Senate Community Affairs References Committee

Inquiry into the administration of registration and notifications by the Australian Health Practitioner Regulation Agency

May 2021

Advance the profession
Royal Australian and New Zealand College of Psychiatrists submission
Inquiry into the administration of registration and notifications by the Australian Health Practitioner Regulation Agency

About the Royal Australian and New Zealand College of Psychiatrists
The Royal Australian and New Zealand College of Psychiatrists (RANZCP) is responsible for training, educating and representing psychiatrists in Australia and New Zealand. The RANZCP has over 6900 members, including more than 5100 qualified psychiatrists (consisting of both Fellows and Affiliates of the College) and around 1800 members who are training to qualify as psychiatrists (referred to as Associate members or trainees).

Key findings
- The RANZCP notes there is an opportunity to further improve the handling of notifications and to have greater transparency in the review and decision-making processes involved in both the hearing of notifications.
- The RANZCP emphasises the health and wellbeing of practitioners is critical, and practitioners should be supported to seek the help they need.
- The RANZCP encourages the National Boards to consider the difference between the medical specialties when investigating a notification which is sent to a tribunal.
- The RANZCP highlights that there is an opportunity to improve the appeal process communication and timeframes for practitioners.

Introduction
The RANZCP welcomes the opportunity to respond to the Senate Community Affair References Committee's Inquiry into the administration of registration and notifications by the Australian Health Practitioner Regulation Agency (the Inquiry). The RANZCP recognises the purpose of notifications is not to punish but to protect the public and improve the public confidence in the safety of service provided by health professionals.

Several RANZCP Committees were consulted to develop the RANZCP submission including the Committee for Professional Practice, Faculty of Psychotherapy, Overseas Trained Psychiatrists' Representative Committee, Section of Early Career Psychiatrists, Section of Private Practice Psychiatry Committee, Section of Leadership and Management and the Section of History, Philosophy and Ethics of Psychiatry. As such, the RANZCP is well positioned to provide assistance and advice about this issue due to the breadth of academic, clinical and service delivery expertise it represents.

In this submission, the RANZCP highlights the importance of timely resolution of notifications and urges the Australian Health Practitioner Regulation Agency (AHPRA) and the National Boards to continue improving the timeframe for handling notifications in order to maintain public protection and confidence in the National Law.

The RANZCP emphasises the health and wellbeing of medical practitioners is important, and practitioners should feel comfortable seeking the healthcare and treatment they need. We have received member feedback noting the investigation process can have a negative impact on doctors who are providing high quality care for their patients while an investigation is in progress. We encourage AHPRA to consult with the medical boards, medical colleges and relevant entities on developing a nuanced support system that encourages medical practitioners to access health and wellbeing support services.
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Terms of reference for the Inquiry
The RANZCP has responded to the Inquiry’s terms of reference as set out below:

(a) the current standards for registration of health practitioners by the Australian Health Practitioner Regulation Agency (AHPRA) and the National Boards under the Health Practitioner Regulation National Law (National Law);

The RANZCP has no further comment.

(b) the role of AHPRA, the National Boards and other relevant organisations, in addressing concerns about the practice and conduct of registered health practitioners

The RANZCP believes further thought be given regarding notifications within mental health and how these notifications are managed. As experts in mental health, the RANZCP is well placed to assist AHPRA in refining this process.

The RANZCP encourages the National Boards to consider the difference between the medical specialties when investigating a notification and requiring a medical practitioner to undergo a performance assessment. It is important that independent assessors have an adequate understanding of, and ability to assess a practitioner’s performance. The RANZCP also highlights the complexities for independent assessors in assessing psychiatrists who undertake medico-legal work who may have no established patient/client relationship with the people they are assessing and may often only see the person once. Furthermore, the person being assessed may be attending due to legislative requirements (e.g. resolving an insurance claim, workers’ compensation claim); a fact which might have an impact on the way in which the interview unfolds and which needs to be fully understood by an independent assessor.

