

16 Health and pharmaceutical services

Australians spent more than \$50.3 billion on health and pharmaceutical services in 1998-99 — around 8.5 per cent of gross national product (ABS 2000c). Governments contributed around 70 per cent of this amount, while private spending comprised the remainder. Medicare has been the lynchpin of Australia's health financing system since 1984. It provides rebates for medical services in the private sector, free point-of-service hospital care based on need, and subsidised access to pharmaceuticals.

In assessing governments' compliance with clause 5 of the Competition Principles Agreement (CPA), the Council considered key competition issues in health professional regulation, the pharmaceutical industry, private health insurance regulation, Medicare and population health. Each State and Territory registers around a dozen health professions, including many allied health vocations, nurses and doctors. The registration schemes determine who is able to practise, what services can be provided and how businesses must be operated. Both Commonwealth and State and Territory governments regulate pharmacy and pharmaceutical products. This regulation covers practice issues, the storage and handling of drugs, poisons and controlled substances, and the distribution of pharmacies and products. Commonwealth regulation of private health insurance, Medicare provider numbers and pathology licensing, and State and Territory population health regulation also raise competition questions.

Regulating the health professions

The general objective of health practitioner legislation is to protect public health and safety, by limiting who may practise as a health professional and how service providers may represent themselves. Restrictions considered in NCP reviews of the professions include licensing requirements, entry requirements (rules or standards governing who may provide services) and commercial restrictions. Review and reform of regulation in the health professions has revealed significant competition issues. These include restrictions on business association and ownership arising from a perceived conflict between professional and commercial obligations, professional indemnity insurance and reserved areas of practice (where only certified practitioners are allowed to perform certain areas of practice). The National Competition Council released a staff paper that sets out how these measures

restrict competition and that explores many of the issues raised by professional regulation (Deighton-Smith, Harris and Pearson 2001).¹ The staff paper highlights principles for the regulation of professions and occupations, including the importance of:

- regulatory objectives being clearly identified;
- links between specific restrictions and reduction of harms being identifiable;
- regulations and other rules of conduct being transparent and public;
- restrictions being consistently applied;
- enforcement actions being open, accountable and consistent;
- regulatory bodies having broad representation, with strong community involvement; and
- regulation being the minimum necessary to achieve the government's objectives.

Key issues in regulating the health professions

Commercial and professional obligations

Health services in Australia have traditionally been delivered through a network of small suburban practices and large government-owned tertiary hospitals. This model has evolved over time to encompass smaller hospitals and larger practices. More recently, there has been a substantial increase in the corporate ownership of practices. Many small suburban practices (traditionally run as sole practices or partnerships by health professionals) have been bought by publicly listed companies with professional management and staffed by salaried practitioners. This trend is particularly apparent in general practice medical care.

Many health practitioners have sold their practices to corporations to capitalise their investments in both physical capital and goodwill. Some of these selling practitioners then retire, while others sign on as salaried employees in the practice. The benefits to the practitioner of selling the practice to a corporate owner include minimising personal risk and responsibility and increasing the efficiencies gained through maximising comparative advantage by concentrating on clinical care rather than

¹ Available at the Council's web site www.ncc.gov.au.

management, which is left to professional business managers. Corporate involvement has also increased the market price for general practices.

Corporate investments in health practices include training support staff, improving information management and consolidating services. By combining services in a 'one-stop shop', large providers argue that they offer patients the convenience of several co-located services. However, the growth of corporate owned health practices has raised questions. Medical practitioner representative groups, such as the Australian Medical Association and the Royal Australian College of General Practitioners, other health professions and some political commentators have raised concerns that corporate owners will seek to increase profits at the expense of patient care, by seeking to unduly influence salaried practitioners to:

- refer patients to vertically integrated businesses;
- provide shorter consultations;
- encourage repeat visits or unnecessary procedures; and
- recommend inappropriate products.

The Australian Competition and Consumer Commission (ACCC) has also raised questions regarding the disclosure of financial interests to consumers — an issue that it believes will be increasingly important as businesses in the sector amalgamate and vertically integrate.

Governments have adopted three broad, nonexclusive, regulatory responses to concerns over undue corporate influence:

- requiring disclosure of financial interests;
- prohibiting interference in clinical decision-making; and
- limiting ownership of businesses to health professionals.

Disclosure of financial interests

The health sector comprises many small businesses that often operate in an interconnected manner. A single episode of care can involve literally dozens of businesses. Surgery, for example, may involve a number of medical practitioners, pathology and diagnostic services, hospital or surgery services, post-operative care (such as physiotherapy) and a range of pharmaceutical products and medical equipment. These diverse businesses work together in a number of ways, including with the help of agency services (such as billing agents), strategic alliances, the vertical integration of businesses and informal networks.

Some links present an opportunity for referring practitioners to direct patients to unsuitable providers or services, to the benefit of the referring practitioner. The ACCC noted that:

[An] area of concern ... is the situation whereby doctors do not declare their 'interests' in other medical practices that they refer patients to, or inducements they receive from medical suppliers whose product they recommend and use. (ACCC 2000a, p. 37)

Similarly, the Australian Medical Association Code of Ethics (AMA 1996) instructs 'Do not refer patients to institutions or services in which you have a financial interest, without full disclosure of such interest'. These principles are relevant to all health professions, and to all practitioners whether they are business owners or employees.

Regulatory measures requiring health practitioners to disclose financial interests to patients help patients access more information on which to base their health care choices. Existing fair trading legislation includes such a requirement. Where jurisdictions explicitly legislate for the disclosure of financial interests, the Council views the regulation as being consistent with NCP principles.

Restrictions on the influence of owners and other parties on clinical decisions

Several governments recently moved to reduce inappropriate influence by business owners and other parties on clinical decisions by making such interference an offence. Restricting interference in clinical decision-making addresses a potential cost of corporate ownership of health practices (as does reducing other potential sources of clinical interference) by ensuring the practitioner has the primary responsibility for patient care. Prohibiting undue influence does not restrict the business associations of health professionals, thus avoiding many of the costs of this type of restriction.

