



Communiqué

Annual workshop of the Australian Medical Association, Medical Board of Australia and Australian Health Practitioner Regulation Agency

Senior leaders from the Medical Board of Australia (MBA), the Australian Health Practitioner Regulation Agency (Ahpra) and the Australian Medical Association (AMA) met on 5 December 2023 for an annual workshop. While the annual workshop focused primarily on complaints management by the MBA and Ahpra, other matters of mutual interest were also discussed.

The workshop focused on:

- legislative amendments
- cosmetic surgery
- work arising from the work of the Expert Advisory Group on practitioner distress
- notifications and
- workforce issues including retiring practitioners.

The following representatives attended:

Australian Medical Association

Professor Steve Robson, President, Federal AMA
Dr Danielle McMullen, Vice President, Federal AMA
Dr Jill Tomlinson, President, AMA Victoria
Dr Maria Boulton, President, AMA Queensland
Dr Michael Page, President, AMA Western Australia
Dr Dan Wilson, Deputy Chair, AMA Council of Doctors in Training
Warwick Hough, General Manager Policy
Nick Elmitt, Manager, Medical Practice
Patrick Tobin, Policy Advisor

Medical Board of Australia

Dr Anne Tonkin, Chair, National Board
Associate Professor Stephen Adelstein, Practitioner Member, National Board
Dr Andrew Mulcahy, Practitioner Member, National Board
Dr Susan O'Dwyer, Practitioner Member, National Board

Australian Health Practitioner Regulation Agency

Martin Fletcher, Chief Executive Officer
Kym Ayscough, Executive Director, Regulatory Operations
Susan Biggar, National Manager, Regulatory Experience and Engagement
Matthew Hardy, National Director, Notifications
Joanne Katsoris, Executive Officer, Medical
Jason McHeyzer, National Director, Cosmetic Surgery Enforcement Unit
Jamie Orchard, General Counsel

Legislative amendments

Public statement power

Legislation has been passed that allows Ahpra and the National Boards to make a public statement if the decision maker reasonably believes that:

- the person has contravened a relevant provision or is the subject of an assessment, investigation or other proceedings under Part 8 of the National Law; and
- because of the person's conduct, performance or health, the person poses a serious risk to other persons; and
- it is necessary to issue a public statement to protect public health or safety.

The AMA was provided with reassurance that this power, which has not been used to date, will only be used in rare circumstances and usually in the case of an unregistered person. In the case of registered practitioners, there are sufficient powers contained in the National Law to protect the public.

Outstanding National Law amendments

A number of other National Law amendments have not yet been proclaimed including:

- the power to issue interim prohibition orders to unregistered practitioners, or to practitioners whose registration has lapsed or been suspended and
- to allow the inclusion of an alternative name on the public register. This is relevant to practitioners who use a name in their practice that is different to the name with which they were registered.

Update on cosmetic surgery

Ahpra and the MBA are implementing all the recommendations in the *Independent review of the regulation of medical practitioners who perform cosmetic surgery* and gave an update on some current work including:

Advertising audits

About 100 audits have been conducted to date. While advertising has improved since the *Guidelines for registered medical practitioners who advertise cosmetic surgery* came into effect on 1 July 2023, the Board has taken regulatory action including imposition of conditions and cautions in some instances. Practitioners are given an opportunity to fix their advertising before regulatory action is taken.

Notifications about cosmetic practice

There have been more than 600 calls about all health practitioners (not just medical practitioners) to the cosmetic hotline in 15 months and there have been 240 new notifications made in that time. There are currently 300 open notifications related to cosmetic surgery about 117 individual health practitioners.

Reports by practitioners

Practitioners or their representatives are reporting some unsafe practices leading to patient harm. Concerns include repeated poor surgical outcomes, unusual serious incidents, risky and unprofessional behaviour and poor care.

Draft guidelines for practitioners who perform and who advertise non-surgical cosmetic procedures

Ahpra and National Boards are consulting on draft guidelines about non-surgical cosmetic procedures and encourage stakeholders to provide feedback.

Expert Advisory Group on identifying and minimising practitioner distress

Ahpra reported on the work done by an Expert Advisory Group to better understand the factors contributing to distress in health practitioners undergoing a regulatory process in Australia and to recommend improvements.

Information about this important work has been published:

- in the *International Journal for Quality in Health Care*, 2023, 35(4), 1-12 at <https://academic.oup.com/intqhc/article/35/4/mzad076/7282442> and
- on the Ahpra website at www.ahpra.gov.au/Notifications/Has-a-concern-been-raised-about-you/Improving-the-notifications-experience.aspx

There was discussion about the key contributors to practitioner stress and distress, namely:

- the feeling of 'insult' of the complaint with practitioners describing shame, self-doubt and a loss of hope
- communication issues with the regulator including not knowing what the outcome of the complaint will be and a tendency to assume devastating professional consequences, lack of helpful information and unclear timelines and
- external factors and pre-existing conditions such as mental ill-health, substance use disorders, serious criminal or misconduct allegations, isolation, and limited supports.

The work also examined protective factors and found that the two most important were:

- support systems – both personal and professional and
- positive encounters with Ahpra staff.