The RANZCP acknowledges the progress that AHPRA has made on improving the information available to practitioners. We encourage AHPRA to consult wellbeing organisations to provide more support to practitioners that are notified of a notification.

(c) the adequacy and suitability of arrangements for health practitioners subject to supervised practice as part of the registration process or due to a notification;

The RANZCP has no further comment.

(d) the application of additional requirements for overseas-qualified health practitioners seeking to become registered in their profession in Australia;

The RANZCP seeks further clarification on the requirements that would be applied to International Medical Graduates (IMGs). Any changes to the regulatory burden on IMGs has implications to the medical workforce. In response to the National Medical Workforce Strategy which identifies an intention to steer away from reliance on IMGs, the RANZCP highlighted there is an undersupply across the specialty and there are significant challenges regarding the recruitment and retention of psychiatrists particularly in rural and remote areas.

Any extra layers of regulatory burden will be complex and costly to IMGs and the RANZCP encourages AHPRA to have awareness of the current workforce shortfalls when considering the application of additional requirements for international medical graduates training.
(e) the role of universities and other education providers in the registration of students undertaking an approved program of study or clinical training in a health profession;

The RANZCP has no further comment.

(f) access, availability and adequacy of supports available to health practitioners subject to AHPRA notifications or other related professional investigations;

The RANZCP emphasises the health and wellbeing of medical practitioners is important, and practitioners should feel comfortable seeking the healthcare and treatment they need. We have received member feedback noting the investigation process can have a negative impact on doctors who are providing high quality care for their patients while an investigation is in progress. As noted in recent media coverage, most doctors – even when mentally well those under investigation for unsubstantiated notifications, find this process invasive and extremely stressful.[1]

The RANZCP emphasises that the Western Australian model - which exempts treating practitioners from mandatory reporting of doctors in their care - is the preferred model which AHPRA should consider adopting nationally.

The RANZCP highlights the impact of COVID-19 pandemic on practitioners resulting in increasing rates of burnout, depression and suicide amongst physicians due to increasing work demands, social isolation, decreased self-care and increased exposure to emotionally traumatic events at work and home.[2] The RANZCP encourages AHPRA to consult with wellbeing organisations to improve the support available to practitioners who are subject to an ongoing investigation.

(g) the timeliness of AHPRA’s investigation of notifications, including any delays in handling, assessment and decision-making, and responsiveness to notifiers;

The RANZCP notes there is an opportunity to further improve the handling of notifications and to have greater transparency in the review and decision-making processes involved in both the hearing of notifications. Timely and necessary action in response to notifications is important in providing effective public protection and confidence in the National Law on the part of both practitioners and patients.

We encourage the National Boards and AHPRA in each jurisdiction to work more closely together to continue improving the timeframe for handling notifications and for greater transparency in the review and decision-making process involved in the hearing and determining of notifications. To assist with this process, we suggest regular meetings between AHPRA, the National Boards and the medical colleges. This would help to improve AHPRA’s understanding of different medical specialities and provide a regular forum for all relevant bodies to discuss issues of mutual interest concerning the operation of the notifications scheme.

The RANZCP recognises the additional resources available to practitioners on the AHPRA website that explain practitioner obligations for mandatory notifications. We would highlight that these resources can be further enhanced to be accessible and informative to practitioners at the initial stage of the process.
(h) management of conflict of interest and professional differences between AHPRA, National Boards and health practitioners in the investigation and outcomes of notifications;

The RANZCP has no further comment.

(i) the role of independent decision-makers, including state and territory tribunals and courts, in determining the outcomes of certain notifications under the National Law;

The RANZCP encourages the National Boards to consider the difference between the medical specialties when investigating a notification which is sent to a tribunal. In fields such as child and adolescent psychiatry, it is important for independent assessors to be experienced to be able to assess relevant and adequate expertise in the practice being reviewed.

The RANZCP highlights a suspension of registration can have a negative impact on patients needing specialist mental health treatment. It can be a traumatic situation for a patient if they can no longer have face-to-face contact with their practitioner because of a suspension. We suggest AHPRA consult with the state and territory tribunals to consider implementing alternative solutions such as telehealth consultations to ensure a continuity of care for affected patients.

