



23 November 2018

HCDSDFVPC  
Parliament House  
George Street  
Brisbane QLD 4000

By email to: [health@parliament.qld.gov.au](mailto:health@parliament.qld.gov.au)

Dear Committee Secretary

**Re: Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2018**

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) welcomes the opportunity to provide feedback to the proposed Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2018 (the Bill). The RANZCP commends the Council of Australian Governments for their collaborative approach in updating the National Law, allowing the RANZCP the opportunity to make numerous submissions on relevant matters including our 2017 submission to the Australian Health Ministers' Advisory Council on mandatory reporting requirements.

The RANZCP is the principal organisation representing the medical speciality of psychiatry in Australia and New Zealand and is responsible for training, educating and representing psychiatrists on policy issues. The RANZCP represents more than 6000 members, including more than 4000 qualified psychiatrists and over 1500 members who are training to qualify as psychiatrists.

As experts in mental health, psychiatrists appreciate the need to balance a health practitioner's right to privacy and to receive appropriate treatment with the public's right to appropriate, optimal quality medical care. The RANZCP has consistently expressed concerns that current mandatory reporting requirements in the National Law may be a disincentive to health practitioners (outside Western Australia and Queensland) seeking treatment for illnesses, injuries and addictions due to concerns that their treating practitioner will report them to a registration authority. Such an outcome is not in the best interests of the relevant health practitioner or the public. The RANZCP therefore strongly supports appropriate and well-targeted reform to the National Law.

In the Bill's second ready speech, the Hon. Dr Steven Miles MP correctly notes that the reform should not simply aim to create a legislative change but an attitudinal one – that is, health practitioners must have the *confidence*, not merely the legal protection, to seek help. The RANZCP is concerned that the proposed reform may not improve the confidence of health practitioners in the legal protections afforded to them to seek help for an 'impairment', in part due to its exceedingly nuanced language.



The Royal  
Australian &  
New Zealand  
College of  
Psychiatrists



In principle, the change in the reporting threshold from 'risk of substantial harm' to 'substantial risk of harm' is a valuable one, ensuring that the risk of harm occurring is substantial, rather than focussing on the extent of the harm which may be caused. However, the distinction between 'risk of substantial harm' and 'substantial risk of harm' is confusing and lacking in clarity for health practitioners. Furthermore, the explanatory notes outline that the harm must be 'material' and not 'trivial', but this is not clear from the legislation. In both cases, these nuances may leave many practitioners confused with the changes and provide little clarity on what the threshold is and/or how doctors can measure whether a practitioner's behaviour exceeds the threshold or not. As a result, reporting practices may not change significantly, leaving health practitioners no more confident in their ability to seek help without being reported.

The RANZCP supports inclusion of guidance in the new section 141B that treating health practitioners, when considering whether the threshold is met, may consider a range of factors including the extent to which the practitioner is 'taking, or is willing to take, steps to manage the impairment' and 'the extent to which the impairment can be managed with appropriate treatment'. The inclusion of these considerations is important to ensure that treating health practitioners can consider the management of the impairment when making their determinations. Also helpful in the proposed reforms is the consolidation of impairments, practising while intoxicating and departing from professional standards, which will be useful in facilitating holistic assessments of the risk posed by a health practitioner.

In order to ensure that health practitioners understand the changes, the RANZCP strongly supports plans for guidelines and education programs to be developed by the National Boards and the Australian Health Practitioner Regulation Agency. This communication is critical as it is often perceptions of reporting requirements, rather than the requirements themselves, that provide a disincentive to help-seeking. The RANZCP will welcome the opportunity to have input into these guidelines and programs as they are developed.

The RANZCP further commends other proposed reforms contained within the Bill. The strengthened penalties for persons who hold themselves out as registered health practitioners when they are not is an important deterrent to this unacceptable practice. The RANZCP also supports provisions to require treating health practitioners to report ongoing sexual misconduct. This is a similarly serious issue that must be reported to the registration authority, regardless of the likelihood of its repetition.

The RANZCP once again thanks the Queensland government for the opportunity to contribute to the discussion on the Bill and we look forward to a robust and timely consultation process regarding reform of the Health Practitioner Regulation National Law that continues to closely involve the specialist medical colleges.

If you would like to discuss any of the issues raised in this submission or any of our referred documents, please contact Rosie Forster, Executive Manager, Practice, Policy and Partnerships via [REDACTED] or by [REDACTED].

Yours faithfully

A handwritten signature in black ink, appearing to be 'Kym Jenkins', written over a horizontal line.

Dr Kym Jenkins  
**President**