

Dr Donna-Louise McGrath *PhD*

To the Research Director
Health, Communities, Disability Services and Domestic and Family Violence
Prevention Committee
Parliament House
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Dr Donna-Louise McGrath (PhD)



8th July 2016

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

Dear Research Director

Please find enclosed my submission to the Inquiry into the performance of the Queensland Health Ombudsman's functions pursuant to section 179 of the Health Ombudsman Act 2013.

In writing this brief submission, I have drawn upon both my experience as a private dental patient who has utilised the Office of Health Ombudsman Queensland complaint process, as well as my expertise as a social science researcher.

Regards

D. McGrath

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

Topic: Patient complaints about registered dentists in private practice in Queensland

3. Any other matter about the health service complaints management system

- *Prevalence of complaints about dentists in Queensland*

In 2012 Queensland dentists faced a high complaint rate (Colyer, 2012). The current number of complaints about dentists which have been received by the Office of the Health Ombudsman (OHO) may not reflect the actual prevalence rate of patient grievances. Dental patients may choose not to invest emotional energy and time in lodging a complaint with the OHO, or they may utilise other complaint mechanisms.

It should thus be noted that the Australia Dental Association Queensland (ADAQ) also enables patients to lodge a complaint related to the clinical dental treatment performed by its members.¹ However there appears to be no public data on the number of complaints the ADAQ have received, dismissed, or 'completed.'

- *Patient complaints unresolved by dentists*

Lodging a complaint with the OHO may be the only avenue for private dental patients in Queensland to have their complaint 'heard'. In my experience, many dentists in private practice do not have complaint management processes and either delay responding to complaints, or ignore them.

Dentists have conflicting ethical demands as health professionals and as individuals operating a small business (Porter & Grey, 2002). However private dental practices often operate as a business – rather than a health care profession. This business model is reflected in how complaints are 'dealt with' by dentists.

While patients may be seeking an acknowledgement of deficiencies in dental treatment, an apology, and /or a refund for faulty work, dentists appear to be bound by their professional indemnity insurance obligations. They thus tend to downplay deficiencies in their own, and their fellow member's treatment. Disparaging the work of other dentists has historically been discouraged in professional codes for Queensland dentists (Porter & Grey, 2002). Further, patients are financially disadvantaged by paying for poor dental treatment, and then having it fixed by another dentist. This injustice may be another reason that patients complain about dentists.

¹ This function appears to be at odds with the ADAQ's role as an underwriter of the professional indemnity insurance of its members.

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- *Undisclosed 'Conditions' on the AHPRA Register of Practitioners*

Conditions which restrict a practitioner's practice are noted on the Australian Health Practitioner Regulation Agency (AHPRA) register. However 'Conditions' such as those related to a practitioner's health (e.g. psychiatric care or drug screening) are not usually published on the register (AHPRA). Hence not all information which would assist the public to make an informed decision in choosing a dentist is disclosed by AHPRA. While patients remain unaware of these undisclosed 'conditions', they may be relevant to the events which led to a patient complaint.

- *AHPRA and impartiality*

Patients who have lodged a complaint with dental councils and committees perceive that such panels "protect dentists, not patients", with only a comparatively small number of dentists being disciplined (Jensen, 2011). The impartiality of the AHPRA peer-review system has thus often been questioned by patients (e.g. State of Victoria, 2014). In referring patient complaints to AHPRA on the basis of their 'expertise', the OHO should thus collect data on AHPRA's decision-making processes and their dismissal of patient claims as 'lacking in substance.' The relationship between AHPRA and the Queensland Registration and Notification Committee (QRNC) of the Dental Board of Australia should also be clarified.

- *OHO complaint data*

The Office of the Health Ombudsman data on "local resolutions completed within legislated timeframes" may simply reflect the dentists' 'participation' in the process. Given the seeming reluctance of many dentists to acknowledge deficiencies in their practice, and their professional indemnity insurance obligations, a lack of a 'local resolution' is likely.

The former Health Quality and Complaints Commission's (HQCC) *Teething problems – a spotlight report on complaints about dental care in Queensland* reportedly indicated its intent to repeat its dental complaint study (Bite Magazine, 2012). A continuing high number of complaints about dentists, and/or a pattern of complaints in specific areas (e.g. overtreatment of private health fund patients) should be seen as indicative of the need for a separate inquiry into complaints about private dental practices in Queensland. The OHO might also seek data from the ADAQ on the nature of complaints about the clinical dental treatment of their members.

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- *Therapeutic Goods Association (TGA) recalls*

The Therapeutic Goods Association (TGA) 'System for Australian Recall Actions' database shows that a number of commonly used dental materials and products have been recalled in Australia since 2012. Each is classified according to the potential risk posed to patients/consumers. Dental products may be recalled by the TGA *after* the dentist has used or placed them in patients. However there appears to be no public information on whether, or how, dentists inform their patients of TGA recalls. While patients may be unaware of these recalled materials, they may be relevant to the failure of dental treatment and/or the patient's OHO complaint.

- *Scope of OHO complaints*

The OHO appears to accept a broad scope of complaints from patients. However patients might direct some complaints to other agencies. For example, patients can make a complaint to the Office of the Australian Information Commissioner (OAIC) about the handling of their personal information by private sector organisations covered by the *Privacy Act 1988*. Patients may also be unaware of privacy breaches of their own data, yet can be witness to privacy breaches related to another patient's data (such as being inadvertently sent another patient's records). Further, dentists manage their own infection control, with no regulated inspections or random audits of their hygiene practices or cleanliness (Carroll, 2014). Patients might direct complaints in these areas to the health department.

- *Dental clinical notes are treated as a legal document*

Dental records may not reflect the patient's experience, and thus may not support their OHO complaint claims. The *Privacy Act 1988* states that patients have a right to look over and obtain a copy of their health records. This patient access is outlined in both the Dental Board of Australia's Code of Conduct and their Guidelines on Dental Records, developed under s. 39 of the *Health Practitioner Regulation National Law Act 2009*. However in practice, some dentists resist this, and insist on only sending a copy of the records to the new dentist. This denies the patient's right to access their records, and where necessary, to request their correction.

In my experience, dentists do not openly record problems or complaints on clinical notes. They may separately file the patient complaint correspondence. When investigating complaints, the Office of the Health Ombudsman should thus seek a complete unedited copy of patient dental records, including any 'corrections', as well as requesting a statement from the dentist that nothing has been omitted.

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