



Communiqué

Notifications workshop with the Australian Medical Association, the Medical Board of Australia and the Australian Health Practitioner Regulation Agency held on 20 August 2019

Senior leaders from the Medical Board of Australia (MBA), the Australian Health Practitioner Regulation Agency (AHPRA) and the Australian Medical Association (AMA) met on 20 August 2019 for the fifth consecutive year to discuss the management of notifications in the National Registration and Accreditation Scheme.

The workshop focused on:

- work that has been done by AHPRA and the MBA to improve performance in dealing with notifications
- measures introduced to make the notification process less difficult for notifiers and practitioners
- work being done to develop revised guidelines and education on the new mandatory reporting laws, and
- vexatious complaints.

The MBA was represented by Dr Anne Tonkin - Chair of the MBA, Dr Debra O'Brien – Chair of the Victorian Board of the MBA and Ms Christine Gee – Chair of the Sexual Boundaries Notifications Committee and member of the Queensland Board of the MBA. AHPRA was represented by Martin Fletcher – CEO of AHPRA, Matthew Hardy – National Director, Notifications and other senior AHPRA staff.

The AMA was represented by Dr Chris Zappala - AMA Vice President, Dr Antonio Di Dio, AMA ACT President, Associate Professor Julian Rait – AMA Victorian President, Dr Malcolm Forbes – Doctor in training representative and other senior AMA staff.

Improvements in performance in dealing with notifications

It was pleasing to see that initiatives introduced by AHPRA and the MBA are yielding year on year improvements in performance. Despite an increase in the number of notifications received in 2018/19, more notifications were closed (27.3%) than received (24.1%). Compared to the end of last financial year, there are now:

- 19.3% fewer open notifications, and
- 43.1% fewer aged (>1 year) notifications.

The time frames for dealing with notifications has also reduced at all stages. In particular, the average time for:

- assessment has reduced from 65 days to 61 days
- investigation has reduced from 398 days to 362 days
- health and performance assessment has reduced from 304 days to 284 days, and
- the completion of all notifications has reduced from 180 days to 174 days.

A number of initiatives have contributed to the improvements in performance. These include:

- National assessment committee – The MBA has established a national committee that meets up to six times each week. Members from all states and territories are rostered to this committee and they consider all notifications soon after they arrive. Where it is evident that no regulatory action will be necessary, notifications are closed without further investigation and the first time that the medical practitioner about whom a notification has been made learns about the notification is after it has been closed.
- Medical clinical advisors – 14 part-time clinical advisors from a range of specialties have been employed by AHPRA. A medical practitioner screens every notification to identify and stratify clinical risk. The clinical advisors provide clinical context and assist other AHPRA staff to formulate recommendations to the MBA. However, they do not provide expert opinions and do not take on the regulatory role of Board members. This early clinical input has resulted in higher quality recommendations being made more quickly.

Clinical advisors also provide support during investigations, including helping prepare briefs for expert advice and in planning for performance assessments.

- Case conferencing – Originally, this initiative was directed towards dealing with complex investigations and investigations that have ‘stalled’. Senior staff, including medical advisors work together to develop a strategy to progress the investigation or to recommend that it be closed. Case conferencing is being rolled out to all investigation matters.
Establishment of the Sexual Boundaries Notifications Committee – this Committee was established following the report by Professor Ron Paterson *The independent review of the use of chaperones to protect patients in Australia*. All notifications alleging a breach of sexual boundaries are considered by this committee that meets virtually and is made up of Board members from all states and territories. Board members and the investigators who do this work are highly trained and participate in regular professional development.

This Committee meets once or twice each week and has been dealing with increasing volumes of work. 48% more notifications about boundary issues were received in 2018/19 than in 2017/8 and 33% more investigations were completed in that period than in 2017/18. The average time to complete notifications decreased from 427 days in 2016/7 to 317 days in 2018/9 and the average age of open notifications decreased from 441 days to 336 days.

The AMA thanked the SBNC for taking on this very difficult work.

- Work on risk assessment. AHPRA has developed a framework to assess the risk of notifications in a systematic way based on the characteristics of the notification, the practitioner, the practitioner’s setting and their practice.