A series of 15 recommendations with 33 actions were made by the Expert Advisory Group. Broadly, they include:

- how Ahpra and the Boards manage practitioners with health concerns
- being open, transparent and maintaining practitioner hope
- supporting practitioners and
- learning from the practitioner experience.

There was discussion about the importance of working with partners on this work and on Ahpra and the National Boards' goal to become a more humane, while still effective regulator.

Update on notifications

Ahpra reported on changes to the way that notifications are managed by introducing a 'streaming' approach. All complaints are reviewed within days of arrival and are categorised on the basis of the level of risk to the public. Where possible, they are reducing formal investigations.

Broadly speaking:

- Notifications that do not pose an ongoing risk to the public are managed very quickly.
- Where a matter is better handled by another agency, it is referred to that agency.
- Concerns about the health of a practitioner are managed by our well-trained Health Management Team who are focused on a quick resolution where possible. In welcoming this option, the AMA asked that access to the Health Management Team be available to all practitioners subject to an investigation who request it, noting that Ahpra advised that this team is tasked with managing notifications relating to practitioner health and is not a broad-based support service.

- Where something has gone wrong and the practitioner would benefit from education and/or reflection, they may be diverted to the 'strengthening practice' stream that can include a case discussion with a medical practitioner.
- Serious concerns to public safety continue to be managed with full investigation, immediate action and referral to tribunal if necessary.

These changes are making significant impacts. This table provides some data:

Change	Pre changes	Post changes
Fewer cases accepted as notifications – closed quickly as <i>not a ground for a notification</i>	4% cases closed as not a ground for a notification	9% cases closed as not a ground for a notification
Increased proportion of consumer complaints resolved by Health Complaints Entities	46% of applicable cases	51% of applicable cases
Closing lower risk notifications sooner	Baseline from pre-streaming: 37% within 3 months	54% closed within 3 months in Q1 2023-24
Health impairment cases prioritised, closed sooner	11% high risk closed within 3 months	38% high risk closed within 3 months
Less adversarial approach to non-misconduct cases		12.5% completions from <i>strengthening practice</i> cases after a consideration of <i>case discussion</i>
Fewer cases referred for <i>formal investigation</i>	93 cases per month were referred for formal investigation	Average of 20 cases per month considered for possible misconduct with formal investigation commenced
More 'action' on cases formally investigated (indicating that they are the correct cases to investigate)		Lower rates of <i>no further action</i> (59% down from 64%) Slightly higher use of relevant action (26% up from 25%) Higher number of tribunal referrals (16% up from 11%)
Increase in practitioner satisfaction sentiment and feedback		Overall sentiment scores have increased (62% satisfied, up from 55% same time last FY) Increase in positive feedback from practitioners/practitioner advocates

As a consequence of these changes, there have been significant reductions in time frames for closing matters, particularly where regulatory action is not necessary. The data show that 81% of cases are being closed within six months in 2023/24 as compared to 57% in 2022/23 and 71% in 21/22. The data also show that compared to Q1 FY2022-23 there are 78% (n=261) fewer matters that are between 9 and 12 months in the system and 34% (n=224) fewer aged matters.

Other matters of interest in notifications

There was an update on:

- the revision of the criminal history registration standard
- Ahpra and the Boards' work on culturally safe notifications and
- the National Health Practitioner Ombudsman's review of the Vexatious notifications framework.
- As part of work underway to update Ahpra IT systems, practitioners subject to an investigation will be able to access a dashboard indicating the stage their case is at.
- The AMA raised the concerns expressed by many international medical graduates that they feel more at risk from complaints and investigations.

Workforce issues

At the time of the meeting the *Independent review of Australia's regulatory settings relating to overseas health practitioners* (the Kruk review) had not been published.

- The MBA reported on work being planned in anticipation of the release of the Kruk review to streamline international medical graduate (IMG) processes to reduce unnecessary duplication and processes. The aim is to reduce time frames for registration, reduce regulatory burden for IMGs, employers, supervisors and provide greater surety about registrability while maintaining community safety.

The MBA is planning to review the:

- specialist IMG pathway and develop a fast track streamlined pathway for practitioners with specific qualifications
- competent authority pathway, particularly focusing on broadening the experiential component
- regulatory instruments to support these changes such as registration standards and supervision guidelines.

Retiring practitioners

The AMA, MBA and Ahpra deeply respect the contribution of older medical practitioners and understand that some want to continue to contribute by teaching or mentoring other practitioners. The AMA has been approached with questions about whether retired doctors can do some of these activities if they are not registered.

The MBA has previously published a document titled *Medical registration – What does it mean? Who should be registered?* to assist practitioners to decide whether they need to be registered to do some activities. The statement is published at www.medicalboard.gov.au/Codes-Guidelines-Policies/FAQ.aspx.

Each practitioner needs to consider their own particular circumstances, but it is possible for retired practitioners to undertake some teaching and mentoring, particularly if their proposed work does not impact on safe, effective delivery of healthcare to individuals.

The MBA agreed to meet with the AMA and interested doctors to discuss how to provide further clarity on the activities that doctors with non-practising registration are able to perform.

Concluding remarks

The AMA thanked the MBA and Ahpra for the discussion. The MBA and Ahpra acknowledged the value of the feedback provided by the AMA as it helps continuous improvement, and all parties look forward to meeting again in 2024.