Restrictions on owners or other parties interfering in practitioners' clinical decision-making reinforce the responsibility of professionals. The Council considers that such legislation, if applied in a nondiscriminate manner to all owners of health care practitioners, does not contravene CPA principles.

Ownership restrictions

Concerns of inappropriate interference in clinical practice have led to calls to restrict ownership of health care businesses to health professionals — that is, to explicitly prevent corporate and other forms of ownership, and ownership by non-health professionals. Current ownership restrictions cover, for example, pharmacy in all States and dentistry in South Australia. In contrast, Victoria, Tasmania and Queensland recently removed ownership restrictions in a number of health professions, including dentistry in Victoria,

optometry in Queensland and podiatry in Tasmania. Few ownership controls in health practitioner legislation remained at the time of this assessment.

The Pharmacy Guild of Australia advocates professional ownership restrictions for its members, stating 'outside commercial interests would, ultimately, consume and compromise the pharmacist' (PGA 1999). The Guild argues that professionals have strict codes of conduct and training that are intended to ensure the client comes first. This training may make it easier for owners who are registered health professionals to place less emphasis on commercial pressures when providing a service. Professional ownership provides a clear level of accountability to clients. It can be argued that this provides the customer with greater confidence in the service.

However, ownership restrictions limit professionals' access to a greater capital base and expertise. Without the possibility of offering share options and profit-sharing opportunities, professionals are constrained to raising only whatever funds are available to the practitioner personally or what they are able to borrow from banks at commercial interest rates. In addition, the small size of many professional-owned health practices makes it difficult for practitioners to obtain strong management skills. Thus, ownership restrictions potentially constrain innovation and growth. Consequently, restrictions on ownership may limit the ability for businesses to offer their clients a full suite of services and also may limit the employment options for newly qualified practitioners.

Ownership restrictions seek to ensure health care businesses meet professional obligations and deliver high quality care. However, restricting business ownership to health care professionals for this purpose assumes that the character of a registrant owning a business is more conducive to better service than is the character of a nonregistrant owner. Implicit in this assumption is that the health care professional is somehow above the profit motive and that owners who are not health professionals are more willing to compromise care standards. This assumption has not been supported by most NCP reviews; for example, the South Australian review of the *Dentists Act 1984* stated that it could 'see no reason why unregistered persons would have lower professional and ethical standards than [those of] registered persons' (Department of Human Services 1999, p. 30).

It is the responsibility of governments to determine objectives of legislation, including ensuring that health services providers offer high quality patient care. The protection of clinical independence is one mechanism to achieve this objective. Generally, reviews have found that outcome measures (such as preventing clinical interference) are more likely than input measures (such as ownership restrictions) to protect clinical independence, and at a lower cost. Provision for an offence where a health practitioner is unduly influenced provides a clear alternative to ownership restrictions, directly dealing with the objective of reducing harm by preventing interference in clinical decisions.

Professional indemnity insurance

Professional indemnity insurance is designed to meet client or third-party claims of civil liability that may arise from practitioners' negligence or error. It is a common feature of many professions. A trend emerging in reviews of health professions is the proposal that health practitioners should be adequately covered by professional indemnity insurance to ensure their patients are financially protected in the event of professional negligence.

The key NCP issue relating to insurance provisions in health practitioner legislation is any requirement to insure. As with other forms of insurance the Council does not consider benefit levels, taxation treatment or scheme design to raise competition questions relevant to CPA clause 5.

Before the introduction of the NCP, few health professionals were required by law to hold insurance. However, most health practitioners were insured, either through their employer (such as a hospital) or individually in private practice. A number of employers require professionals to hold indemnity insurance as a condition of contract. Also, professional and industrial organisations and employers constantly reinforce the need to insure. Particularly in health care, professional organisations have sought to instil a culture of responsibility that includes insurance. Further, the uncertain nature of health care, the threat of personal financial difficulty and the need to ensure public confidence in the professions provide motivation for health professionals to insure.

Both the Commonwealth and Victoria commissioned reviews of professional indemnity insurance, although neither review explicitly addressed NCP requirements. The Tito Review (1995) and the Victorian Law Reform Committee (1997) argued that there are significant benefits to the community from requiring health professionals to hold indemnity insurance. They also argued that a high proportion of practitioners holding insurance lowers the costs of mandating insurance for health professionals.

The central public interest question is whether positive outcomes — such as improved public confidence in the profession and the effective operation of insurance schemes — outweigh any anticompetitive effects of excluding uninsured professionals from practice. While the professional indemnity insurance market for some health professions features dominant providers, new entrants should not be prevented by legislation from entering the market. The Council recognises there are arguments for ensuring health practitioners hold an adequate level of professional indemnity insurance. It considers that such restrictions are consistent with the objectives of NCP.

Reservation of practice

The two elements to the reservation of practice are:

- the scope of reservation; and
- the method of reservation.

The scope of reservation can include a restriction on the performance of a task (for example, spinal manipulation) or on the undertaking of a discipline (such as physiotherapy). The Council has highlighted the principle of ensuring clearly identifiable links between regulatory restrictions and the reduction of harms (Deighton-Smith, Harris and Pearson 2001). A restriction on practice, for example, can be more easily justified where there is a particular risk of harm, such as spinal manipulation. However, it is more difficult to justify a generic restriction on a discipline. Most professional disciplines involve a range of procedures, some of which may be more harmful than others. Restricting an entire discipline is likely to create anomalies where some modes of common practice are inappropriately restricted. Additional problems arise when a discipline is restricted but the scope of the discipline is not defined in legislation.

The method of reservation is also important. The method of reservation can include a prohibition on performing the task or a restriction on performing a task for financial reward. Restrictions on receiving financial reward for a task, in the absence of proscription, suggests that the restriction on reward is a commercial restriction rather than directly related to the prevention of harm.

Review and reform activity

There are more than 80 legislative instruments regulating around a dozen health professions across the States and Territories. The following tables outline review and reform activity.

