



Reiki Australia

Submission to Australian Health Ministers' Advisory Council

Options for regulation of unregistered health practitioners

April 2011

Reiki Australia is a nationally constituted not-for-profit membership organisation. We are committed to preserving Reiki as a spiritual practice and healing art. Our mission is to uphold professional Reiki treatment standards that preserve the traditional expression of Reiki as a spiritual and personal practice.

Reiki Australia provides support for lay practitioners, professional Reiki treatment practitioners and Reiki masters, and is a reliable resource for information about Reiki for consumers. We maintain a directory of professional Reiki practitioners and Reiki masters.

All Reiki Australia members must abide the Reiki Australia Code of Ethics. Our Accredited Reiki Treatment Practitioners must abide the Code of Conduct for Professional Reiki Treatment Practitioners, which meets the standard of the NSW Code of Conduct. In 2010 Reiki Australia joined with other major Australian Reiki organisations in adopting the NSW Code of Conduct as the national minimum standard for Reiki practitioners who provide services to the public.

Concerns about the professional conduct of Reiki Australia members are referred to our Complaints Committee which includes a consultant bio-ethicist.

To learn more about Reiki Australia please visit <http://www.reikiaustralia.com.au/>

Reiki Australia has taken a pro-active role in establishing national professional standards for Reiki treatment practitioners working in healthcare facilities in Australia and we welcome this opportunity to contribute to the development of standards that will support the right of consumers to safe health care.

Section 2 – SCOPE

- If you are a professional association, can you provide an estimate of the number of unregistered health practitioners you believe to be practising in your profession or field?

*It is important to clarify the difference between Reiki masters teaching students in the **Reiki Training industry**, whose core business is training in the personal spiritual practice of Reiki, and the **Reiki Treatment Industry** whose core business is the provision of Reiki treatments to Australian healthcare consumers. Reiki Australia's estimation is that there are approx 1,000 professional Reiki Treatment Practitioners who come under the definition of unregistered health practitioners in that they:*

- *Provide Treatments to the Public*
- *Hold current professional indemnity insurance;*
- *Meet requirements of an Industry membership body for Professional Reiki Treatment practice;*
- *Comply with requirements for Continued Professional Education.*
- *Since all major Reiki membership organisations in Australia have agreed to adopt the standards outlined in the NSW Code of Conduct, practitioners are progressively undertaking first aid training;*

Reiki Australia's approximation is that in excess of 40,000 people in Australia have learnt Reiki as a personal spiritual practice for the purpose of treating themselves, their family and friends. These 'lay practitioners' may have membership to a Reiki Training Organisation. Such membership generally refers to the cumulative database of students who have taken two or more days training in the personal practice of Reiki, and membership has the following features:

- *Automatic membership upon completion of personal Reiki training;*
- *Requires no annual membership fees;*
- *Is not required to be confirmed or renewed;*
- *Is generally only open to those who have trained or re-trained within their organisations;*
- *Indicates no professional competence or accountability;*
- *Confers no professional entitlements.*

Making this distinction is important as it clearly places Reiki Masters outside the definition of EITHER unregistered health practitioners OR as health care providers.

It is important to make the distinction between the Reiki training and Reiki treatment industries, to avoid the outcome of Masters who simply teach Reiki as a spiritual practice being defined as health care trainers, and being required to meet the requirements expected of non-registered health practitioners.

Section 4 – THE PROBLEM

Risks

The risks associated with provision of Reiki treatments are related to the conduct of the practitioner, and not to any inherent risks in Reiki itself. The increasing publicity of Reiki as a safe, non-invasive treatment, may lead vulnerable consumers to set aside their usual scrutiny when selecting a practitioner.

More specifically risks include:

- *Sexual misconduct;*
- *Unclear contracts;*
- *Failure to request and/or verify informed consent;*
- *Failure to refer as appropriate;*
- *Placing vulnerable people at risk due to misleading claims relating to possibility of recovery and cure;*
- *Unethical behaviours such as overcharging, over servicing; and*
- *Acting outside their scope e.g. Inappropriate advice relating to prescription medication;*

- To what extent have the risks associated with these activities been realised in practice?