Measures introduced to make the notification process less difficult for notifiers and practitioners

AHPRA and the MBA actively seek feedback from notifiers and practitioners who have had a notification. As a result of this feedback, they have introduced a number of measures to support notifiers and practitioners.

Notifiers and practitioners have provided feedback to AHPRA that fairness, communication, transparency and timeliness are important to them. For notifiers, the outcome is also important and they often report disappointment as in more than 80% of cases, the MBA decides to take no further action. Many practitioners report very high levels of stress and fear that their registration will be at risk. While the evidence for this fear is unfounded in the vast majority of matters, it continues to be a big source of concern.

AHPRA and the MBA have worked on a number of initiatives to make a better (or less negative) experience for notifiers and practitioners. These include:

- Ongoing work to reduce time frames.
- Better information for practitioners – including a ‘postcard’ that provides succinct, factual information about notifications which is sent out with initial correspondence. See <https://www.ahpra.gov.au/Notifications/Find-out-about-the-complaints-process.aspx>

- Sharing the personal experience of other practitioners. AHPRA has produced 2 videos featuring practitioners who have had a notification. These videos are unscripted and aim to provide first-hand advice to support other practitioners with a notification. They acknowledge the intense feelings associated with a notification and encourage practitioners to seek help. The videos humanise the notifications process and demonstrate that it could happen to anyone.
- Improving correspondence by reducing the legal language and being more explicit about the reasons for decisions.
- Communicating more frequently and more meaningfully during the notification process, including by less reliance on written communication and greater use of phone conversations.

AHPRA and the MBA also expressed a wish to try to shift the narrative around notifications. With more notifications being made each year, more medical practitioners will be affected. The MBA and AHPRA are keen to partner with others to try and change the perception of notifications – how to help practitioners prepare for feedback in the form of a notification and to support them to ‘keep it in perspective’.

Mandatory reporting

While Ministers have passed amendments to the laws on mandatory reporting, they have not yet started. AHPRA and the health practitioner Boards have been working on two bodies of work to prepare for the commencement of the legislation. The first is to produce amended guidelines that explain that the threshold for treating practitioners has changed in relation to impairment, intoxication and professional standards. They are being drafted in plain English and public consultation will start soon.

Work is also being done on an education campaign and this will include a number of resources including videos and case examples. AHPRA and the MBA are grateful for the support of the AMA in providing input into this work, including through focus groups with treating practitioners.

It is well recognised that medical practitioners are concerned that mandatory reporting is an impediment to seeking help for health concerns.

Ministers have decided on the amended laws and we are all keen to work with practitioners to ensure that they are not fearful of getting help, have information that is accurate and to prevent inappropriate reporting.

Vexatious notifications

While the AMA expressed concern about reports of vexatious notifications, AHPRA’s evidence shows that there are few truly vexatious notifications. Many notifications that are perceived to be vexatious are actually misconceived or without substance. Nevertheless, it is recognised that a practitioner who feels a notification is vexatious (even if it does not fit the legal definition) is likely to feel higher levels of stress.

AHPRA staff have undergone education on how to identify potentially vexatious notifications. This informs the management of the notification.

AHPRA wants to better explain to practitioners the definition of ‘vexatious’ which is different to ‘vexing’ and are planning to produce a podcast.

Concluding remarks

Dealing with notifications is challenging. The AMA acknowledged the significant work done by the MBA and AHPRA to improve the notifications process. However, further improvements can continue to be made. It was acknowledged that despite significant improvements made to time frames, for those involved in a notification, investigations can still take too long. Practitioners feel high levels of stress during the notifications process and notifiers are often dissatisfied with the outcome.

AHPRA and the MBA are keen to continue to work with others, including the AMA, to try and shift perceptions about, and reactions to, notifications. With an increasing number of notifications being made, they are likely to affect more practitioners. Further work needs to be done to prepare practitioners for notifications and to help them keep it in perspective when they occur. AHPRA and the MBA are also keen to help notifiers make their complaints to the agency that can best help them. Many notifiers seek outcomes that the MBA cannot offer.

The MBA and AHPRA acknowledged the value of the feedback provided by the AMA as it helps them to continue to improve and look forward to meeting again in 2020.