Table 16.1: Review and reform activity of legislation regulating the chiropractic profession

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Chiropractors and Osteopaths Act 1991</i>	Entry, registration, title, practice, discipline, advertising	Review completed in January 2000, recommending removal of some advertising restrictions and limiting reserved practice to spinal manipulation.	New <i>Chiropractors Act 2001</i> enacted in line with recommendations.	Meets CPA obligations (June 2001).
Victoria	<i>Chiropractors and Osteopaths Act 1978</i>	Entry, registration, title, practice, discipline, advertising	Review completed in 1996, recommending removal of commercial and practice restrictions.	New <i>Chiropractors Registration Act 1996</i> enacted in line with recommendations.	Meets CPA obligations (June 2001).
Queensland	<i>Chiropractors and Osteopaths Act 1979</i>	Entry, registration, title, practice, discipline, advertising, business	Review into the health professions completed in 1999. Brief summary in 2001 NCP annual report. Review of core practice restrictions complete but recommendations yet to be implemented.	Framework legislation enacted in 1999. New chiropractic legislation enacted in May 2001, preserving practice restrictions subject to review.	Council to assess progress in 2002.
Western Australia	<i>Chiropractors Act 1964</i>	Entry, registration, title, practice, discipline	Issues paper released in October 1998.		Council to assess progress in 2002.
South Australia	<i>Chiropractors Act 1991</i>	Entry, registration, title, practice, discipline, advertising	Review completed in 1999, recommending removing ownership restrictions and amending practice reservation and advertising codes.		Council to assess progress in 2002.
Tasmania	<i>Chiropractors Registration Act 1982</i>	Entry, registration, title, practice, discipline, advertising	New legislation implemented after assessment under CPA clause 5 (5).	New <i>Chiropractors and Osteopaths Act 1997</i> enacted.	Meets CPA obligations (June 2001).
ACT	<i>Chiropractors and Osteopaths Act 1983</i>	Entry, registration, title, practice, discipline	Issues paper released in May 1999.		Council to assess progress in 2002.
Northern Territory	<i>Health Practitioners and Allied Professionals Registration Act</i>	Entry, registration, title, practice, discipline	Review completed May 2000. Recommendations include retaining title restriction and removing generic practice restrictions.	Omnibus Bill to be implemented in line with recommendations.	Council to assess progress in 2002.

Table 16.2: Review and reform of the legislation regulating the dental professions

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Dental Technicians Registration Act 1975</i> <i>Dentists Act 1989</i>	Entry, registration, title, practice, discipline, advertising	Issues paper released August 1999. Review complete.	Under consideration by Government.	Council to assess progress in 2002.
Victoria	<i>Dental Technicians Act 1972</i> <i>Dentists Act 1972</i>	Entry, registration, title, practice, discipline, advertising, ownership	Review completed in July 1998, recommending retention of restrictions on use of title, types of work, and fair and accurate advertising. Recommendations also included removing ownership restrictions, removing restrictions on 'disparaging remarks' in advertising, and allowing dental therapists in work in the private sector.	Legislation replaced with the <i>Dental Practice Act 1999</i> . New amendments in 2000 introduced a requirement for professional indemnity insurance and allowed the board to impose additional advertising restrictions.	Council to assess progress in 2002.
Queensland	<i>Dental Act 1971</i> <i>Dental Technicians and Dental Prosthetists Act 1991</i>	Entry, registration, title, practice, discipline, advertising, business	Review of health practitioner Acts completed in 1999. Brief summary in 2001 NCP annual report. Review of the restrictions on the practice of dentistry also completed and released for public comment in June 2001.	Framework legislation implemented in 1999. New dental legislation passed in May 2001, preserving practice restrictions subject to review.	Council to assess progress in 2002.
Western Australia	<i>Dental Act 1939</i> <i>Dental Prosthetists Act 1985</i>	Entry, registration, title, practice, discipline	Issues paper released in October 1998.		Council to assess progress in 2002.
South Australia	<i>Dentists Act 1984</i>	Entry, registration, title, practice, discipline, ownership, advertising, business	Review completed in February 1999. Recommendations included changing the disciplinary process, introducing paraprofessional registration and removing some areas of reserved practice. The review also recommended the removal of ownership restrictions.	New legislation introduced in late October 2000. Limits on ownership and related restrictions maintained, contrary to review recommendations.	Council to assess progress in 2002.

(continued)

Table 16.2 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Tasmania	<i>Dental Act 1982</i> <i>Dental Prosthetists Registration Act 1996</i> <i>School Dental Therapy Act 1965</i>	Entry, registration, title, practice, discipline, advertising	New legislation implemented after assessment under clause 5(5).	<i>New Dental Practitioner Act 2001</i> passed in April 2001, removing some restrictions on practice and all specific restrictions on advertising, and clarifying that there are no restrictions on ownership, among other things.	Meets CPA obligations (June 2001).
ACT	<i>Dental Technicians and Dental Prosthetists Registration Act 1988</i> <i>Dentists Act 1931</i>	Entry, registration, title, practice, discipline	Issues paper released in May 1999.		Council to assess progress in 2002.
Northern Territory	<i>Dental Act</i>	Entry, registration, title, practice, discipline, advertising, ownership	Review completed May 2000. Recommendations include registering all paraprofessionals, amending practice restrictions and removing ownership restrictions.	Omnibus health practitioner bill being drafted to replace this and other Acts.	Council to assess progress in 2002.

Table 16.3: Review and reform of legislation regulating the medical profession

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Medical Practice Act 1992</i>	Entry, registration, title, practice, discipline, advertising	Review report released December 1998. Recommendations include insertion of an objectives clause, greater clarity for entry requirements and the disciplinary system. Removal of business and practice restrictions recommended.	<i>Medical Practice Amendment Act 2000</i> passed in July 2000 in line with review recommendations.	Meets CPA obligations (June 2001).

