30 July 2019

Dr Anne Tonkin
Chair, Medical Board of Australia
(via) Australian Health Practitioner Regulation Agency
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Dear Dr Tonkin,

Re: RACGP submission to the consultation on revised Guidelines for Mandatory Notifications

The Royal Australian College of General Practitioners (RACGP) thanks the National Boards of Australia, and the Australian Health Practitioner Regulation Agency (AHPRA), for the opportunity to comment on the revised Guidelines for Mandatory Notifications.

The RACGP does not support the recent changes to mandatory notifications. As indicated in our prior submissions, we see that the changes will have detrimental impacts on practitioners. The changes to the legislation do not remove the barrier to practitioners seeking help. They have instead made the language around the issue more complicated – which is particularly of concern when the practitioners affected may already be in a fragile mental state.

While our position on this matter has not changed, we make this submission in an attempt to make the mandatory reporting process as clear as possible for health practitioners. In order to minimise the barriers for health professionals seeking care, it is essential that the guidelines are clear, easily accessible, well-publicised, and that supporting resources are detailed enough to remove any doubt about when a mandatory report is needed.

Notwithstanding our position above, to ensure the guidelines are as practical as possible, the RACGP makes the following recommendations regarding the guidelines in order to address the fraught and complex moral, ethical, social and professional dilemmas associated with mandatory reporting.

1. Add additional information regarding mandatory reporting process and exemptions:

1.1 AHPRA's processes

The Guidelines should include a documented process for AHPRA's response to a mandatory notification to help practitioners who are seeking treatment to feel more comfortable with the perceived risk they are taking. The guide should also clearly outline the process for AHPRA's response if a practitioner is deemed to have failed to make a report. This information would improve the clarity of the mandatory reporting process and could reassure doctors that the reporting process will be efficient, fair and transparent.

1.2 Exemptions to reporting requirements

The Guidelines should include a separate section which explains the circumstances where a report is not required – for example, the mandatory notifications law does not apply to treating practitioners in Western Australia. This information is currently included, but should be more prominent in the document.

2. Address inconsistent use of terminology and define key terms

Much of the terminology used in the Guidelines around risk and harm will continue to create confusion due to a lack of clear definitions. Clear definitions of the terms used are essential when dealing with such a sensitive and highly complex issue. The following terms should be defined in plain English, in a clearly labelled appendix:

- Impairment
- Harm
- Substantial harm
- Material harm
- Low-level harm
- Insignificant harm
- Inconvenience
- Detrimental impact
- High, medium and low likelihood of harm
- Significant risk of harm
- Substantial risk of harm
- The difference between law and regulation

Once defined, it is important that the language used is consistent – for example, the terms significant and substantial risk are used interchangeably. This should be avoided, unless the two terms have distinctly defined interpretations.

3. Improve accessibility of information

Although we understand that the document is not designed to be read in its entirely, it is very detailed and repetitive, and therefore a daunting document to read. It is important that the information is made as accessible as possible to ensure that busy health professionals are encouraged to use it. It is expected that, over time, practitioners will share their own understanding of mandatory reporting via public and private discussion. It is important that these discussions are based on fact. Ensuring the information provided is accessible will assist in this area.

3.1 Structuring of the content

The Guidelines should be structured with the needs of those who will be accessing the information in mind. For example, a logical structure may be to divide the content into three sections:

a. Colleague report
b. Employer report
c. Treating practitioner report

3.2 Additional resources

The content should be made available in a range of formats which summarise and organise the information for maximum accessibility. Development of support resources such as the below are recommended:

a. a mobile application and/or interactive webpage which step through the important issues
b. an e-learning module targeted to different audiences
c. a one-page summary document
d. frequently asked questions document.

4. Add additional detail to case studies and examples

The case studies included are helpful, however they are lost within the body of the document, and require more detail. For example, more detailed case studies should be included as an appendix, to outline the different ways a mandatory notification is, or is not, required.

5. Clarify risk grid charts and flow charts

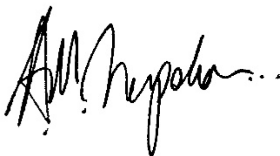
The flow charts are a good visual representation of the mandatory notification process. However, the 'risk grid' charts are open to different interpretations. They require more detailed supporting examples, and are also subject to confusion due to the use of interchangeable terms – for example, material harm, versus substantial harm.

6. Ensure that health practitioners are encouraged and supported to seek advice when required

Given the concerns and uncertainty around the potential repercussions of mandatory notifications, the guidelines should encourage practitioners who are uncertain whether a report is required to seek confidential advice from a peer, or from their medical indemnity provider.

We look forward to continuing to contribute to discussions around this important topic, and assisting to ensure the health and wellbeing of our members. Should you wish to discuss this matter further, please contact either myself or Ms Susan Wall – Program Manager, Advocacy and Funding, on 03 8699 0574 or via susan.wall@racgp.org.au.

Yours sincerely,



Dr Harry Nespolon
President