



Submission to the inquiry into the administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law

The Australasian Integrative Medicine Association (AIMA) is the main medical body representing the doctors and other health care professionals who practice integrative medicine. AIMA is an independent not-for-profit organisation supported by its membership and governed by a volunteer board.

Integrative Medicine (IM) is a whole-person, patient-centered medical practice. It aims to combine the best of conventional western medicine with evidence-based complementary medicine and therapies. These practices are combined to provide the highest level of safe, effective healthcare for our patients.

AIMA is a doctor-based organisation, the majority of AIMA members are general practitioners, although it has specialist medical practitioner members and has opened membership to allied health practitioners.

We opine on the following terms of reference below:

(a) the current standards for registration of health practitioners by the Australian Health Practitioner Regulation Agency (AHPRA) and the National Boards under the Health Practitioner Regulation National Law (National Law);

AIMA has reviewed the current standards for registration and finds them to be perfectly adequate.

(b) the role of AHPRA, the National Boards, and other relevant organisations, in addressing concerns about the practice and conduct of registered health practitioners;

As published on the AHPRA website, there are numerous roles of the national registration and accreditation scheme. The major roles we will comment on are:

1. Protecting the public
2. Managing complaints (notifications) about health practitioners (noted these are initially handled by different bodies in NSW and Queensland).

In 2020 AIMA interviewed 16 general practitioners who identify as practising integrative medicine, and who had been subject to a notification to AHPRA or a related body. In most cases AHPRA was the body they had dealt with.

The major concern identified was that, even in cases where there appeared to be no evidence of risk to the public, AHPRA proceeded to investigate these general practitioners. It appears that the fact that they were practising slightly different to the perceived “conventional practice” was most likely the reason for AHPRA escalating these notifications. The decision to escalate these notifications could be argued to be an invalid administrative decision by the regulatory authority

In the view of AIMA, cases should only proceed to the investigation stage if there is admissible and reliable evidence on the balance of probability of a demonstrable caused base and tangible risk to the public, and not simply an assumption based on the fact that the practitioner’s style of practice is considered “unconventional.”

(c) the adequacy and suitability of arrangements for health practitioners subject to supervised practice as part of the registration process or due to a notification;

From interviewing integrative medicine doctors who have received notifications the placing of conditions related to supervision appears to be extremely common in the case of a doctor practising IM. There are two points we would like to make here.

Firstly, supervised practice should only be enacted in cases where there is demonstrable caused base and tangible evidence of a risk to the public. There are cases in the 16 doctors AIMA interviewed where supervised practice was imposed although there did not appear to be any demonstrable caused base or tangible risk whatsoever.

Secondly, supervision needs to be provided by true peers. Integrative medicine involves specialised education, skills and interest further to general practice and speciality education. There is a limited pool of appropriately qualified doctors to act as peer supervisors for IM doctors. Moreover, in some specialities there may be no appropriately educated and skilled peer available to act as a supervisor. Subjecting a doctor to supervised practice when there is no appropriately qualified peer to act as supervisor may result in a doctor being unable to practice. This is particularly onerous when the notification may have been for an issue that did not pose harm to patients.

(d) the application of additional requirements for overseas-qualified health practitioners seeking to become registered in their profession in Australia;

AIMA has no concerns about this particular area.

(e) the role of universities and other education providers in the registration of students undertaking an approved program of study or clinical training in a health profession;

AIMA has no input regarding this particular area.

(f) access, availability and adequacy of supports available to health practitioners subject to AHPRA notifications or other related professional investigations;

In the interviews of the 16 doctors by AIMA in 2020, a common statement was that the process of notification and subsequent investigation by AHPRA or a related body was an extremely isolating experience. The notification process almost always had far-reaching deleterious effects on the mental and/or physical health of the practitioner causing distress and anxiety. Several of the doctors interviewed spoke of family and financial breakdowns as a direct result of the notification process, this was particularly acute when the notification process did not proceed in a timely manner and/or where there did not appear to be any demonstrable caused base or tangible risk to the patient.

It is recommended that AHPRA make support available to practitioners who are under duress as a result of a notification. This support could be through counsellors and/or psychologists.

It is recommended that at the same time a doctor receives a notification they should be clearly informed of their rights, of what the notification process entails, how it works, how long it will take, and how much time they will be given to prepare responses. Once advised of this AHPRA needs to abide by this process timeline. It is recommended that AHPRA clearly publish the acceptable timeframes in notification processes and have a dedicated contact to advise doctors of the process and monitor when AHPRA is not meeting their processes/timelines.