(continued)

Table 16.3 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Victoria	<i>Medical Practice Act 1994</i>	Entry, registration, title, practice, discipline, advertising	Discussion paper released in October 1998. Review report completed in March 2001.	<i>Health Practitioner Acts (Amendment) Act 2000</i> passed with amended advertising provisions, including the ability of the board to impose additional restrictions.	Council to assess progress in 2002.
Queensland	<i>Medical Act 1939</i>	Entry, registration, title, practice, discipline, advertising, business	Review of health practitioner registration Acts completed in 1999. Review report not publicly available, but brief summary in 2001 NCP annual report. Core practices review completed but recommendations yet to be implemented.	Framework legislation passed in 1999. New <i>Medical Practitioners Registration Act 2001</i> passed in May 2001, preserving practice restrictions subject to review.	Council to assess progress in 2002.
Western Australia	<i>Medical Act 1894</i>	Entry, registration, title, practice, discipline, advertising	Draft report released October 1999. Recommendations included removing reserved practice, limiting the reservation on title, changing the disciplinary system and introducing new advertising restrictions.		Council to assess progress in 2002.
South Australia	<i>Medical Practitioners Act 1983</i>	Entry, registration, title, practice, discipline, advertising, business	Review completed in 1999. Review recommended removing ownership restrictions, registering medical students, requiring declaration of commercial interests and requiring professional indemnity insurance.	New legislation introduced in May 2001, not passed at the time of the 2001 assessment.	Council to assess progress in 2002.
Tasmania	<i>Medical Practitioners Registration Act 1996</i>	Entry, registration, title, practice, discipline, advertising	Reported as being underway.		Council to assess progress in 2002.

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Table 16.3 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
ACT	<i>Medical Practitioners Act 1930</i>	Entry, registration, title, practice, discipline, advertising	Issues paper released in May 1999.		Council to assess progress in 2002.
Northern Territory	<i>Medical Act</i>	Entry, registration, title, practice, discipline, advertising, ownership, business	Review completed May 2000. Recommendations included removing generic practice, ownership and advertising restrictions, and retaining title protection.	Omnibus Bill to be implemented in line with recommendations.	Council to assess progress in 2002.

Table 16.4: Review and reform of legislation regulating the nursing profession

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Nurses Act 1991</i>	Entry, registration, title, practice, discipline	Issues paper released July 1999. Review complete.	Review due to be considered by Government in 2001	Council to assess progress in 2002.
Victoria	<i>Nurses Act 1993</i>	Entry, registration, title, discipline	Discussion paper released in October 1998. Review report not publicly available.	Amending legislation passed in November 2000. Advertising provisions include the ability of the board to impose additional restrictions.	Council to assess progress in 2002.
Queensland	<i>Nursing Act 1992</i>	Entry, registration, title, practice, discipline	Review report completed and under consideration by Government.	Framework legislation in place.	Council to assess progress in 2002.

(continued)

Table 16.4 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Western Australia	<i>Nurses Act 1992</i>	Entry, registration, title, practice, discipline	Issues paper released October 1998.		Council to assess progress in 2002.
South Australia	<i>Nurses Act 1984</i>	Entry, registration, title, practice, discipline	Review completed in 1998. Recommendations included improving accountability, removing restrictions on advertising and making minor changes to entry requirements.	New <i>Nurses Act 1999</i> enacted in line with recommendations.	Meets CPA obligations (June 2001).
Tasmania	<i>Nursing Act 1995</i>	Entry, registration, title, practice, discipline	Complete. Review report not publicly available. New legislation assessed under clause 5(5).	A new <i>Nurses Act 1999</i> enacted.	Meets CPA obligations (June 2001).
ACT	<i>Nurses Act 1988</i>	Entry, registration, title, discipline	Issues paper released in May 1999.		Council to assess progress in 2002.
Northern Territory	<i>Nursing Act</i>	Entry, registration, title, practice, discipline, advertising	Review completed May 2000. Recommendations included removing advertising and practice restrictions, and retaining title protection.	Omnibus Bill to be drafted for consultation.	Council to assess progress in 2002.

Table 16.5: Review and reform of legislation regulating the occupational therapist profession

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Queensland	<i>Occupational Therapists Act 1979</i>	Entry, registration, title, practice, discipline	Review of health practitioner registration Acts completed in 1999. Review report not publicly available, but brief summary in 2001 NCP annual report. Core practices review completed but yet to be implemented.	Framework legislation in place. New <i>Occupational Therapists Registration Act 2001</i> passed in May 2001, maintaining registration.	Council to assess progress in 2002.

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Table 16.5 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Western Australia	<i>Occupational Therapists Registration Act 1980</i>	Entry, registration, title, practice, discipline	Issues paper released in October 1998.		Council to assess progress in 2002.
South Australia	<i>Occupational Therapists Act 1974</i>	Entry, registration, title, practice, discipline	Review completed in 1999. Review recommends maintaining registration requirements.	Cabinet has approved drafting of amendments to the Act.	Council to assess progress in 2002.
Northern Territory	<i>Health Practitioners and Allied Professionals Registration Act</i>	Entry, registration, title, practice, discipline, advertising	Review completed May 2000, recommending retaining title protection and removing generic practice restrictions.	Omnibus Bill to be implemented in line with recommendations.	Council to assess progress in 2002.

Table 16.6: Review and reform of legislation regulating the optometry professions

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Optical Dispensers Act 1963</i> <i>Optometrists Act 1930</i>	Entry, registration, title, practice, discipline	Review completed in December 1999 and released in April 2001. Recommendations included removing ownership restrictions, limiting reserved practice and extending prescribing rights.	Government considering the review. Draft legislation circulated for comment.	Council to assess progress in 2002.
Victoria	<i>Optometrists Registration Act 1958</i>	Entry, registration, title, practice, discipline, advertising	Review completed and new legislation assessed under CPA clause 5(5). The new Act removes most restrictions on commercial practice and reservation of practice. It retains the reserved title and investigation of advertising (to ensure fair and accurate advertising).	New <i>Optometrists Registration Act 1996</i> enacted in line with review recommendations.	Meets CPA obligations (June 2001).

