. The Council established a recognition procedure, known as the AECOP assessment process, by which overseas-qualified physiotherapists may prove their competence to practice in Australia. This process is transparent, unambiguous and is not subject to 3rd party influence.

The AECOP examinations procedure is available to overseas-qualified physiotherapists who, in addition to general requirements relating to their residency status, can demonstrate that:

1. Their tertiary level studies leading to their physiotherapy qualification are equivalent in duration to no less than three academic years and the curriculum studied is sufficiently similar in theory and practice aspects (including clinical hours) to the curricula undertaken in Australia, and included a substantial element of supervised physiotherapy clinical practice. [Educational programs in Australia leading to a physiotherapy qualification involve a minimum of four years study and include substantial periods of supervised clinical practice.]

2. The course undertaken included theoretical and clinical components of cardio-respiratory, musculoskeletal and neurological physiotherapy and of electrotherapy, similar in content and duration to physiotherapy education programs offered in Australia;

3. The course would qualify the candidate to be registered/licensed as a physiotherapist in the country in which the course was taken; and

4. If the candidate graduated three or more years prior to date of application, the candidate has practised in paid employment as a physiotherapist for two out of the past three years, or the part-time equivalent. If the candidate graduated twelve months or less prior to the date of application the candidate is exempted from this criterion.

5. If the candidate is from a country where English is not their first language they are able to demonstrate that they have a comprehensive knowledge and satisfactory level of skill in English.

Persons holding any of the qualifications below are exempted from the AECOP process:

1. A foreign national who holds an accredited Australian qualification in physiotherapy.

2. An overseas-qualified physiotherapist holding current registration in any State/Territory of Australia. The person is then eligible to apply directly to any registration board under the Commonwealth Mutual Recognition and/or state and territory regulations.

3. An overseas-qualified physiotherapist who holds current registration in NZ. Under the TTMRA individuals in this category can apply directly to any state or territory registration board, excepting Western Australia to invoke deeming thus commencing the registration process.

Enactment of the TTRMA has created the situation whereby foreign nationals holding NZ registration may enter Australia from NZ and thus are no longer required to participate in Australia's recognition process (See Appendix 2 & 3). The TTRMA has given rise to a situation where New Zealand (NZ) registration status has become immediately acceptable by Australian state / territory regulating authorities. Data collected by registration boards and provided to ACOPRA support the anecdotal evidence that a growing number of overseas qualified physiotherapists are seeking registration to practice in Australia through the NZ corridor (see Appendix 1). This is a potential issue for ACOPRA as the gazetted body and for the regulating authorities in Australia and NZ, if there is any discrepancy in the rigour of the acceptance/eligibility criteria between the two countries.

2. Body of submission

Broad Objectives:

- *How successful have the MRA and TTMRA been in addressing obstacles to trade and labour mobility? Is there any information available that enables an assessment of the impact of MRA and TTMRA on trade and labour mobility*?

    i. Both mutual recognition acts encourage another dimension of discipline and rigor upon registration authorities and legislators. In terms of its effectiveness, the objectives are achieved with relatively simple regulation and at low cost. It is our experience that these initiatives in legislation of physiotherapists have given impetus to increased dialogue with our New Zealand counterparts. The nature of this dialogue has included comparisons of the examination process for overseas candidates. The process of examination involves scrutiny of overseas candidates undergraduate training, existing accreditation and a general analysis and

better understanding of individual state, territory and Trans-Tasman registration processes.

ii. Data collected by ACOPRA from the physiotherapists registration boards for the period 1998 – 2002 indicate that a total of 268 physiotherapists have entered Australia under the TTMRA. We are not aware of any refusals to registration, but if there have been the percentage would be extremely low.

iii. ACOPRA has received numerous petitions that registration requirements between the states are still onerous even under the MRA. There is clear evidence that many physiotherapists working with national sporting and cultural groups are not registering in all states and territories in which they practice, placing their patients and themselves at great liability. In addition, some states are requiring onerous and expensive registration requirements upon physiotherapists who are entering the state for short conference presentations or attendance.

- *What are the impediments to, and how significant would the benefits be, from a greater harmonisation?*

  Much discussion has taken place regarding the potential to further harmonise and integrate processes between registration and accreditation authorities in the Trans-Tasman context. The NZ processes have specific legislative restrictions which make complete harmonisation difficult however there are many similarities between the two systems of recognition including assessment of eligibility of qualifications, and clinical examinations. There is no evidence to date that the differences in the recognition systems have resulted in a difference in standards of practice.