In Reiki Australia, several cases which have proceeded to the criminal system have come to our attention. In none of these cases have the offenders been a member of a Reiki practitioner organisation which oversee fitness to practice, and with the exception of NSW, they have not been governed by Codes of Conduct which give some guidelines for professional conduct.

- Do you know of instances of actual harm or injury?

Yes, Reiki Australia has acted in two states as an expert witness in sexual assault cases involving individuals claiming to be Reiki practitioners.

- What evidence is available on the nature, frequency and severity of risks?

Since there is no register of offenders, many offenses never become known and remain as isolated and unreported. It is only cases that progress to the criminal system which provide evidence. It is likely that a minority of cases result in a criminal conviction

- What factors increase or reduce the risk that individuals will suffer harm as a result of the activities of unregistered health practitioners?

Reduce risk of suffering

- *Practitioner abides by Code of Conduct providing minimum standards and guidelines for practitioners*
- *Providing information required to obtain effective informed consent prior to consultations*
- *Public awareness of minimum standards for practitioners and what constitutes professional and unprofessional conduct*
- *Well advertised complaints handling mechanism*
- *Support for victims who wish to make a complaint`*

Increase risk

- *Lack of public awareness of acceptable practitioner conduct and complaints handling*
- *Lack of public awareness about Professional membership organisations*
- *Lack of public awareness how to access a suitable practitioner*

- *Different standards between states and territories allowing offenders to ‘reinvent’ themselves in another jurisdiction if they are disciplined.*

Section 5 – THE OBJECTIVES OF GOVERNMENT ACTION

- What do you think should be the objectives of government action in this area?
 - *To better protect health consumers from harm arising from unregistered health practitioners who breach their legal and professional obligations and are not fit and proper persons to be providing health services.*
 - *To implement a national code of conduct and complaints mechanism.*
 - *To create a national register of practitioners who have sustained discipline or criminal charge as a result of unprofessional conduct that has caused harm - physically, psychologically, sexually, or financially.*
 - *To embark on a campaign of public awareness of the National Code of Conduct and complaints handling system.*
 - *Provide support for the public to effectively lodge complaints.*

Section 6 – THE OPTIONS

- Do you think there is a case for further regulatory action by governments in this area?

YES

- What do you think of the various options?

Option 1: No change

This will maintain the status quo and do nothing to improve public safety and awareness.

Option 2: A voluntary code of practice for unregistered health practitioners

Our organisation disagrees with this option. In practice, this will be no different from Option 1 as practitioners who are motivated to maintain standards and intend to conduct themselves professionally are likely to already belong to an industry professional membership organisation and meet standards for membership. It is practitioners who do NOT belong to a membership organisation that are most likely to be unaware of standards and therefore more likely to breach industry standards and cause harm to the public. It is this group that are exercising their choice to remain outside the system that need to be 'covered' by a national statutory code.

Option 3: A national statutory code of conduct for unregistered health practitioners

- On balance, do you have a preferred option? What are your reasons?

Option 3 is Reiki Australia's preferred option.

A nationally implemented code of conduct:

- *Provides a basis for implementing minimum standards nationally across the health care industry and raising the standard of client safety. If **all** practitioners are required to comply with a code of conduct, this will over time contribute to raised practitioner standards and compliance with appropriate conduct, raised awareness of the public's right to receive safe accountable treatment and awareness of a complaints mechanism by which the public can complain if they are taken advantage of.*
- *Provides a non-negotiable standard for professional organisations to implement for their members. The onus of responsibility to implement the standard is on the organisation and requirements they place on their practitioners. The Professional Organisation has the support of legislation to enforce standards required to provide public safety, and to implement disciplinary action for members who have complaints brought against them.*
- *Provides deterrent to rogue practitioners and criminals*

Reiki Australia supports the introduction of mandatory membership of unregistered practitioners to a professional organisation that represents their industry. This will provide a mechanism for minimum standards, and maintenance of fitness to practice through supervision, continuing professional education and currency with industry and legal obligations.