(continued)

Table 16.6 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Queensland	<i>Optometrists Act 1974</i>	Entry, registration, title, practice, discipline, ownership, advertising	Review of general provisions completed. Specific review of practice restrictions also completed but recommendations yet to be implemented.	Framework legislation passed by the Queensland Parliament in 1999. A new <i>Optometrists Registration Act 2001</i> was passed in May 2001, preserving practice restrictions subject to review.	Council to assess progress in 2002.
Western Australia	<i>Optical Dispensers Act 1966</i> <i>Optometrists Act 1940</i>	Entry, registration, title, practice, discipline, advertising	Issues paper released in October 1998.		Council to assess progress in 2002.
South Australia	<i>Optometrists Act 1920</i>	Entry, registration, title, practice, discipline, advertising	Review completed in 1999. Review recommended extending registration to optical dispensers.	Under consideration by Government.	Council to assess progress in 2002.
Tasmania	<i>Optometrists Registration Act 1994</i>	Entry, registration, title, practice, discipline, advertising	Review underway.		Council to assess progress in 2002.
ACT	<i>Optometrists Act 1956</i>	Entry, registration, title, practice, discipline, advertising	Issues paper released in May 1999.		Council to assess progress in 2002.
Northern Territory	<i>Optometrists Act</i>	Entry, registration, title, practice, discipline, ownership	Review completed May 2000. Recommendations include removing ownership restrictions, modifying practice restrictions and retaining title protection.	Omnibus Bill being drafted in line with recommendations.	Council to assess progress in 2002.

Table 16.7: Review and reform activity of legislation regulating the osteopathy profession

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Chiropractors and Osteopaths Act 1991</i>	Entry, registration, title, practice, discipline, advertising	As with chiropractors	New <i>Osteopaths Act 2001</i> passed in line with review recommendations.	Meets CPA obligations (June 2001).
Victoria	<i>Chiropractors and Osteopaths Act 1978</i>	Entry, registration, title, practice, discipline, advertising	As with chiropractors	Legislation replaced with the <i>Osteopaths Registration Act 1996</i> in line with review recommendations.	Meets CPA obligations (June 2001).
Queensland	<i>Chiropractors and Osteopaths Act 1979</i>	Entry, registration, title, practice, discipline, advertising, business	Review of health practitioner registration Acts completed in 1999. Brief summary in 2001 NCP annual report. Framework legislation implemented and osteopath-specific legislation passed.	Framework legislation in place. New <i>Osteopaths Registration Act 2001</i> passed in May 2001. The Act does not contain practice restrictions.	Meets CPA obligations (June 2001).
Western Australia	<i>Osteopaths Act 1997</i>	Entry, registration, title, discipline	Issues paper released in October 1998.		Council to assess progress in 2002.
South Australia	<i>Chiropractors Act 1991</i>	Entry, registration, title, practice, discipline, advertising, business	As with chiropractors	As with chiropractors	Council to assess progress in 2002.
Tasmania	<i>Chiropractors Registration Act 1982</i>	Entry, registration, title, practice, discipline, advertising	As with chiropractors	New <i>Chiropractors and Osteopaths Act 1997</i> enacted in 1997.	Meets CPA obligations (June 2001).
ACT	<i>Chiropractors and Osteopaths Act 1983</i>	Entry, registration, title, practice, discipline, advertising	Issues paper released in May 1999.		Council to assess progress in 2002.

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Table 16.7 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Northern Territory	<i>Health Practitioners and Allied Professionals Registration Act</i>	Entry, registration, title, practice, discipline	Review completed May 2000. Recommendations included retaining title protection and removing generic practice restrictions.	Draft omnibus Bill to be implemented in line with recommendations.	Council to assess progress in 2002.

Table 16.8: Review and reform activity of legislation regulating the pharmacy profession

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Pharmacy Act 1964</i>	Entry, registration, title, practice, discipline, advertising, business, ownership, licensing	National Review of Pharmacy Regulation (Wilkinson Review) completed in February 2000. The review recommended retaining registration, the protection of title, practice restrictions and disciplinary systems (although with minor changes to the registration systems recommended for individual jurisdictions). Further, the review recommended maintaining existing ownership restrictions, and removing business licensing restrictions. (The Review also made recommendations regarding Commonwealth controls on the location of pharmacies, see section on Commonwealth legislation.)	CoAG referred the Wilkinson Review to a senior officials' working party, which is yet to report back to CoAG. (Queensland passed a new <i>Pharmacists Registration Act 2001</i> in May 2001, but reserved ownership and practice restrictions pending the outcome of the CoAG working party process.) (The Commonwealth has signed a new Community Pharmacy Agreement with the Pharmacy Guild of Australia regarding location restrictions, see section on Commonwealth legislation.)	Council to assess progress in 2002.
Victoria	<i>Pharmacists Act 1974</i>	Entry, registration, title, practice, discipline, advertising, business, ownership, licensing			
Queensland	<i>Pharmacy Act 1976</i>	Entry, registration, title, practice, discipline, advertising, business, ownership			

(continued)

Table 16.8 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Western Australia	<i>Pharmacy Act 1974</i>	Entry, registration, title, practice, discipline, advertising, business, ownership, licensing, residence	(see previous page)	(see previous page)	(see previous page)
South Australia	<i>Pharmacy Act 1991</i>	Entry, registration, title, practice, discipline, advertising, business, ownership, licensing			
Tasmania	<i>Pharmacy Act 1908</i>	Entry, registration, title, practice, discipline, advertising, business, ownership			
ACT	<i>Pharmacy Act 1931</i>	Entry, registration, title, practice, discipline			
Northern Territory	<i>Pharmacy Act 1996</i>	Entry, registration, title, practice, discipline			

Table 16.9: Review and reform activity of legislation regulating the physiotherapy profession