(j) mechanisms of appeal available to health practitioners where regulatory decisions are made about their practice as a result of a notification;

The RANZCP recognises that the Health Practitioner Regulation National Law Amendment Bill is considering new mechanisms of appeal and we welcome that these are attempts to improve the appeal process. As highlighted earlier in the submission, the notifications process can be a lengthy and stressful experience for doctors which is made worse by a notification that is unfounded.

The RANZCP emphasises the importance of supporting the health and wellbeing of medical practitioners both during and after the investigation of a notification. There is an opportunity to provide additional support to practitioners that have accepted conditions on practicing after the outcome of an investigation as these practitioners are more vulnerable. It is also important to consider the unintended consequences of conditions. For example, if a practitioner has a requirement to complete additional documentation as part of their conditions, they may not be able to continue with the same patient load which can affect the viability of their practice.

The RANZCP highlights that there is an opportunity to improve the appeal process timeframes for practitioners. Some members have reported that current timeframes may not allow enough time for practitioners to get legal advice and to consider all the options. It is essential that practitioners have all the necessary information for an appeal, so they are sufficiently informed before taking further steps in the legal process. Practitioners need to understand the implications of any appeal and we recommend AHPRA consult with relevant entities to improve the practitioner awareness of the timeframes, procedures and potential outcomes of the appeals process.

The RANZCP would also seek further information on the impact of the expansion of the responsibilities and powers of the National Health Practitioner Ombudsman (NHPO). We welcome further education for practitioners on what happens after being notified of the outcome of an appeal and the next steps in the process if an appeal is successful or unsuccessful.
The RANZCP would welcome clarification regarding the basis for appeals once the new powers of the NHPO are implemented. This would include providing information to practitioners which will assist in understanding whether they are able to appeal the outcome or the process of the notification.

(k) how the recommendations of previous Senate inquiries into the administration of notifications under the National Law have been addressed by the relevant parties; and

In 2016 and 2017, the RANZCP provided written submissions to the Committee’s previous inquiries into the medical complaints process in Australia and the complaints mechanism. We noted in both submissions noted there was room for improvement regarding the transparency and timeliness of the handling of notifications against medical practitioners under the National Law. The RANZCP acknowledges the progress that has been made regarding the timely completion of notifications and we look forward to further improvements in this area.

The RANZCP has also highlighted in the 2014 Snowball Review of the NRAS, while the public interest of safety is paramount, the Western Australian model where treating practitioners are exempt from making a notification about another health practitioner undergoing active treatment and does not pose a risk to the public, is preferred. We encourage AHPRA to consider implementing this nationally as mentioned earlier in this submission.

(I) any other related matters.

The RANZCP recognises the importance of patient safety as the main requirement of mandatory reporting is to report of health and impairment of practitioners. The obligation to report applies to both colleagues and treating doctors.

In 2019, BeyondBlue’s survey of 12,250 doctors found that 34% were concerned that seeking help and accessing healthcare could impact on their registration and right to practice.[3] As there is already stigma with accessing mental health care, the impact of the COVID-9 pandemic is worsening the health and wellbeing of front-line workers. A survey from 2020 reports that almost half of respondents confirmed they have not accessed mental health support.[4] A practitioner who might need mental health treatment may not seek the help they need which could put the safety of the practitioner and their patients at risk.

As mentioned in our Position Statement 85: Psychiatrists who have a personal experience of mental illness, many people, including doctors and other health professionals, experience mental health problems at some point in their lives and increasing attention is being given to the mental health problems experienced by doctors. We encourage AHPRA to consult with the medical boards, medical colleges and relevant entities on developing a nuanced support system that encourages medical practitioners to access health and wellbeing support services.
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References


3. Blue B. National Mental Health Survey of Doctors and Medical Students

4. Tsirtsakis A. Doctors urged to fight stigma and seek mental health support
Royal Australian College of General Practitioners; 2020 [updated 09 October 2020.