

6th April, 2011

Dear AHPRA

Regarding the draft guidelines 'Sexual boundaries: A guide for doctors and patients' and your invitation for submissions.

I would like to draw your attention to my case in a matter of alleged sexual misconduct.

- An anonymous (illegibly signed) complaint was made to the Queensland Medical Board (QMB) on [REDACTED]. This alleged sexual and other misconduct by me with a patient of the practice (Ms [REDACTED]).
- Over the next 5 days the complaint was sighted by at least 3 officers of the board and 2 board delegates

[REDACTED] who signed the 'Board Consultation' document recommending 'further assessment' and countersigned by [REDACTED] and an anonymous HQCC delegate (ironically, illegibly). Under item 6 on the document is the cryptic comment 'Delegates requested to keep as matter relates to boundary violation'. I have no idea what this means.

[REDACTED] who signed the letter addressed to me to say 'that the Board affords to you the opportunity of providing me a submission in relation to the concerns raised' (presumably the concerns in the anonymously signed letter) and giving me only nine days to do this. By confirming that he knew the complaint was anonymous and not giving reasons as to why the complaint was accepted [REDACTED] (and by implication [REDACTED] and those other two delegates) was then in breach of Section 50 of the Act. A later letter addressed to [REDACTED] by [REDACTED] (see below) asking for these reasons remains unanswered to this day.

[REDACTED]. As she has signed or written nothing available to me I assume she is some sort of low level bureaucrat.

- The point is that none of these persons were aware of the requirements of Section 50 of the Act or, if they were, chose to ignore those requirements.
- My insurer, [REDACTED], then referred the matter to the legal firm [REDACTED] on my behalf. Unfortunately, no-one at that legal firm was apparently aware that [REDACTED] letter was in breach of Section 50 either. If they had been, surely their response to [REDACTED] letter and the advice they gave to me (to risk incriminating myself by complying with the board's invitation to make a submission under the implied threat of deregistration if I did not) would have been totally different.
- It was left to me, a layman with limited legal knowledge, to actually read the Act and notify [REDACTED] of [REDACTED] breach.
- In any event, on the advice of [REDACTED], I immediately notified Ms [REDACTED] that it would be inappropriate for me to continue to treat her or another family member, her [REDACTED]
- Fortunately, it eventually became apparent to all concerned that the complaint was completely false and vexatious. Based on information provided by Ms

it appears the author of the complaint was one [REDACTED] and a sometime purveyor of 'quack' remedies over the internet. It seems Ms [REDACTED] had reported him to the [REDACTED] and his complaint was in revenge for that body closing down his [REDACTED]. I have never met [REDACTED] in my life so I do not know why I was caught up in this spat. I remain unconvinced that Ms [REDACTED] was a completely innocent party in the whole affair. As well, Ms [REDACTED] has a long psychiatric history and would make a poor witness against [REDACTED] in court, a fact that would no doubt have been a major factor in the police deciding not to prosecute him over making his false complaint.

- However, it is not entirely clear why the police did not proceed with attempting to prosecute [REDACTED] after the matter was referred to them by the QMB; no explanation was forthcoming from them regarding the decision.
- Eventually, after 3 months, I was exonerated by the Board (in a rather grudging letter without apology).
- To my knowledge, none of those involved in perpetrating this fiasco have borne a negative consequence of any sort.

My question to AHPRA is this:

What safeguards now exist and will exist in future in your 'draft guidelines' to prevent this happening to another innocent doctor?

I agree patients have rights and need safeguards but it appears that these now come at the expense of a total disregard of the principles of natural justice, especially those of presumption of innocence and against self incrimination.

I can provide documentary evidence for every statement I have made in this letter and will provide a statutory declaration as to the truth of those statements on request.

Please feel free to publish this letter on your website including my name and address. Whether you choose to use the names of the others I have named I will leave to your discretion.

I believe my case should be widely reported and discussed in the interest of justice to medical practitioners who are forced to endure a level of scrutiny and standards applied to few others in the community. That draconian rules and regulations can be used in an arbitrary and illegal manner against us needs to be well known and curbed in future.

Perhaps your draft guidelines should be headed 'Sexual boundaries: a guide for doctors, patients, bureaucrats and insurers' so that it is clear that others, including AHPRA, have responsibilities in this area as well?

I realize AHPRA is not the QMB but I would hope that this new body would learn from old mistakes. It would be unjust for AHPRA or any other supervising body to not bear the consequences of their mistakes in the carrying out of their duties, just as I and other professionals must bear the consequences of our errors.

Your guidelines need to encompass correct behaviour by all concerned.

Quis custodiet ipsos custodes?

I await your reply with interest.

Yours faithfully

(Name withheld)