Submission No 042
Received 8 August 2016

From: [redacted]
To: Health and Ambulance Services Committee
Cc: [redacted]
Subject: Inquiry into the performance of the Queensland Health Ombudsman"s functions pursuant to section 179 of the Health Ombudsman Act 2013.
Date: Monday, 8 August 2016 3:56:47 PM
Attachments: image002.png
image003.png
LTR 2016-08-04 Old Reg Queensland Health Ombudsman SBM Response.pdf

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Dear Research Director,

Please find attached a submission from the Royal Australasian College of Surgeons Queensland State Committee to the Inquiry into the performance of the Queensland Health Ombudsman's functions pursuant to section 179 of the Health Ombudsman Act 2013.

Also please note that we did not directly receive email advice on this consultation but received it from one of our members. If we could have the following email addresses noted on your distribution list that would be appreciated:

[redacted]

Kind regards,

David Watson
Grad Cert Human Resources
Queensland Regional Manager
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ROYAL AUSTRALASIAN COLLEGE OF SURGEONS RACS

Patron H.R.H The Prince of Wales

Queensland State Committee
Royal Australasian College of Surgeons
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8 August 2016

hcdsdfvpc@parliament.qld.gov.au

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

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

Thank you for your consultation for the Inquiry into the performance of the Queensland Health Ombudsman (QHO).

As the leading advocate for surgical standards, professionalism and surgical education in Australia and New Zealand, the Royal Australasian College of Surgeons (RACS) is committed to taking informed and principled positions on issues of public health at both state and federal level.

While we have distributed the survey to our members, there has been limited time for individual feedback, we outline key concerns conveyed to the QueenslandRegional Committee from some of our fellows.

In review of the draft strategy, the Committee have considered the issues here:

- **the operation of the health service complaints management system;**

RACS questions whether process within the system is delivered with fairness and transparency. We are informed that practitioners have on occasion been referred to Australian Health Practitioners Regulation Agency (AHPRA) before communicating with the clinicians or the health service therefore without QHO checking the veracity of the complaint, the clinical records and evidence.

In such cases RACS does not believe the QHO has complied with a duty to screen cases before referral, check facts and respond quickly to public complaints. Actions have been conducted in manner that appears to create prejudgement by non-clinical assessors on the apparent guilt of the clinician, particularly in the use of phrases such as “guilty of misconduct” in the referral to AHPRA.

- **ways in which the health service complaints management system might be improved;**

Practitioners continue to receive direct notifications to their private residences that they are under investigation by the QHO for patient services undertaken within their roles at health services, without notifying the related health service.

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RACS believes that not only does this cause unjustifiable stress for the practitioner, it shortens the time period for the health service to perform due process investigation and respond on behalf of the practitioner as is their right as an indemnified employee.

Communication and support are vital – both for the public who have raised the concern and the practitioner about whom the concern is raised. Complaints are distressing to both parties and everything possible should be done to reduce this stress and the time over which any investigation transpires.

It may not be solely individual error that is the cause of complications or issue of concern. System dynamics, team interplays and patient factors all play an important role in the course of a patient's episode of care and outcome. Therefore it is vital to consider the multiple health service factors in detailing a response to a complaint.

Fellows of RACS have reported instances when complaints that are either not based on real events or not proven with data or have been already dealt by the health service previously only to be re-prosecuted by the QHO with the same conclusion.

In addition, a small number of QHO complaints have excluded the health service despite the need to be investigated using a patient incident systems based methodology. RACS believes it to be an absolute requirement that the health service is notified at the same time as the practitioner of all QHO investigations and complaints.

There needs to be more focus on conciliation and rapid resolution wherever possible. There is no doubt that extended delays compound the concerns, aggravation and anguish generated by patient complaints.

- **the performance by the health ombudsman of the health ombudsman's functions under Health Ombudsman Act 2013 Act;**

The introduction of the QHO was intended to decrease the time to respond to public concerns and complaints about their health care due to the "backlog" of AHPRA. We have been informed by practitioners, having to supply detailed responses within strict relatively short timeframes, and then waiting for an extraordinary long time for resolution.

It has patently caused a two stage approach to dealing with complaints whereby serious issues raised by the health service itself – that should be referred to AHPRA – now take far longer than before due to this process of being filtered through QHO.

RACS believes there needs to be a heightened emphasis on reducing layers, complexity and double handling of issues between the regulator of health professionals and other stakeholder groups.

- **review the National Boards' and National Agency's performance of their functions relating to the health, conduct and performance of registered health practitioners who provide health services in Queensland;**

AHPRA has been highly successful in providing the registration capacity across all health professionals. Its major challenges now lie with in the areas of notification and complaint. An emphasis towards national uniformity and a consistent process is critical as are a transparency of activities, natural justice and timeliness.

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Most of the concerns raised from the complaints approach are greatly magnified when prompt resolution is not achieved. RACS believes this should be one of the key areas of focus for this review.

- **any other matter about the health service complaints management system.**

It is noted that the QHO do not use clinicians for their initial investigations and we believe early clinical opinion is required in most situations. When “independent practitioners” are engaged, the QHO must ensure that they are truly independent. We have received reported instances of private practitioners benefiting financially by having uninsured patients receive consultations or surgery privately following criticism of public treatment.

Other reports have included practitioners who offer patients private treatment and links them with a legal firm who will act in “no fee” capacity to sue hospital and help place a complaint with QHO and AHPRA in order to pay their private practice fees. These practitioners have been in turn used by QHO and AHPRA to give “independent” evidence.

Following delivery of the Action Plan from the RACS Expert Advisory Group on Discrimination, Bullying and Sexual Harassment: Building Respect, Improving Patient Safety, the College has committed to goals in culture and leadership, surgical education as well as complaint management.

With this process, RACS is addressing professionalism and behaviour through instigating the Vanderbilt principles which focus on the link between behaviours and poor patient outcomes. You can read more about our 'Let's operate with Respect' campaign on our website.

We look forward to effective strategies that work to improve patient safety in high-quality healthcare and that RACS may continue to be involved in consultation.

On behalf of the Royal Australasian College of Surgeons Queensland Regional Committee, we thank you for extending us with the opportunity to provide comment on this important area of public policy.

Yours Sincerely,

[redacted]

Owen Ung
Chair, Queensland State Committee

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