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Physiotherapists Registration Act 1945</i>	Entry, registration, title, practice, discipline	Review completed in March 2001. The review made 28 recommendations, including lessening restrictions on practice and advertising.	New legislation passed Legislative Assembly in June 2001 in line with review recommendations.	Council to assess progress in 2002.
Victoria	<i>Physiotherapists Act 1978</i>	Entry, registration, title, practice, discipline, advertising	Review completed in 1997, recommending removing most restrictions on commercial practice and the reservation of practice. Recommended retaining provisions for reserved title and investigation of advertising (to ensure fair and accurate advertising).	Legislation replaced with the <i>Physiotherapists Registration Act 1998</i> in line with review recommendations.	Meets CPA obligations (June 2001).
Queensland	<i>Physiotherapists Act 1964</i>	Entry, registration, title, practice, discipline	Review of health practitioner registration Acts completed in 1999. Brief summary in 2001 NCP annual report. Core practices review completed but recommendations yet to be implemented.	Framework legislation enacted in December 1999. New <i>Physiotherapists Registration Act 2001</i> passed in May 2001, preserving practice restrictions subject to review.	Council to assess progress in 2002.
Western Australia	<i>Physiotherapists Act 1950</i>	Entry, registration, title, practice, discipline	Issues paper released in October 1998.		Council to assess progress in 2002.
South Australia	<i>Physiotherapists Act 1991</i>	Entry, registration, title, practice, discipline, advertising, ownership	Review completed in 1999. Review recommended removing ownership and advertising restrictions.	Cabinet has approved drafting amendments.	Council to assess progress in 2002.
Tasmania	<i>Physiotherapists Registration Act 1951</i>	Entry, registration, title, practice, discipline, advertising	New legislation implemented after assessment under CPA clause 5(5).	New <i>Physiotherapists Registration Act 1999</i> enacted.	Meets CPA obligations (June 2001).
ACT	<i>Physiotherapists Act 1977</i>	Entry, registration, title, practice, discipline	Issues paper released in May 1999.		Council to assess progress in 2002.

(continued)

Table 16.9 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Northern Territory	<i>Health Practitioners and Allied Professionals Registration Act</i>	Entry, registration, title, practice, discipline	Review completed May 2000. Recommendations included retaining title protection and removing generic practice restrictions.	Draft omnibus Bill to be implemented in line with recommendations.	Council to assess progress in 2002.

Table 16.10: Review and reform activity of legislation regulating the podiatry profession

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Podiatrists Act 1989</i>	Entry, registration, title, practice, discipline	Issues paper released in April 2000.		Council to assess progress in 2002.
Victoria	<i>Chiropodists Act 1968</i>	Entry, registration, title, practice, discipline, advertising	Review completed in 1997, recommending the removal of most restrictions on commercial practice and the reservation of practice restrictions.	Legislation replaced with the <i>Podiatrists Registration Act 1997</i> in line with recommendations.	Meets CPA obligations (June 2001).
Queensland	<i>Podiatrists Act 1969</i>	Entry, registration, title, practice, discipline	Review completed in 1999. Brief summary in 2001 NCP annual report. Podiatry-specific legislation passed in May 2001, but retained existing practice restrictions subject to further NCP review.	Framework legislation passed in December 1999. New <i>Podiatrists Registration Act 2001</i> enacted in May 2001, preserving practice restrictions subject to review.	Council to assess progress in 2002.
Western Australia	<i>Podiatrists Registration Act 1984</i>	Entry, registration, title, practice, discipline	Issues paper released in October 1998.		Council to assess progress in 2002.

(continued)

Table 16.10 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
South Australia	<i>Chiropodists Act 1950</i>	Entry, registration, title, practice, discipline, advertising	Review completed in 1999. Review recommended removing ownership and advertising restrictions and limiting reserved practice.	Cabinet has approved drafting amendments.	Council to assess progress in 2002.
Tasmania	<i>Podiatrists Registration Act 1995</i>	Entry, registration, title, discipline, advertising	Completed in 2000.	Amending legislation passed in November 2000. Advertising and ownership restrictions removed from the Act.	Meets CPA obligations (June 2001).
ACT	<i>Podiatrists Act 1994</i>	Entry, registration, title, practice, discipline	Issues paper released in May 1999.		Council to assess progress in 2002.

Table 16.11: Review and reform activity of legislation regulating the psychology profession

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Psychologists Act 1989</i>	Entry, registration, title, practice, discipline	Review report completed December 1999, recommending the retention of registration, but the removal of restrictions on advertising and premises. A number of recommendations provide clarity and accountability.	New <i>Psychologists Bill</i> introduced in October 2000 in line with review recommendations.	Council to assess progress in 2002.

(continued)

Table 16.11 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Victoria	<i>Psychologists Act 1978</i>	Entry, registration, title, practice, discipline, advertising, business	Review completed in 1998, recommending the removal of most restrictions on commercial practice and the reservation of practice. It recommended retaining reserved title and investigation of advertising (to ensure fair and accurate advertising).	Replacement legislation, the <i>Psychologists Registration Act 2000</i> , enacted. Advertising provisions include the ability of the board to impose additional restrictions.	Council to assess progress in 2002.
Queensland	<i>Psychologists Act 1977</i>	Entry, registration, title, practice, discipline, advertising	Review completed in 1999. New legislation retains restrictions on entry, registration, title and a disciplinary process. The new legislation contains limited advertising restrictions and a prohibition of undue influence by owners.	Framework legislation passed in December 1999. New <i>Psychologists Registration Act 2001</i> passed in May 2001. The Act does not contain practice restrictions.	Meets CPA obligations (June 2001).
Western Australia	<i>Psychologists Registration Act 1976</i>	Entry, registration, title, practice, discipline	Issues paper released in October 1998.		Council to assess progress in 2002.
South Australia	<i>Psychological Practices Act 1973</i>	Entry, registration, title, practice, discipline, advertising	Review completed in 1999. Review recommended removing advertising and practice restrictions.	Cabinet has approved drafting amendments to the Act.	Council to assess progress in 2002.
Tasmania	<i>Psychologists Registration Act 1976</i>	Entry, registration, title, discipline, advertising	Review completed. Review report not available to the Council. New legislation implemented after assessment under CPA clause 5(5).	New legislation passed in 2000.	Meets CPA obligations (June 2001).
ACT	<i>Psychologists Act 1994</i>	Entry, registration, title, practice, discipline	Issues paper released in May 1999.		Council to assess progress in 2002.
Northern Territory	<i>Health Practitioners and Allied Professionals Registration Act</i>	Entry, registration, title, practice, discipline, advertising	Review completed May 2000. Recommendations included retaining title protection and removing generic practice restrictions.	Draft omnibus Bill to be implemented in line with recommendations.	Council to assess progress in 2002.

