RACGP
Royal Australian College *of* General Practitioners

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30 July 2021

Senator Rachel Siewert
Chair, Community Affairs References Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: community.affairs.sen@aph.gov.au

Dear Senator

Thank you for the opportunity for the Royal Australian College of General Practitioners to appear before the Committee at the public hearing held on 8 July 2021 regarding the *Administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law.* Please find below the RACGP's response to questions taken on notice from Committee members at the hearing.

The RACGP represents over 43,000 general practitioners (GPs) and GPs in training, including four out of five rural GPs.

1. **Do you have any specific recommendations about measures that should be looked at for people practising in rural areas?**

The impact of a notification on a GP can be significant and can increase over time spent waiting for an outcome. There has been an increase in the proportion of notifications that have been open for longer than 12 months, from 13.7% in 2018-19 to 15.4% in 2019-20. In 2019-20 28% of completed investigations took longer than six months.[1]

Regulatory authorities have a duty of care to the practitioner to ensure the notifications process is handled as transparently and efficiently as possible. The process can affect the mental wellbeing of the practitioner, lead to loss of confidence in their practice or ordering of additional tests to protect the doctor from liability, and loss of trust in patients, systems and even colleagues. These issues can result in the doctor seeing fewer patients or retiring altogether. Losing a competent GP from the workforce due to poor handling of the notifications process is concerning; in areas of workforce need, such as rural and remote areas, the loss of a GP may leave whole communities without access to medical care.

Overseas trained doctors (OTDs) are essential to rural workforce capacity and should be a key part of ongoing rural medical workforce planning.

Ahpra annual reports do not provide a breakdown of notifications by rurality or by location of primary medical degree. However, one study of doctors in Western Australia and Victoria found an increased risk of complaints for overseas - compared with Australian-trained doctors.[2] Another study found a 46%, 31% and 18% higher risk of complaint if a doctor was born in the Middle East, Africa or Asia respectively.[3]

It is incumbent on Australia, as party to the Global Code of Practice on International Recruitment, to provide structured support for OTDs at all stages of their practice, not just once they have received a complaint. Early intervention, prevention and education is a preferred approach rather than waiting for a complaint and then taking punitive action. A 2012 parliamentary inquiry identified that OTDs have

poor access to orientation programs, professional registration, career opportunities and social supports.[4] A current drive to encourage OTDs to pursue equivalent educational standards as Australian-trained doctors in vocational training will assist in this area, but education programs alone will not be enough.

Many OTDs begin working in Australia in rural and remote settings under isolated conditions. They treat patients with complex health problems, including working with Aboriginal and Torres Strait Islander populations who need culturally safe care. These placements can happen before equivalence of training is achieved and with no working knowledge of the Australian health system.

The RACGP recommends that:

- Ahpra be asked to provide data on the number of notifications, by rurality and location of primary medical degree, over a period to determine the scope and magnitude of the issue.
- Additional support be proactively provided – and information communicated in a clear and timely manner – to all medical practitioners when they are notified of an investigation by Ahpra. This should include:
    - instructions on timeframes and processes
    - a list of possible outcomes
    - recent data on the proportion of complaints that are resolved without further action being taken
    - avenues of appeal, and timing related to appeal processes
    - where to seek further support throughout the process.
- Additional support be proactively provided to all OTDs before they are placed in practices in remote areas. This could take the form of an orientation program introducing OTDs to the health system, cultural competence training and/or ongoing mentorship arrangements
- The improvements to the notifications process recommended in the RACGP's submission to this inquiry (regarding transparency, timeliness and appropriate triage of notifications) will benefit all medical practitioners, but particularly those working in rural and remote locations. The RACGP also supports changes to mandatory reporting by treating practitioners, as discussed at the hearing and outlined in the previous submission below.

  RACGP Submission: Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2018 (Mandatory Reporting) (November 2018)

2. Are there any particular recommendations that you would make in terms of how the appeal process could be made more accessible, transparent, timely and affordable for practitioners? Please reference the issue of public warnings about a practitioner before a matter is considered by a tribunal.

The proposed amendments to the National Law include allowing public statements to be made about a practitioner before the investigation has been finalised. It is also proposed to allow Ahpra and the National Boards to inform the practitioner's employer, or other entities to whom they provide services, of a notification before the investigation has been finalised.

Public statements are of particular concern to the specialty of general practice, as GPs operate in a small business environment characterised by patient choice and competition between providers. Once issued, a public statement cannot be erased, and media outlets have no obligation to print a retraction.

A GP's ability to practice rests firmly on their reputation. To release the name and details of a GP before the investigation is concluded will imply culpability and is a denial of natural justice.

The RACGP recommends that:

- no public statement be issued before an investigation is complete and all appeals processes have been exhausted and finalised. Public statements should only be made as a last resort after all other avenues for risk mitigation (such as informing the employer) have been explored
- employers/employing entities are not informed of a notification before an investigation is complete and all appeals processes have been exhausted and finalised
- employers/employing entities only be informed of a notification if public safety is at imminent risk. Clear and definitive guidance must be developed and agreed to by all stakeholders to identify an appropriate threshold for at-risk public safety (eg if there is a risk of imminent serious harm to a significant number of people)
- show cause processes be available at all stages where a decision is made, to allow the practitioner to make their case in writing
- practitioners be allowed adequate time – at a minimum seven days – to appeal a public statement or notification to their employer before it is made. A protocol for show cause processes must be developed with input from key stakeholders.

Should you wish to seek further comment from the RACGP, please contact Ms Leonie Scott, National Manager – Policy and Advocacy, on (03) 8699 0031 or leonie.scott@racgp.org.au.

Yours sincerely

Dr Michael Wright
Chair – RACGP Expert Committee – Funding and Health System Reform

References

[1] Ahpra Annual Report 2019-20

[2] Elkin, Katie & Spittal, Matthew & Studdert, David. (2012). Risks of complaints and adverse disciplinary findings against international medical graduates in Victoria and Western Australia. The Medical journal of Australia. 197. 448-52. 10.5694/mja12.10632.

[3] Walton Merrilyn, Kelly Patrick J., Chiarella E. Mary, Carney Terry, Bennett Belinda, Nagy Marie, Pierce Suzanne (2019) Profile of the most common complaints for five health professions in Australia. Australian Health Review 44, 15-23.

[4] Commonwealth of Australia. Lost in the labyrinth: report on the inquiry in to registration processes and support for overseas trained doctors. Canberra: House of Representatives, Standing Committee on Health and Ageing; 2012. www.cpmec.org.au/files/http___woparedaphgovau_house_committee_haa_overseasdoctors_report_combined_full_report1.pdf.