(g) the timeliness of AHPRA's investigation of notifications, including any delays in handling, assessment and decision-making, and responsiveness to notifiers;

In the interviews of doctors conducted in 2020, feedback was provided that the timeliness of AHPRA's responses, including their assessment and decision-making process was problematic. Some practitioners reported that they were given extremely tight deadlines by AHPRA, while AHPRA then appeared to have a lack of transparency and accountability regarding their timeliness. We understand NSW authorities are aware of this issue. This tended to cause additional anxiety on the part of the practitioner being investigated, and uncertainty regarding what actions needed to be taken to protect their practice and/or professional future.

AIMA would welcome a clause being added to the Health Practitioner Regulation National Law Act 2009 regarding timeliness.

The Health Ombudsman Act 2013 for instance, has a clause (15) on timeliness in which it states “investigations must generally be completed within 1 year but 3 month extensions (recorded on a public register) are permitted”. AIMA submits that adding such a clause to the existing Health Practitioner Regulation National Law Act would be beneficial and would give practitioners being investigated more clarity regarding time frames.

(h) management of conflict of interest and professional differences between AHPRA, National Boards and health practitioners in the investigation and outcomes of notifications;

AIMA perceives that subtle conflicts of interest are present which regard the nature of what the boards define as acceptable or unacceptable practice. This appears to include a narrow scope of what acceptable medicine practice can be defined as, and a lack of willingness to embrace emerging therapies that do not have a long history of use in the medical community.

This was highlighted in the February 2019 public consultation paper on “clearer regulation of medical practitioners who provide complementary and unconventional medicine and emerging treatments”. By the very nature of the title, there appeared to be an assumption that unconventional and emerging treatments were of greater risk than those deemed conventional.

The published literature, however shows that therapies such as herbal remedies or food supplement account for less than one death per million people.ⁱ The feedback for this public consultation overwhelmingly appeared to negate the core assumptions of the consultation paper, stating that simply by being either complementary, unconventional or emerging (areas that shouldn't be grouped together) a particular therapy or practice is not inherently a greater risk to the public.

This sense of ideological bias is also highlighted by the fact that at least two board members of the Medical Board of Australia (MBA) were until June 2019 members of a political lobby group known as Friends of Science in Medicine (FSM). The agenda of FSM is well known through their attacks on Complementary and Integrative Medicine in the medical and general media in Australia. This membership was not disclosed as part of these board member's biographical information on the MBA website.

Having Medical Board of Australia members also members of the FSM, without very clear declaration of this conflict of interest, would appear incompatible with the obligation of the Medical Board of Australia to be seen as trustworthy and unbiased. As it states under the national legislation,

"The guiding principles of the national registration and accreditation scheme are as follows--
(a) the scheme is to operate in a transparent, accountable, efficient, effective and fair way"

AIMA would welcome additional legislation to guard against any possible conflicts of interest, on the part of national board members, and for more transparency to be present if such conflicts exist. For instance, it would be reasonable that board members with affiliations with such political lobby groups should not be able to adjudicate decisions which regard matters of interest to the entity they represent, or make decisions regarding practitioners practising medicine or other fields of practice which they lobby against.

(i) the role of independent decision-makers, including state and territory tribunals and courts, in determining the outcomes of certain notifications under the National Law;

AIMA has no input about this particular area.

(j) mechanisms of appeal available to health practitioners where regulatory decisions are made about their practice as a result of a notification;

The feedback from the various general practitioners interviewed in 2020 suggests that the mechanisms of appeal available to health practitioners are inadequate in the case of an AHPRA investigation. In fact, the avenues appear so inadequate that practitioners reported feeling powerless in the process.

In addition to this AIMA would welcome additional legislation to be added to the Health Practitioner Regulation National Law Act, such as clause 232 in the Health Ombudsman Act which states that “a person may claim compensation from the State if the person incurs loss because of the exercise, or purported exercise, of a power by or for an authorised person including a loss arising from compliance with a requirement made of the person under division 3 or 5.”

(k) how the recommendations of previous Senate inquiries into the administration of notifications under the National Law have been addressed by the relevant parties; and

There have been several previous Senate inquiries into the administration of notifications under National Law (including those completed in 2011 and 2017) and to date no clear outcomes of changes have taken place to the functioning of AHPRA or national law to AIMA’s best knowledge.

It is extremely important that this inquiry be addressed properly, with relevant changes to the legislation and/or functioning of AHPRA actioned in a prompt manner.

(I) any other related matters.

None of note.

We thank you for the opportunity to submit to this inquiry and hope it will be a positive step towards improvement of the national process of responding to notifications regarding health practitioners.

ⁱ Variety of UK Government and NGO databases, reports, officials and expert advisers. 2012 © Juderon Associates, juderon@gmail.com. Commissioned by Alliance for Natural Health International (www.anhinternational.org). Funding by Neal's Yard Remedies (www.nealsyardremedies.com)