Table 16.12: Review and reform activity of legislation regulating radiographers

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Queensland	<i>Medical Radiation Technologists Act 2001</i>	Entry, registration, title, discipline	Review of health practitioner registration legislation completed in 1999, recommending registering radiation therapists, medical imaging technologists/radiographers and nuclear imaging technologists.	Framework legislation passed in December 1999. New <i>Medical Radiation Technologists Act 2001</i> passed in May 2001. The Act does not restrict practice.	Meets CPA obligations (June 2001).
Tasmania	<i>Radiographers Registration Act 1976</i>	Entry, registration, title, discipline	Review completed. New legislation implemented after assessment under CPA clause 5(5).	<i>Medical Radiation Science Professionals Registration Act 2000</i> passed in November 2000. The Act does not contain practice or advertising restrictions, but does contain requirements for professional indemnity insurance.	Meets CPA obligations (June 2001).
Northern Territory	<i>Radiographers Act</i>	Entry, registration, title, practice, discipline, advertising	Review completed May 2000. Recommendations included repealing the Act and transferring powers to the Chief Health Inspector under the Radiation (Safety Control) Act.	The Government has approved the drafting of legislation in line with review recommendations.	Council to assess progress in 2002.

Table 16.13: Review and reform activity of legislation regulating speech pathologists

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Queensland	<i>Speech Pathologists Act 1979</i>	Entry, registration, title, practice, discipline	Review completed in 1999, recommending retaining registration, including the restriction of title and disciplinary provisions, but removing practice restrictions.	Framework legislation passed in December 1999. New <i>Speech Pathologists Registration Act 2001</i> passed in May 2001.	Council to assess progress in 2002.

Table 16.14: Review and reform activity of legislation regulating traditional Chinese medicine practitioners

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Victoria	<i>Chinese Medicine Registration Act 2000</i>	Entry, registration, title, practice, discipline, advertising, insurance, prescribing.	The Australian Council of Health Ministers agreed that Victoria should take the lead in developing model legislation. Extensive review completed in 1999.	Legislation passed in 2000. Advertising provisions include the ability of the board to impose additional restrictions.	Council to assess progress in 2002.

Drugs, poisons and controlled substances

Drugs, poisons and controlled substances include over-the-counter medicines, certain chemicals, pharmaceuticals that a doctor or other professional must prescribe and complementary medicines. Most Australians regularly use these products, for which the combined market value in Australia is several billion dollars each year. The use of certain poisonous substances, although of benefit to the community, can and does result in harm.

Legislative restrictions on competition

State and Territory governments have a range of medicines and poisons legislation that imposes restrictions on who can supply these substances, to whom they may be supplied, how they may be supplied and in what circumstances. Commonwealth legislation controls the supply of products through a registration process.

The Commonwealth Therapeutic Goods Administration assesses therapeutic goods for safety, under the terms prescribed in the *Therapeutic Goods Act 1989* and the *Agricultural and Veterinary Chemicals Code Act 1994*.² These Acts control what products may be supplied in the Australian market and how they are to be supplied. Products for human therapeutic use must be listed on the Australian Register of Therapeutic Goods and may also be scheduled.

The Standard for the Uniform Scheduling of Drugs and Poisons lists substances under various schedules according to the;

- intrinsic hazard (toxicity);
- purpose of use;
- potential for abuse;
- safety in use; and
- need for the substance.

The schedule includes provisions for labelling, packaging and advertising, and specifies to whom a product may be sold and under what conditions; for example, schedule 4 pharmaceuticals may be prescribed by only a medical

² Restrictions under the latter Act are discussed in chapter 13.

practitioner and dispensed by only a registered pharmacist (with limited exceptions). State and Territory legislation generally enforces these restrictions.

State and Territory legislation is also concerned with restrictions throughout the substance supply chain and on use in the community, and with all aspects of household poisons. Regulations include the licensing of wholesalers, restrictions on the handling and storage of goods, controls on the manufacture of medicines and treatment of addiction (in controlled substances legislation), and reporting requirements. There is considerable regulatory variation across jurisdictions, including differences in the scope and detail of particular controls. The relationship between differing regulatory instruments (such as drugs and poisons legislation and professional regulation) also needs to be examined to ensure duplication and inconsistencies are minimised.

Regulating in the public interest

There is potential for significant harm from the misuse of drugs, poisons and controlled substances. These harms can include death and hospitalisations through accidental or deliberate poisoning, medical misadventures and abuse. The objective of the legislative restrictions is freedom from harm to the individual and the community as a whole. The potential for harm from the misuse of drugs, poisons and controlled substances justifies restrictions on competition where a clear link between the restriction and the reduction of harm can be established. Best practice regulation seeks to provide a reasonable level of protection while ensuring reasonable access.

Restricting the supply of drugs, poisons and controlled substances can involve input or outcome restrictions. Input restrictions include the licensing of wholesalers and controls on who may prescribe and who may dispense. Outcome restrictions govern end use, for example proscribing the misuse of controlled substances. Generally, outcome legislation is preferred to input controls because costs are lower and restrictions on competition are fewer. However, with particularly dangerous goods such as addictive pharmaceuticals, the benefits of multiple controls to prevent harm are likely to justify high costs. Good regulation should differentiate the scope and nature of restrictions based on the potential for harm.

Review and reform activity

The scope of review and reform activity in drugs, poisons and controlled substances regulation is outlined in the following table.

