2 September 2013

Mr Richard Willis
Secretary
Legal and Social Issues Committee
Parliament of Victoria Legislative Council
Parliament House
EAST MELBOURNE VICTORIA 3002

Dear Mr Willis

Inquiry into the Performance of the Australian Health Practitioner Regulation Agency

Thank you for your letter dated 16 August 2013 and for the opportunity to give evidence to the Committee on 9 August 2013.

Transcript

We have no corrections to the transcript.

First Question on Notice –Streamlining the Complaints Handling Process

Our recommendations to streamline the complaints process relating to medical practitioners are as follows:

1. that there be an early triage/assessment system whereby notifications are considered by senior, experienced staff and categorised by reference to the possible outcomes:

    a. very serious (potentially requiring immediate action to be taken; and/or likely suspension or deregistration if proven),
    b. complex (probably requiring investigation including clinical input) or serious (possibility of suspension or deregistration; pattern of low-level complaints), and
    c. low-level complaints (no further action; possible caution; able to be dealt with via a fast-track resolution process; single errors).

2. that there be a fast-tracked process for low-level complaints, which could include options such as a quick turnaround time for responses (subject to all relevant information being provided), a face-to-face discussion between the complaints handling body (whether AHPRA, the Board or the HSC) and the respondent, a simple

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mediation or conciliation between the complainant and respondent, and/or a decision on the papers.

3. to avoid duplication, and to aid in transparency, it should be made clear which agency will deal with the matter, and the basis upon which one agency will deal with a matter rather than another.

4. that there be a statutory requirement that all relevant information be provided to respondents to a complaint. Annexure A contains a form of wording in this regard. Provision of all relevant information to respondents will greatly assist in speeding up the resolution of complaints and avoid the complaints handling body and practitioners entering into protracted debates about procedural fairness, and ensure that patient safety is promptly protected.

5. that there should be a publically available guide outlining the system, administrative steps, timeframes and the approach taken by AHPRA in triaging complaints, and in complaints handling generally. The respondent should be informed of the progress of the matter at regular intervals. This would aid in transparency and increase the public's confidence in AHPRA's complaints handling processes.

6. that AHPRA staff nationally should be adequately trained on how to assess and investigate complaints under this process to ensure that complaints are handled fairly, objectively and in an efficient manner. In our experience, there is a risk of complaints-handling staff having pre-existing, pre-conceived views of practitioners' conduct before all the relevant information is available.

We accept that there may be situations where a low-level complaint on initial review might on further examination be identified as being more serious. Similarly, what may initially have been considered serious may on investigation be found to be a low-level complaint. There should be a mechanism by which notifications can be transferred between the fast-tracked complaints process to a more detailed investigation process (where the evidence supports that), and vice versa.

Second Question on Notice – statistics regarding adverse AHPRA findings and civil claims

As noted in our evidence to the Committee, there is not necessarily a relationship between civil claims and disciplinary action. Our data shows that only a very small proportion (around 2%) of all professional conduct claims involving AHPRA, the Medical Board or a health complaints body since 2010 have an associated civil claim (whether or not either the professional conduct or civil claims have merit). This is the case in Victoria and nationally. This involves *all* professional conduct matters, and the proportion of those matters that will result in adverse findings of any nature, including deregistration or suspension, will be even less.

Our review has confirmed our evidence in answer to Ms Mikakos' question (see page 7 of the transcript). The vast majority of civil claims do not have an associated professional conduct matter, and similarly, the majority of professional conduct complaints do not lead to a civil claim.

Final Comments

As we mentioned in our evidence we are keen to work collaboratively with AHPRA to expand on our recommendations in our submissions and above and to develop a process that addresses the concerns we have regarding the timely and fair handling of complaints that suits the needs of the notifiers and practitioners alike. We would welcome a regular meeting with AHPRA to discuss ways to improve processes generally, and to progress cases that have remained open for a significant period of time.

Please contact me if the Committee requires any further information or comments.

Yours sincerely

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Annexure A

Proposed wording for statutory requirement that all relevant information be provided to a respondent to a complaint

Requirement for full disclosure

(1) Whenever AHPRA or a national board is required to inform a registered health practitioner or student of the receipt of a complaint or notification or to give a registered health practitioner a notice to show cause or a notice of a decision or a requirement to undergo an assessment AHPRA and the Board or any entity or person acting as its agent must provide, to the practitioner or student as soon as practicable any and all documents and relevant information as are within AHPRA's, the Board's or its agent's possession, or within its power to obtain, including:

(a) Copies of any complaint, notification or statement making allegations against the practitioner or student;
(b) Copies of all medical or hospital records including pathology reports, radiology films, correspondence or other clinical records relevant to the issues under assessment or investigation or the subject of possible action;
(c) Copies of all expert opinions or reports or notes or memoranda setting out the substance of such opinions and reports obtained by AHPRA or the Board or its agent or provided to AHPRA or the Board or its agent by another statutory entity or entity with power to refer matters to AHPRA or the Board and
(d) A copy of any investigation report relating to the practitioner or student together with copies of all documents annexed to that report or referred to in the report and within AHPRA's or the Board's possession or power or the possession or power of its agent

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