PHARMACY BOARD OF NEW SOUTH WALES

1. The *Mutual Recognition Acts* (MRA) Commonwealth, States and Territories

The Board's experience with the MRA has been universally good. Compared with the cumbersome system it replaced, which required the applicant for registration to obtain a Certificate of Identity and sometimes complete four weeks of supervised practice, the MRA has made the administration of interstate registration immeasurably easier and more efficient. It has also led to a quick and efficient transfer of professional skills with no discernible negative effects on the protection of the public.

Contrary to initial concerns, pharmacists under disciplinary clouds have not been able to move undetected across borders. If anything, the Board's experience is that all pharmacists are subjected to closer scrutiny than was the case prior to the commencement of the MRA. While all Australians appear to be more mobile than they were ten years ago, the movement of pharmacists between and among States and Territories is many-fold greater than ten years ago.

One significant benefit of MRA:

Without affecting the independence of the various pharmacy registering authorities, it is the Board's view that MRA has led to a harmonisation of procedures and standards between and among States and Territories. It has heightened rather than lessened the spirit of "competition" between and among registering authorities, so, rather than leading to mediocrity or lowest common denominator, which is a usual concern about harmonisation, MRA may well have contributed to the raising of professional and administrative standards by encouraging continuous improvement.

Comment:

Against such a positive background, it seems petty to seek areas for improvement. However, the Board has one lingering concern for which it offers two potential solutions:

There are some small but significant differences between and among States and Territories in respect of pharmacy legislation and poisons legislation. Two possible ways of addressing the issue are:

The Board conducts a forensic tutorial once each month for up to twenty overseas pharmacists. Sheer numbers of MRA pharmacists make this administratively and logistically impractical.

A second and more constructive option is to provide each MRA pharmacist with a brief introductory "kit" which highlights the differences, with a requirement that the MRA pharmacist declare that the document/s have been read and understood. The Board has at time of writing, resolved that the kit should be developed and provided to each incoming MRA pharmacist.

Submission:

The Board submits that every registering authority, if they have not already done so, might wish to consider implementing a procedure which will highlight to incoming MRA pharmacists, local differences in pharmacy and poisons legislation.

The Board further submits that the MRA should permit registering authorities to satisfy themselves that incoming pharmacists have noted the differences.

2. The *Trans Tasman Mutual Recognition Act* (TTMRA)

This is dealt with at two levels:

(a) Graduates of New Zealand Universities

Graduates in pharmacy of New Zealand universities, or New Zealand registered pharmacists, have always been able to be registered in New South Wales under *section* 14 of the *Pharmacy Act*, as though they were from an Australian State or Territory, either *ab initio* or as currently practising pharmacists.

Prior to MRA, New Zealand pharmacists were required to complete four weeks of supervised practice, a forensic tutorial and test, and to demonstrate the adequacy of their English, as provided by the *Pharmacy Act*. Only one New Zealand pharmacist has, thus far, been found to have had inadequate English.

Since the commencement of MRA, with the exception of the forensic test, the Board has retained the same requirements, as has the Pharmaceutical Society of New Zealand. The rationale for this procedure is that the Board (and the Pharmaceutical Society of New Zealand) must satisfy itself that the pharmacist is competent to practise without supervision in New South Wales, before granting substantive registration.

The rationale is supported by legal advice provided to the Pharmaceutical Society of New Zealand.

The Board's need to apply this procedure is based on two considerations:

First, there are marked and important public interest differences between pharmacy and poisons legislation in New South Wales and New Zealand, which are only able to be properly addressed by supervised practice and a tutorial.

Second, the complexity of the National Health Service (NHS) through the Pharmaceutical Benefits Scheme (PBS), which is quite different from the New Zealand equivalent, and the importance of the PBS to the Australian community, cannot be addressed without practice experience and education.

In *Katsogiannis*[1], the Board held that "(the administration of) *the NHS is fundamental to the practice of pharmacy"*. On appeal to the District Court, the Board's finding in the matter was upheld by Judge Graham[2] who said in his judgment *" It must be clear to pharmacists that, being permitted to make claims from bodies such as the Health Insurance Commission, they are carrying out procedures related to the practice of pharmacy"*.

The Board's requirement for the period of supervised practice and a forensic tutorial, although based on sound, practical, public interest reasons, may well be *ultra vires* and would certainly be open to challenge in the Administrative Appeals Tribunal.

Submission:

The Board submits that a sensible solution to the public safety issues associated with a lack of practical knowledge and understanding of the differences between pharmacy, poisons and pharmaceutical benefits legislation, on either side of the Tasman, would be to require under TTMRA, that pharmacists whose primary qualifications were obtained in either Australia or New Zealand must complete four weeks of supervised practice and a forensic tutorial before receiving substantive registration.

This would also detect inadequacy of English in jurisdictions where legislation makes such a provision.

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1. *Dean* v *Katsogiannis*, Inquiry under *section* 19H of the *Pharmacy Act*, 13 January 1993

2. *Katsogiannis* v *Dean*, District Court of New South Wales, 440/93, 21 June 1993, unreported

(b) Graduates of Third Country Universities other than the United Kingdom or Ireland[3]

Third country pharmacists seeking registration in Australia are required to complete the certification program conducted by the Australian Pharmacy Examining Council (APEC). APEC is comprised of a Stage I examination, a period of 2,000 hours of supervised practice, and a Stage II examination.

While the Pharmaceutical Society of New Zealand (PSNZ) has access to APEC, PSNZ has different and in some respects less stringent requirements for the registration of third country pharmacists. This provides opportunities for third country pharmacists who might wish to avoid the APEC program to gain "back-door" entry to Australia.

At time of preparing this submission, a Pharmacy Board Website enquiry was received from a pharmacist who qualified in India and who is currently resident in Australia. The person is currently completing the New Zealand program and the enquiry, a de-identified copy of which is attached[4], related to whether the person would be able to be registered under TTMRA on completion of the New Zealand program.

It is also interesting to note that the first TTMRA applicant for New South Wales registration was a pharmacist who is understood to have declined the APEC program in favour of completing the New Zealand process. While data are not kept, there have been others since.

TTMRA works well when the same standards are applied on both sides of the Tasman. The present arrangements for third country pharmacists are biased in favour of the New Zealand process. This leads to a situation where another country is determining whether a third country pharmacist is fit to practise in New South Wales. This is not in the best interests of the Australian community.

Submission:

Pharmacists from countries other than the United Kingdom and Ireland seeking registration in either Australia or New Zealand should be required to complete the same certification program.

It is further submitted that APEC certification be adopted as the appropriate program, which is to be applied equally on each side of the Tasman, as it is currently in each State and Territory of Australia.

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3. Pharmacy schools in the United Kingdom and Ireland have been previously accredited in New South Wales as providing registerable qualifications, so pharmacists registered with the Royal Pharmaceutical Society of Great Britain, the Pharmaceutical Society of Northern Ireland and the Pharmaceutical Society of Ireland are able to be registered in New South Wales after four weeks of supervised practice, a forensic tutorial and test. It is understood New Zealand applies similar requirements.

4. Pharmacy Board Website Enquiry to Peter Freeman, Deputy Registrar, Thursday, 3 April 2003 1.34 pm