  It may perhaps be more effective to have mutual accreditation of qualifications rather than mutual registration. This initiative would provide a similar benefit vis-à-vis Australian and New Zealand qualified physiotherapists and may address concerns in respect of physiotherapists whose undergraduate degree has been acquired in another jurisdiction.

- *Have there been unintended effects? If so, how can they be best addressed*?

  A continuing issue for Australian jurisdictions addressing mutuality is that categories of registration are not common to all individual states acts. Therefore some individuals may be denied portability of their qualifications. Categories such as temporary, specific, working holidaymaker and limited are not shared nor common to all acts and therefore may hamper or deny mutual recognition. It would be of very great benefit if there could be some more flexibility in the legislative provisions within each state to provide consistent mechanisms for portability.

  The fact that TTRMA specifically precludes subjecting a candidate to an examination of their competence provides some measure of advantage over newly graduating residents of the jurisdiction in which registration is being applied for.

Implementation Issues:

Exemptions and exclusions to mutual recognition:

Investigating the need to retain certain provisions for exemption and exclusion

- *What scope is there for improving the operation of the cooperation programs? E.g. could the existing admin processes be streamlined and how?*

ACOPRA is currently exploring the possibility of further development of deeming throughout the Commonwealth, which could in fact abolish some restrictions to the flow of the physiotherapy workforce. For example, there is an issue with physiotherapist travelling with various sporting teams. At present, their attendance for a particular match or games calendar usually requires registration if the event is held in a jurisdiction other than their primary registration. In some instances where a team may travel throughout the Commonwealth and Trans-Tasman this involves considerable cost and time in compliance. A system of deeming whereby a professional may have limited registration upon notifying the board, for example, for up to a month before having to satisfy the full requirements of a jurisdictions registration may overcome many inequalities and onerous impediments.

Scope of MR:

- *Are there grounds for broadening the scope of MRA and TTMRA to cover the areas referred to above?*

National registration and deeming to specifically allow physiotherapists accompanying sport teams or cultural groups, or physiotherapists travelling to attend workshops involving physiotherapy delivery or assessment on patients would certainly assist the profession. Mutual accreditation of curriculum, in many ways would overcome some difficulties with international recognition.

- *Would there be any benefit in changing the scope*?

More effective mutual recognition of registration would also address potential issues with online practice and video conferencing.

CONCLUSION/RECOMMENDATIONS:

- ACOPRA and the NZ Physiotherapists Registration Board are continuing to monitor the movement of physiotherapists between our two countries. In addition, we have continuing dialogue between our two organisations on the harmonisation of requirements for overseas applicants.

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- ACOPRA is actively exploring mechanisms for enhancing the mobility of physiotherapists within Australia within the provisions of the Mutual Recognition Act.

- It is highly recommended that there be more flexibility in the legislative provisions within each state to provide consistent categories for limited or temporary registration to enhance portability between states.

TTRMA Statistics by State/Territory from 1998 to 2002

Summary Table

	State/ Territory	1998	1999	2000	2001	2002	Total
TTMRA	ACT	0	0	0	1	1	**2**
	NT **	0	0	1	0	4	**5**
	NSW	1	21	25	29	68	**144**
	VIC	2	5	12	17	11	**47**
	QLD ****	na	na	13	21	27	**58**
	SA	0	0	1	2	6	**9**
	TAS	0	0	1	1	2	**4**
Total		**3**	**26**	**52**	**71**	**119**	**268**

Note:

* Data not supplied

** Total since 1999

****Financial year breakdown provided

Country of Training listed

United Kingdom	**24**
New Zealand	**29**
Australia	**2**
Ireland	**2**
South Africa	**1**
Germany	**1**
Holland	**1**
TOTAL	**60**

Source: CSP Frontline Magazine
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Way in to Australia

I am a UK chartered physiotherapist currently travelling in Australia. I wish to give advice/information to fellow physiotherapists intending to travel to Australia. As you know, to gain physiotherapy registration in Australia, a rigorous new registration process has been introduced.

Not wanting to have to sit three exams or part with a large amount of money, I found an alternative. I discovered that an agreement exists between Australia and New Zealand (the trans-Tasman agreement). This allows any physiotherapist who has New Zealand registration to get Australian registration (all states except Western Australia) by submitting their New Zealand practising certificate and paying the registration fee for that state.

The New Zealand Physiotherapy Board requires a minimum of three months to process your application from the date they receive all of the required documents.