- *A national statutory code of conduct for unregistered health practitioners with an accompanying complaints mechanism makes it much easier for members of the public to lodge a complaint, provides an avenue for authorities to investigate a complaint against an unregistered practitioner and if necessary, issue a court enforceable 'prohibition order', either banning or restricting the person's practice*

*It must be stressed that Reiki Australia's support for this option **does not imply support for the regulation of Masters teaching Reiki or for practitioners who give Reiki treatment to their family, friends and pets as part of their personal practice.** Support for this option relates purely and solely to the regulation of conduct of Reiki treatment practitioners who provide Reiki treatment services to the public.*

- What do you think are the costs and benefits of the three options?
- If you are a practitioner, can you advise of what additional costs you think you would incur with the introduction of a statutory code? Are there are some aspects of a statutory code that are likely to be more costly than others.
- *For some Reiki practitioners there may be costs associated with a need for additional training to develop knowledge and skills (e.g. first aid training) not covered at any level in Reiki training, which is primarily for a personal and spiritual practice;*
- *Annual membership fees to join an industry membership body, if this were to be a requirement;*
- *Costs associated with ongoing professional development.*

None of these costs could be considered exorbitant in relation to Reiki treatment practice.

Extent to which national uniformity is desirable (section 6.3.1)

- Do you think there should be a nationally uniform code of conduct for unregistered health practitioners or are different codes in each State and Territory acceptable?

YES, a nationally uniform code is required for reasons provided above (Section 6).

- Should there be nationally uniform or nationally consistent arrangements for investigating breaches of the code and issuing of prohibition orders, or should States and Territories each implement their own arrangements?

YES, nationally consistent arrangements are desirable for both investigating breaches and issuing prohibition orders

Should there be a centralised administrative body that administers the regulatory scheme, or should it be administered by each State and Territory government?

Ideally there should be a centralised administrative body that administers the regulatory scheme, and has nationally consistent arrangements through which breaches of standards are investigated, prosecuted and determined

If for financial or administrative reasons, each State and Territory conducts administration, a central coordination function would be necessary to oversee administration of the regulation and ensure the implementation of mutual recognition arrangements between States and Territories.

Scope of scheme (section 6.3.2)

- If a statutory code of conduct were to be enacted, to whom should it apply?

All unregistered health practitioners as defined in the NSW code of conduct

Which practitioners, professions or occupations should be included?

All practitioners, professions and occupations that are not currently registered under national law

Should it apply only to practitioners who deliver health services? If so, what should be the definition of a health service?

A health service is any service that aims to improve quality of life and wellbeing and includes the physical, mental and social condition of a person

- Should it apply to registered practitioners who provide health services that are unrelated to their registration, for example, a registered nurse who is working as a naturopath or massage therapist?

YES

- Should it only apply to practitioners who directly deliver services, or should it also apply to those who deliver health services through the agency of another person, for example, the owners or operators of businesses that provide health services?

Codes should apply to each individual practitioner, as each practitioner is directly responsible for their professional conduct.

Administrative arrangements (section 6.3.3)

- Do you have a preferred option for the legislative and administrative arrangements through which a code of conduct for unregistered health practitioners is administered and complaints about breaches of the code are investigated and prosecuted?

A single Nationally administered scheme, supported by professional associations who will ensure their professional members meet the legislative requirements.

- What are your reasons?
 - *Provide synergy of function across all professions;*
 - *Provide nationally consistent application of standards of conduct and practice; and*
 - *Provide nationally consistent administration of the investigation and prosecution of breaches of the code.*

Content of a national code of conduct (section 6.3.4)

- What do you think should be included in a national statutory code of conduct?
 - *Similar to the NSW Code with a qualification and of the section on clinical foundation for treatment. (Section 11) It would be appropriate for different health modalities to articulate their clinical foundation for treatment*
 - *Include definition of health, which includes the concept of wellbeing and quality of life, as in many cases the clinical foundation for Reiki treatment is diminished quality of life.*

- Do you have any comments on the NSW Code of Conduct for Unregistered Health Practitioners?

