

Introduction

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) welcomes the opportunity to provide feedback into the Australian Health Practitioner Regulation Agency's (AHPRA) consultation on common guidelines and *Code of conduct*. The RANZCP has a number of concerns regarding the changes outlined in the public consultation paper, in particular the changes to the *Guidelines for mandatory notifications*, which are detailed below.

The RANZCP also recommends that AHPRA consider including a provision in the common guidelines regarding the importance of relatives, carers and family members in the care of a patient. **Section 3.10, Point B** in the Chiropractor's Code of Conduct states 'Good practice involves...Being considerate to relatives, carers, partners and others close to the patient, and respectful of their role in the care of the patient'. The RANZCP recommend this statement is extended to other Codes of Conduct.

1. Proposed *Social media policy*

The RANZCP supports the development of a social media policy by AHPRA. This is a useful introduction, as social media and the risks associated with its use are increasingly relevant to practitioners. It is important to emphasise that standards of professional conduct also apply to interactions with patients on social media. Health practitioners should be aware that inappropriate online activity can have an adverse affect on career opportunities, and it is increasingly common for potential employers to use the Internet to seek information on prospective employees. The RANZCP has a Position Statement on psychiatry, online presence and social media, which outlines the risks and benefits of social media. It can be read here: http://www.ranzcp.org/Files/ranzcp-attachments/Resources/College_Statements/Practice_Guidelines/75-Psychiatry,-online-presence-and-social-media-GC.aspx.

2. Revised *Guidelines for mandatory notifications*

- **Voluntary and mandatory notifications**

The proposed additional paragraph on page 53 requires clarification. The paragraph, which states that:

'If the risk is to the practitioner him or herself, and there is no risk of to the public, the threshold for making a mandatory notification will not be reached.'

The RANZCP recommends that this paragraph is reconsidered. A practitioner may still be at risk of harming his/herself even if they do not reach the threshold for a mandatory notification.

Further in the same paragraph, it states:

'For example, a case where the risk is clearly addressed by being appropriately managed through treatment and the practitioner is known to be fully compliant with that, notification would not be required'.

It is recommended that 'mandatory' is inserted before 'notification' – voluntary notification can and should, in some instances, take place before the threshold for mandatory notification is reached, if the practitioner is at risk of harming his/herself.

In the text box on page 53, the RANZCP recommends an addition (*italicised*):

'Practitioners should be aware that if they make notifications that are frivolous, vexatious or not in good faith, they may be subject to conduct action *and also may be subject to civil claims from the complainant.*'

The term 'conduct action' should be defined, as its meaning in this context is not clear. Further, the section should include a recommendation that the practitioner should contact their professional indemnity insurance organisation before they proceed with a notification.

- **Reasonable belief**

The overall tone of this section appears somewhat discouraging; the revised *Guidelines for mandatory reporting* should attempt to find a balance between informing practitioners of the standards and legal requirements regarding this issue, and ensuring the practitioner feels empowered to make a complaint, should it meet the requirements. In its present form, this section does not strike this balance.

Further clarification is required around the definition of 'reasonable belief' – does this apply to either voluntary or mandatory notifications, or both?

- **Direct knowledge of notifiable conduct**

The additional sentence on the final line of page 52 requires clarification. It states:

'Where a practitioner is told about notifiable conduct that another practitioner or patient has directly experienced or observed, the person with the most direct knowledge about the notifiable conduct should be encouraged to make a notification themselves.'

The RANZCP is concerned that such a statement does not take into account that, in some circumstances, the person with the most direct knowledge of the notifiable conduct is not necessarily the best placed person to make the notification – for example, if the conduct occurs in a small community and the conduct is well known through word-of-mouth.

- **Use of alcohol and drugs**

Clarification is also required on page 55, under the sub-heading of **Practise while intoxicated by alcohol or drugs (140(a))**. The addition in the second paragraph states:

'The key issue is that the practitioner has practised whilst intoxicated, regardless of the time that the drugs or alcohol were consumed'.

The inclusion of this section may add some confusion, and it may be difficult to prove what is required under these provisions and under what circumstances a notification can take place. Clarification is required on this issue.

3. Revised Code of Conduct

The RANZCP welcomes the inclusion of electronic communication in the revised *Code of Conduct*. The RANZCP notes that the definition of social media is broad, which is appropriate given the constantly changing nature of this medium.

- **Electronic records and telehealth**

The inclusion of provisions for e-health and personally controlled electronic health records is timely and appropriate, given the rapid developments in this field. The RANZCP has a set of Professional Practice Standards and Guides for Telepsychiatry, which can be read here: [http://www.ranzcp.org/Files/ranzcp-attachments/Resources/RANZCP-Professional-Practice-Standards-and-Gui-\(1\).aspx](http://www.ranzcp.org/Files/ranzcp-attachments/Resources/RANZCP-Professional-Practice-Standards-and-Gui-(1).aspx). The RANZCP has a range of other resources regarding telehealth, which can be found online here: <http://www.ranzcp.org/Resources/Telehealth-in-psychiatry.aspx>.

Under **Section 3.15** (page 40), the RANZCP recommends an addition under **Point B** (*italicised*):

‘Facilitating arrangements for the continuing care of all current *and former* patients, including the transfer or appropriate management of all patient records while following the law governing privacy and health records in the jurisdiction.’

The RANZCP recommends that a provision is also included in this section which outlines what should happen to patient records when a practitioner retires.

- **Professional boundaries**

The RANZCP has some concerns regarding the statements under **Section 8.2 Professional boundaries**. While acknowledging that this *Code of Conduct* operates to serve a number of different health professions, the RANZCP takes a zero tolerance approach to boundary violations. The RANZCP is fully supportive of **Point B**, which states that a practitioner should never establish a sexual relationship with anybody under their care.

However, the RANZCP is concerned about **Section 8.2, Point C**, which states:

‘Recognising that sexual and other personal relationships with people who have previously been a practitioner’s patients or clients are usually inappropriate, depending on the extent of the professional relationship and the vulnerability of a previous patient or client’.

This section states that sexual or other personal relationships are ‘usually’ inappropriate. It is College policy that sexual relationships between psychiatrists and their current and former patients are always unethical.

This is set out in the RANZCP Code of Ethics (http://www.ranzcp.org/Files/ranzcp-attachments/Resources/College_Statements/code_ethics_2010-pdf.aspx). The RANZCP’s zero tolerance policy on proven sexual boundary violations also outlines the College’s policy, and can be read here: http://www.ranzcp.org/getattachment/Policy-and-advocacy/Ethics/12_EG-2011.pdf.aspx.

The RANZCP acknowledges that the *Code of Conduct* operates as a set of high level principles expected of health practitioners and does not provide detailed information about the standard of conduct expected of a medical practitioner or a specialist, and that each speciality can differ in its requirements. Psychiatrists must be especially mindful of respect of boundaries, given their statutory role in treating a proportion of their patients involuntarily, and the often vulnerable state of the patients they treat.

Under **Section 8.3 Reporting obligations**, the RANZCP recommends that specialist medical Colleges, of professional organisations, are added to the list organisations that practitioners should contact if they are unsure of their obligations under National Law.

4. Revised Guidelines for Advertising

The RANZCP has no comment on the revised *Guidelines for Advertising*.