I feel that this information may prove very useful to therapists like myself.

I have just been granted registration in this way and look forward to gaining further experience in another country.

Name and address supplied

CSP international development adviser Liz Carrington replies:
The Society's information pack on working in Australia (also available on the Society's website) covers the trans-Tasman agreement, which operates as stated. I advise members who do not wish to do the Australian exam, or feel they have insufficient time or money to spare, to use the alternative route. I do not know how many physiotherapists have chosen this way forward, but it is a perfectly legal and above board method of gaining Australian state registration.

VICTORIAN GOVERNMENT SOLICITOR

Your Reference:

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14 November 2001

Memorandum for:

Mr Mark E Strickland
Registrar
Physiotherapists Registration Board
By Facsimile 9258 6711

Trans-Tasman mutual recognition

1. You advise that physiotherapists registered in the UK and who otherwise would not be registered on that basis in Victoria, can become registered in New Zealand and as a result of that registration, and in reliance on the *Trans-Tasman Mutual Recognition Act* 1997 (C'wth) potentially be registered in Victoria.

2. It appears that the UK registrants do not satisfy Australian Council of Physiotherapists requirements.

3. You ask in the circumstances whether the Board is required to register those persons.

4. This advice was prepared at short notice and I apologise for its brevity.

5. Some general principles contained in the Federal legislation are as follows:

   (a) A person who is registered in New Zealand may apply for registration for a "equivalent" occupation in Victoria.

   (b) The applicant must set out full details of his/her registration and indicate they are not the subject of disciplinary proceedings etc.

Victoria
The Place To Be

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6. In summary, if you are registered in New Zealand you have a prima facie entitlement in Victoria. Once registered in Victoria, the normal Victorian "rules" apply.

7. It is important to note that under s.20 of the Act, a decision on an application must be made within one month or else registration will be deemed to have been accepted. It is open to you, however, to postpone or refuse, as long as that occurs within the one month period of application.

8. Under s.21 an application may be postponed. You may postpone an application if –

(a) material provided is materially false or misleading;

(b) documentation required has not been provided or is materially false or misleading;

(c) the circumstances of the applicant have materially changed since lodgement of the application;

(d) you decide the occupation is not an equivalent occupation.

9 An authority may postpone an application for six months, but decide it before the expiration of that time, otherwise the applicant will be entitled to registration immediately following the expiration of that period.

10. An application may be refused on the following grounds if:

(a) any of the statements or information required to be provided are materially false or misleading; or

(b) any document required to be provided has not been provided or is materially false or misleading; or

(c) you decide the occupation in which registration is sought is not an equivalent occupation and equivalence cannot be achieved by imposing conditions.

11. A decision to refuse to grant registration on the basis that the applicant is not in an equivalent occupation takes effect in a specified period, not being less than two weeks after the person is notified of that decision.

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12. Section 23 contains a requirement that your decision to grant, postpone or refuse or to impose conditions must be notified in writing.

13. The issue of "equivalence" is dealt with in s.27 and following.

14. Section 28 of the Act sets out general principles relating to equivalence. Those general principles are:

(a) If the activities authorised by registration in New Zealand are substantially the same in Victoria, that registration is taken to be equivalent.

(b) Conditions may be imposed so as to achieve equivalence.

(c) Section 28 is subject to any declarations made under this Division of the Act.

Section 29 deals with the power to make declarations as to equivalent occupations. I do not believe that is relevant for present purposes. There then follows what I will generally refer to as review or appeal provisions.

Summary of relevant matters that may be considered when considering equivalence.

15. If the functions of registration in both States, ie New Zealand and Victoria, are substantially the same or can be made such by imposing conditions, it would be very difficult to refuse a grant. If there is a threat to clients health or otherwise as a result of not having achieved the Victorian Standard, then that is a relevant matter. I note, however, in this regard New Zealand seems to accept such registrants.

16. Thus if the Board believes, and is prepared to justify that belief on appeal, that it is not an "apples and apples" situation, and it cannot be rectified by imposing conditions, then it may refuse registration. I do not pretend to know precisely the basis upon which it is said that UK registrants are not sufficiently qualified for Victorian purposes. A difficulty that the Board will be confronted with on an appeal is that New Zealand appear to view UK registrants as sufficiently qualified such as to enable them to practise in New Zealand.

17. As I say, I apologise for the brevity of this advice, but I know it is required urgently. Please call me if I can assist you further.

James Syme
Victorian Government Solicitor

per: 