*Change the term **unregistered** to describe Health practitioners. It is precisely the level of risk to the public that has been the driver for registration of some health practices, and their practitioners as either registered or unregistered.*

In the health industry we know that health practices that pose the greatest risk are covered by the Health Registration Act and those that pose a lower level of risk are by a process of elimination are called Unregistered. However, for the general public the common meaning of “unregistered” applies to compliance with the law. When a consumer sees or hears the word “unregistered”, it alerts them to potential risk e.g. unregistered vehicle, unregistered business, unregistered guns.

The descriptor ‘Unregistered’, used in the context of health practitioners, may imply illegality and alert the consumer to potential risk, danger, and have the effect of a consumer warning.

The continued use of this label is at cross-purposes with the goal of the AHMAC initiative and the holistic approach to health which many unregistered practitioners have in common. This descriptor may reduce consumer confidence in the competency of these health professionals and may create an impression that they are unqualified and illegitimate or in some way lacking professionally

Suggestions:

- *Change unregistered to **self regulated, Holistic Health Practitioners***
- *Simply create two categories of Health Practitioner, **Registered Health Practitioner**, and, **Health Practitioner**.*

Generally the Language used in the NSW Codes could be simplified so that it is more easily understood by the public

- What do you think are the strengths and weaknesses of the NSW Code?

- *NSW code covers the essential elements of professional conduct. It is a very good start. A statutory code is a very good mechanism for setting minimum standards for the conduct of all practitioners and captures the numerous Health practices that do not as yet have professional industry associations to oversee standards of conduct. It also captures practitioners who choose to operate independently of industry associations*
- *Weakness: there needs to be consideration of modalities that do not necessarily treat disease but whose goal is to improve quality of life and adhere to a holistic model of health*

- Do you think it provides a good model? What are your reasons?

Yes, it reasonably covers practitioner standards which when observed, will have a positive outcome for public safety. There is room for expansion to include a more comprehensive coverage of the section on clinical basis for treatment as this can significantly differ between modalities. As far as Reiki is concerned, clinical foundation for Reiki treatment needs to include diminished quality of life as a foundation for treatment.

Prosecutions and hearings (section 6.3.5)

- Do you have a preferred option for the mechanism through which prohibition orders should be issued, that is, via an administrative order decided by a Commissioner, or via a tribunal or court hearing?
- What are your reasons?

Grounds for issuing a prohibition order (section 6.3.6)

- What ‘relevant offences’ (if any) should provide grounds for a prohibition order to be issued?
- *Sexual misconduct;*
- *Fraudulent behaviour e.g. financial, or claims relating to recovery or cure;*
- *Misrepresentation regarding qualifications or experience relevant to services/treatment provided.*

- What other grounds should apply before a prohibition order may be issued?
- *Adequate investigation; offences proven via an established complaints handling mechanism.*
- **Financing of scheme (section 6.3.7)**
- How do you think a regulatory scheme to investigate and prosecute breaches of a national statutory code of conduct for unregistered health practitioners should be funded?

Commonwealth funding. It is in the national interest that Australian citizens enjoy professional safe ethical health care. They will then be healthier and in a better position to care for their families, be more productive in the workplace and contribute to the betterment of the environment and their country.

- What are your reasons?
Commonwealth collects GST and taxes from the working public including health providers and can allocate some portion of this revenue to ensure public safety and good health.

Any other comments

Do you have any other comments to make about these proposals?

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This submission has been prepared on behalf of the following organisations

Reiki Australia- Professional Associations
Wellspring Clinic- Employer of health practitioners
Australian College of Vibrational Healing. - RTO
The Reiki Alliance – Professional Association for Masters in the Usui System of Reiki Healing
International Reiki Jin Kei Do and Buddho/EnerSense Training Institute. Professional Association
South Australian Healing and Teaching Centre Professional Associations
Gendai Reiki Network Australia- Professional Association

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The above Representatives include

- Professional Associations
- Employer of health practitioners
- RTO

Would you like to be informed of the outcome of the consultation? Yes