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Dr Flynn,

Publication of tribunal and court decisions

The Royal Australian College of General Practitioners (RACGP) represents over 38,000 members working in or towards a career in general practice.

As you will be aware, the medical profession, including many general practitioners (GPs), have recently expressed great concern over changes to the publication of tribunal and court decisions. The RACGP is writing to express and support the concerns of our members regarding this important issue.

The change follows the implementation of recommendation 10 from the *Independent review of the use of chaperones to protect patients in Australia*, whereby the *Register of practitioners* (also known as the public register) will include web links to published tribunal and court decisions.

Despite the change originating from a recommendation made during an independent review on a specific issue, it appears that the Australian Health Practitioner Regulation Agency (AHPRA) and the Medical Board of Australia (MBA) have implemented this recommendation as a blanket rule. It is understood this new process of linking tribunal and court decisions to the public register will apply regardless of whether allegations against the medical practitioner were proven or not.

The RACGP strongly recommends that the decision to link tribunal and court decisions to the public register, as they relate to medical practitioners against whom allegations have been disproven, is reversed as a matter of urgency. The RACGP also recommends that AHPRA reconsider processes for publishing tribunal and court decisions where allegations made against the medical practitioner are not proven.

Striking a balance between protecting patients and practitioners

The delivery of safe and high-quality patient care is a shared objective of the RACGP and AHPRA. However, the RACGP is concerned that linking all tribunal and court hearing decisions to the register of practitioners, regardless of the outcome, will have detrimental implications for medical practitioners and very little benefit for patients.

There is little value for patients in knowing the medical practitioner was accused and then acquitted of allegations. However, the publication of tribunal and court decisions against a medical practitioner

who has been cleared of allegations will have devastating and long-lasting implications on the doctor's career and reputation.

As well as having significant reputational and professional consequences, tribunal and court processes are extremely stressful and onerous for medical practitioners. The RACGP has previously raised this as an issue in regards to the [AHPRA complaints process](#) during a senate inquiry. After hearing the concerns raised, the Senate Standing Committee on Community Affairs made [several recommendations](#) to bring balance to the currently unbalanced complaints/notification system.

The publication of tribunal and court hearing decisions regarding medical practitioners who have been cleared of allegations will also have risks for patients. Patients may misinterpret or misunderstand published tribunal and court decisions, and incorrectly perceive the medical practitioner as incapable of providing safe and high-quality care. This could result in patients delaying or foregoing access to care that they need.

Case-by-case publication determination for complex cases

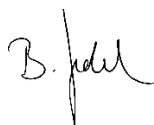
The decisions to publish tribunal or court decisions should be made on a case-by-case basis, taking into account the value of the information for the patient and the nature of the decision made. This is particularly important for complex case outcomes, such as where allegations are proven or disproven in part, where the tribunal upgrades or downgrades a decision, or when conditions placed on a practitioner are time limited.

It is the RACGP's understanding that decisions regarding tribunal or court proceedings will be linked to the medical practitioner's public register entry in perpetuity. For medical practitioners who have been cleared of allegations, the permanent online publication of their trial serves as an endless reminder of a stressful process and will have ongoing detrimental impacts on their career.

In cases where time-limited conditions have been placed on a practitioner, the case details will be linked to the public register for many years following the expiry of conditions. AHPRA and the MBA should consider making public access to these publications time-limited to reflect the nature of the conditions.

If you would like to discuss the RACGP's concerns with this issue further, please contact me, or Ms Susan Wall, Program Manager – Advocacy and Funding on (03) 8699 0574, or susan.wall@racgp.org.au.

Yours sincerely



Dr Bastian Seidel

President