Table 16.15: National review of drugs, poisons and controlled substances

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Commonwealth	<i>Therapeutic Goods Act 1989</i>	Scheduling restrictions on the labelling, packaging and advertising of listed substances, and to whom a product may be sold and under what conditions. Licensing restrictions on the handling, storage and reporting requirements of controlled substances for wholesalers and retailers.	The Galbally Review of Drugs, Poisons and Controlled Substances issued a draft final report in September 2000, which concluded that there are sound reasons for a comprehensive system of legislative controls that regulate drugs, poisons and controlled substances, notwithstanding that many of these controls restrict competition. The draft report also found that the level of regulation should be reduced in some areas, the efficiency of the regulatory system could be improved, and non-legislative measures would be a more appropriate policy response in some areas. The final report was completed and presented to the Australian Health Ministers Conference in early 2001. An Australian Health Ministers Advisory Committee working party is examining the report and provide recommendations to CoAG.		Council to assess progress in 2002.
New South Wales	<i>Poisons and Therapeutic Goods Act 1966</i> <i>Drugs Misuse and Trafficking Act 1985</i>				
Victoria	<i>Drugs, Poisons and Controlled Substances Act 1981</i>				
Queensland	<i>Health Act 1937</i>				
Western Australia	<i>Poisons Act 1964</i> <i>Health Act 1911 (Part VIIA)</i>				
South Australia	<i>Controlled Substances Act 1984</i>				
Tasmania	<i>Poisons Act 1971</i> <i>Alcohol and Drug Dependency Act 1968</i> <i>Pharmacy Act 1908</i> <i>Criminal Code Act 1924</i>				
ACT	<i>Drugs of Dependence Act 1989</i> <i>Poisons Act 1933</i> <i>Poisons and Drugs Act 1978</i>				
Northern Territory	<i>Poisons and Dangerous Drugs Act</i> <i>Therapeutic Goods and Cosmetics Act</i> <i>Pharmacy Act</i>				

Commonwealth health legislation

The Commonwealth administers the Medicare health insurance system, regulates private health insurance and provides for location restrictions on pharmacy through the *Health Insurance Act 1973* and the *National Health Act 1953*. The Council has identified NCP questions relating to the Commonwealth's administration of this legislation, as follows:

- the community rating for private health insurance;
- the prevention of private health funds from providing payments for certain services;
- limits on Medicare provider numbers;
- the pathology Licensed Collection Centre scheme; and
- location restrictions imposed by the Community Pharmacy Agreement.³

The Commonwealth noted that many of these matters are relevant to the assessment of NCP progress in 2002. The Council will further consider progress in the 2002 NCP assessment.

Review and reform activity

Review and reform activity in these areas is outlined in the table 16.16.

³ Related restrictions imposed by pharmacist regulation is discussed earlier in the chapter.

Table 16.16: Review and reform of Commonwealth health legislation

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Commonwealth	<i>National Health Act 1953 (part 6 and schedule 1)</i> <i>Health Insurance Act 1973 (part 3)</i>	Community rating of private health insurance prevents insurers from setting different terms and conditions for insurance on the basis of sex, age or health status.	Productivity Commission completed a review of private health insurance in February 1997. The review was specifically prevented from examining community rating.	Lifetime Health Cover implemented in 2000, changing community rating to allow insurers to impose a premium surcharge for new entrants based on age at entry.	Council to assess progress in 2002.
	<i>National Health Act 1953</i> <i>Health Insurance Act 1973</i>	Limits health funds to paying rebates for services provided by on behalf of medical practitioners, midwives and dental practitioners.	The Council wrote to the Commonwealth on this issue in December 2000.		Council to assess progress in 2002.
	<i>Human Services and Health Legislation Amendment Act (No. 2) 1995</i> <i>Health Insurance Amendment Act (No. 2) 1996</i>	Prevents new medical graduates from providing a service that attracts a Medicare rebate unless they hold postgraduate qualifications, are studying towards such qualifications or work in rural areas.	Mid term review of provider number legislation completed in December 1999. The review recommended removing the sunset clause on the legislation and addressing some training issues. Annual reports from the Medical Training Review Panel.	2000 Federal Budget announced changes to general practice training, including more training positions. Legislation to remove the sunset clause on the legislation introduced in June 2001.	Council to assess progress in 2002.
	<i>Health Insurance Act 1973 (Part IIA)</i>	Pathology collection centre licensing prevents entry to the market.	NCP Review commenced in 2000. Due for completion in late 2001.	Legislation to modify the licensed collection centre scheme introduced in June 2001.	Council to assess progress in 2002.

(continued)

Table 16.16 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
	<i>National Health Act 1953 (s99L)</i>	Restricts the location of pharmacies. Applicants for a new pharmacy must demonstrate a 'definite community need' — that is, a catchment area with a population over 3000, a full-time medical practitioner and general shopping facilities — and be at least 2km from an existing pharmacy. There are also restrictions on the relocation of existing pharmacies.	The Wilkinson Review of pharmacy legislation reported in February 2000. The review recommended that location controls for new pharmacies be removed or amended to reward more efficient pharmacies, promote larger pharmacies and provide targeted incentives for rural and remote pharmacies. The review also recommended removing restrictions on the relocation of existing pharmacies.	The Commonwealth did not accept some review recommendations. The third Community Pharmacy Agreement between the Commonwealth and the Pharmacy Guild of Australia maintains location restrictions for new pharmacies and relocation restrictions for existing pharmacies (although with some simplification and amendment)	Council to assess progress in 2002.

Population health and public safety

States and Territories have a wide variety of population health legislation aimed at reducing the risks of infection. These laws include the licensing of facilities that provide health services and other activities that could pose a potential public health risk, and procedures for the use of potentially dangerous material and procedures.

State and Territory legislation involves different mechanisms for achieving the objective of minimising the risk of harm to the community. To some extent, the different mechanisms reflect jurisdictions' different assessments of population health concerns; for example, Queensland has a number of laws relating to mosquitoes but Tasmania has none, reflecting the climatic differences between the two States.

Legislative restrictions on competition

Legislation in this area can include:

- licensing of occupational groups that undertake potentially dangerous activity, such as skin piercing;
- licensing of premises such as hospitals and restaurants;
- prescriptive procedural legislation, such as legislated infection control procedures; and
- outcome measures with penalties for breaches, such as fines for serving contaminated food.

There is occasional overlap between the general objectives of public health legislation (to protect community health and safety) and environmental protection legislation. This overlap can require persons to meet standards set out in two or more legislative instruments.

No significant concerns have been raised with the Council with respect to population health legislation at the time of this assessment. The Council will assess progress in 2002.