

19 May 2021

Dr Anne Tonkin  
Chair, Medical Board of Australia

Mr Martin Fletcher  
Chief Executive Officer, Ahpra

Via email: [regulatorygovernance@ahpra.gov.au](mailto:regulatorygovernance@ahpra.gov.au)

Dear Dr Tonkin and Mr Fletcher,

**Public consultation on revised Regulatory principles for the National Scheme**

The Royal Australian College of General Practitioners (RACGP) thanks the Australian Health Practitioner Regulation Agency (Ahpra) and the Medical Board of Australia for the opportunity to comment on the revised Regulatory principles (the principles) for the National Scheme.

The RACGP is Australia's largest professional general practice organisation, representing more than 43,000 members working in or towards a career in general practice in urban and rural areas.

The RACGP does not support the proposed amendments to the principles.

The administration of registration and notifications by Ahpra and related entities can have significant consequences for general practitioners across Australia. General practitioners report that it is an extremely stressful process and can have severe impacts on practitioner reputation and mental health, even in circumstances where the practitioner is found to be not at fault.

The proposed amendments serve to depreciate what few protections health practitioners have when undergoing this stressful process. Of particular concern is the COAG Health Council's policy direction, which states that "the need for effective deterrence must outweigh consideration of the potential impacts upon the practitioner from any regulatory action". This directive is reflected in the proposed changes to the principles, for example replacing "minimum regulatory force" with "necessary regulatory response". Moreover, the policy direction represents a worrying disregard, by policymakers, for the wellbeing of Australia's health practitioners.

The proposition that taking regulatory action should be aimed to "deter other practitioners from engaging in similar conduct" is concerning. This stance indicates that Ahpra will in effect make a scapegoat of individual practitioners. To make an example of one person goes against the principles of natural justice.

The revised principles refer to taking 'proportionate' response. The RACGP asks that this term be defined with appropriate safeguards on justice principles and profession-informed safety nets.

The revised principles appear focussed on seeking remediation of individual doctors; there must also be acknowledgement that many healthcare complaints arise from the need for health system reform such as safe staffing levels. Ahpra must assess wider health system impacts which contribute to circumstances of sub-standard care and ensure these are considered when deciding the appropriate response to a notification.

Public protection and confidence in the National Scheme are important. However, practitioners also need to be protected by, and have confidence in, the National Scheme. Practitioners regularly provide feedback to the RACGP that they view the actions of Ahpra as being unnecessarily punitive, and our members believe there is a lack of balance in the system.

It is perceived that the current notifications process is more focussed on the prosecution of practitioners than on protecting patient safety through remediation of the issues that led to the complaint. The adversarial nature of the notifications process can make practitioners question their clinical judgement, which could result in a range of unintended consequences such as over-use of investigations, tests and specialist referrals. This is known as 'defensive medical practice' and undermines confidence for the GP as well as the patient. There are also additional impacts on patients and the health system more broadly in terms of time and financial costs<sup>i</sup>.

The mental health impact on practitioners of the regulatory and notifications processes is well known, and the RACGP has raised concerns in previous submissions.<sup>ii</sup> <sup>iii</sup> <sup>iv</sup> According to human rights principles, society has a duty of care to ensure that systems and processes do not increase the likelihood of self-harm, regardless of whether an individual under investigation is at fault or not. The number of doctors who attempt or die through suicide while undergoing regulatory investigation<sup>v</sup> must not be disregarded.

While patient safety should be the prime motivation of the notifications process, our members emphasise that a lengthy process, particularly in relation to vexatious or trivial complaints, negatively affects medical practitioners' mental health and wellbeing.

The RACGP sees that to put patient safety first, systems that are fair and supportive to practitioners are essential.

Thank you for taking the time to consider our submission. Should you wish to seek further comment from the RACGP, please contact myself or Ms Leonie Scott, National Manager – Policy and Advocacy on (03) 8699 0031 or [leonie.scott@racgp.org.au](mailto:leonie.scott@racgp.org.au).

Yours sincerely



**Dr Karen Price**  
President

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<sup>i</sup> S. Bird. Choosing Wisely and Defensive Medicine. MDA National. 3 March 2016.

<sup>ii</sup> RACGP response to Inquiry into complaints mechanism administered under the Health Practitioner Regulation National Law February 2017, Available: [www.racgp.org.au/download/Documents/Reports/RACGP-Medical-Complaints-Submission.pdf](http://www.racgp.org.au/download/Documents/Reports/RACGP-Medical-Complaints-Submission.pdf)

<sup>iii</sup> RACGP Submission to the inquiry into the Health Practitioner National Law Amendment (Mandatory Reporting) November 2018, Available: [www.racgp.org.au/advocacy/reports-and-submissions/view-all-reports-and-submissions/2018-reports-and-submissions/health-practitioner-regulation-national-law](http://www.racgp.org.au/advocacy/reports-and-submissions/view-all-reports-and-submissions/2018-reports-and-submissions/health-practitioner-regulation-national-law)

<sup>iv</sup> RACGP submission to the consultation on revised Guidelines for Mandatory Notifications July 2019, Available: [www.racgp.org.au/FSDEDEV/media/documents/RACGP/Advocacy/RACGP-submission-to-the-consultation-on-revised-Guidelines-for-Mandatory-Notifications-July-2019.pdf](http://www.racgp.org.au/FSDEDEV/media/documents/RACGP/Advocacy/RACGP-submission-to-the-consultation-on-revised-Guidelines-for-Mandatory-Notifications-July-2019.pdf)

<sup>v</sup> C. Gerada. Doctors and suicide. British Journal of General Practice 2018; 68 (669): 168-169. DOI: 10.3399/bjgp18X695345