

## industry news

### ASQA rolls out across Australia

The new National VET regulator, the Australian Skills Quality Authority (ASQA), commenced operations on 1 July 2011. The function of registering RTOs in the states and territories is transferring to ASQA in a phased process. NSW, the ACT and the Northern Territory came under ASQA's remit on 1 July 2011. Queensland, South Australia and Tasmania are in the process of transitioning to ASQA regulation.

Victoria and Western Australia have not referred their VET regulation powers to the Commonwealth. The legal and practical effect of this is that RTOs in these states may be subject to regulation by ASQA, or by their state regulation body, or by both the ASQA and their state body (if their scope includes delivery in other jurisdictions or they have CRICOS registration).

ASQA was established through the enactment of three pieces of legislation passed on 24 March 2011:

- The National Vocational Education and Training Regulator Act 2011
- The National Vocational Education and Training (Consequential Amendments) Act 2011
- The National Vocational Education and Training Regulator (Transitional Provisions) Act 2011.

### Trademarking the Australian Qualifications Framework

One of the more significant developments in connection with the establishment of ASQA is the Department of Education, Employment and Workplace Relations (DEEWR) move to trademark the entire Australian Qualifications Framework. This trademark encompasses all qualification titles contained within the AQF from Certificate I through to Doctoral degrees. The lodgment date for the trademark application with IP Australia was 28 September 2010 and the trademark is due for acceptance on 3 May 2012 (yes, it's a long process!).

To date, there have been no oppositions to the trademark application. It is possible to access the history of the application on IP Australia's searchable database ATMOSS (Australian Trade Mark On-line Search System). It is located here:

**[http://pericles.ipaustralia.gov.au/atmoss/falcon.application\\_start](http://pericles.ipaustralia.gov.au/atmoss/falcon.application_start)**

Enter as a guest and search by the code 1385756 to find the AQF trademark application status and all related information.

### What are the ramifications of the AQF trademark?

The official deadline for feedback on the draft AMT Code of Practice was extended till the end of September. However, AMT is still unofficially accepting feedback on the document until the end of November. We will commence the review process in December and plan to launch the final revised version of the code in 2012, including the guidelines for some of the standards such as infection control and OHS.



*in good hands*

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The National Vocational Education and Training Regulator Act 2011 gives ASQA specific powers to regulate both National Vet Regulator Registered Organisations (RTOs) and non-NVR registered training organisations (non-registered colleges delivering vocational training). In other words, any college offering vocational education courses is subject to the Act and can be prosecuted under the Act. Specifically, this includes infringements of the intellectual copyright of the AQF. For example, promoting a 2 or 5-day Diploma of Massage or indeed Diploma of Anything constitutes an infringement of the AQF intellectual copyright. This means that, if a specific training is not actually an AQF diploma, then it cannot be called a Diploma and marketed/issued as such.

The National Vocational Education and Training Regulator Act 2011 includes specific offences and penalties that relate directly to non-NVR training providers. These penalties cover false or misleading advertising of training and false or misleading representation of qualifications (i.e. a diploma ain't a diploma unless it's an AQF diploma).

Essentially, there is now a mechanism that enables ASQA to pursue and prosecute providers of substandard trainings. The ramifications of this for our industry are immediately obvious. To quote Peter Blee, ASQA's industry engagement manager, "there's a lot of colleges out there offering training that have probably never heard of ASQA and have no idea that they are subject to ASQA regulation".

The offences and penalties relating to non-NVR colleges are spelt out in Subdivision B and C of the Act, sections 114 through to 132. For those of you who are interested, the full Act can be accessed from the Australian Law Library website here:

[http://www.austlii.edu.au/au/legis/cth/num\\_act/nveatra2011492/](http://www.austlii.edu.au/au/legis/cth/num_act/nveatra2011492/)

Complaints about a college can be directed to the ASQA complaints team:  
[complaintsteam@asqa.gov.au](mailto:complaintsteam@asqa.gov.au)

To date, ASQA has begun investigating three complaints against non-NVR registered colleges. This will give ASQA the opportunity to assess the application and extent of their new legal powers under both the trademark and the Act.

### **AMT Code of Practice Consultations**

The official deadline for feedback on the draft AMT Code of Practice was extended till the end of September. However, AMT is still unofficially accepting feedback on the document until the end of November. We will commence the review process in December and plan to launch the final revised version of the code in 2012, including the guidelines for some of the standards such as infection control and OHS.

The feedback from various government agencies and healthcare complaints agencies continues to be very positive. AMT particular acknowledges the assistance and advice from the Office of Health Services in Victoria, and the Health Quality and Complaints Commission in Queensland.

Nicola Roxon's office sent the following response to the draft Code:

*"Thank you for your correspondence of 6 June 2011 to the Minister for Health and Ageing, the Hon Nicola Roxon MP, regarding the AMT Code of Practice. The Minister has asked me to reply on her behalf.*

*The Australian Government values the contribution that a wide range of health workers make to the health care system in Australia. The Government also recognises the value of professional standards, codes and guidelines to help ensure the quality and safety of services provided by health professionals.*

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*Thank you for providing your draft Massage Therapy Code of Practice. The Minister and Department do not generally provide input directly on professional standards, which is led by professions with input from the community and professional groups as relevant. Accordingly, we have no comment at this time.*

*However, as you are aware, the Australian Health Ministers' Advisory Council has recently undertaken national consultation on options for strengthening the regulation of unregistered health professionals. I understand the draft Code of Practice was included in the AMT's submission to this consultation process.*

*I value your commitment to the massage therapy workforce in Australia and wish you well in developing the final Code of Practice.*

*Yours sincerely*

*Paula Sheehan*

*Director*

*Allied Health Section*

### **NSW WorkCover – recognition of new providers**

NSW WorkCover called for submissions from the associations in connection with their review of new provider recognition criteria for Remedial Massage Therapists. They are in the process of collating the information they have received and hope to have a new system in place by the end of the year so that they can start processing new applications again. In the meantime, it is business as usual for existing NSW WorkCover providers.

