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2 August 2016

Research Director
Health, Communities, Disability Services and Domestic Family Violence Prevention
Committee
Parliament House
George Street
Brisbane Qld 4000

Sent to: hcdsdfvpc@parliament.qld.gov.au

Re: RACMA Submission to the Inquiry into the performance of the Queensland Health Ombudsman's functions pursuant to section 179 of the Health Ombudsman Act 2013

The Royal Australasian College of Medical Administrators (RACMA) is a medical specialty college of more than 900 Fellows, Associate Fellows and trainees in public and private health settings across Australasia. The College sets standards and provides professional development and specialist qualifications in medical management and leadership to registered medical practitioners.

RACMA welcomes this opportunity to respond to the consultation on the *Inquiry into the performance of the Queensland Health Ombudsman's functions pursuant to section 179 of the Health Ombudsman Act 2013*.

RACMA agrees to this submission being treated as a public document and being cited in any reports that may result from this consultation process.

The Health Ombudsman is an integral component of today's health system. RACMA sees there are four principles underpinning the effective handling of professional conduct complaints. These are:

1. A nationally consistent approach to handling complaints against medical practitioners – in terms of both process and outcomes
2. The approach to managing complaints against practitioners is responsive and risk based
3. The management of complaints against medical practitioners is seen as effective, fair and transparent
4. The system supports and contributes to ongoing learning and systemic quality improvement.



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Perceptions of the performance of the Queensland Health Ombudsman's functions

There are perceptions that the Queensland Health Ombudsman Office may not be treating doctors' complaints fairly, there may be insufficient time to respond to a complaint, and once a complaint is raised there is a perception it may sometimes be taking too long for the complaint to be resolved. This could potentially result in practitioners unfairly being left without income, unable to contribute to their profession, and with unjust reputational damage. Additionally where there are inconsistencies between the standards, processes and reporting of the Queensland Health Ombudsman Office compared to that set out by National Law and the standards and processes set by national bodies there may be a situation where a matter may be handled differently and produce different outcomes in Queensland compared to another jurisdiction.

RACMA sees the underlying issues relating to these perceptions as:

1. There is no requirement for the Health Ombudsman to seek expert clinical advice to assess and investigate complaints. This can result in immediate registration action taken against a medical practitioner without reference to expertise that can judge clinical decisions and professional conduct in their context.
2. The Health Ombudsman reports to the Health Minister, and the Director of Proceedings is an employee of the Office of the Health Ombudsman. This has the potential to create structural conflicts that may undermine the position of the Health Ombudsman and the Director of Proceedings in investigating and pursuing some complaints – particularly if they relate to an issue in the broader public health system. This point could be further exacerbated by the fact that the Health Minister has the power to direct the Health Ombudsman to investigate matters and hold inquiries. This could act to further undermine the role and the independence of the Health Ombudsman.
3. It is reported that there is possibly a bias of the Health Ombudsman towards the complainant, where the Office of the Health Ombudsman may be trying to find evidence to support a complaint, rather than assess or investigate a complaint impartially. To ensure procedural in investigations, it is important that the Office of the Health Ombudsman is acting fairly to both the complainant and the complainee.
4. As the Health Ombudsman has the power to take immediate action against a practitioner's registration, then practitioners could be left in a "legal limbo" due to the lengthy delays of bringing disciplinary matters before QCAT.
5. The time that a health service provider has to provide a submission in relation to a complaint is very short (14 days), and sometimes limits the ability of the health service



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provider to prepare a comprehensive submission in response to the complaint.

6. Whether prolonged complaints resolution time may be a result of the Office of the Health Ombudsman being insufficiently resourced, and whether the timeframes in the legislation provides a potential incentive for the Office of the Health Ombudsman to handover complaints to AHPRA at the last moment.
7. There are inconsistencies in the thresholds, disciplinary arrangements, and the counting, capture and sharing of data of the Queensland Health Ombudsman Office compared to that set out under National Law and standards and processes set by national bodies, including AHPRA and the Medical Board Australia.

Recommendations for addressing these concerns

1. Establishment of permanent health professional councils within the structure of the Health Ombudsman, and insert a requirement into the Health Ombudsman Act 2013 (Qld) that the Health Ombudsman must have regard to the advice of the council when it proceeds from the assessment to the investigation stage of a complaint.
2. The Health Ombudsman reports directly to the Health and Ambulance Services parliamentary committee, and that the Health Ombudsman Act 2013(Qld) is amended so that the Health Ombudsman is not subject to the direction of the committee or the Health Minister. Directive material should only be prepared by Parliament or an independent expert committee.
3. Engage a respected external group to examine the investigatory culture of the Office of the Health Ombudsman, and ensure the system is acting fairly to both the complainant and the health service provider, and also to review and advise on alternate mechanisms to QCAT for reviewing disciplinary matters against medical practitioners.
4. More effective triaging of complaints, with medical advice, and prompt referral to the Medical Board Australia where this is required.
5. Appropriate resourcing of the Office of the Health Ombudsman to ensure complaints are managed effectively and with appropriate resources – including sufficient clinical expertise.
6. Allow flexibility in the time a health service provider can provide a submission in relation to a complaint. In particular, allow applications for further time where the circumstances require it.

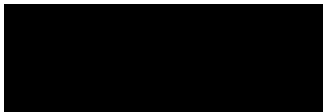


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7. Standardisation the Office of the Health Ombudsman's classifications, regulatory thresholds, procedures, counting methods and data sharing with that of the National Law, and of external bodies, including the Medical Board Australia and AHPRA.

Thank you for the opportunity to comment.

Yours sincerely



Professor Michael Cleary
President

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