

**Health, Communities, Disability Services and Domestic and Family Violence
Prevention Committee Inquiry:**

**Health Practitioner Regulation National Law and Other Legislation Amendment Bill
2017**

SUBMISSION

You may wonder why I, an allied healthcare practitioner from another state (NSW), am making a submission to what is essentially a Queensland government Inquiry. The reason for this is very simple, as an Australian citizen, as a consumer of healthcare (i.e.: at times a patient) and as a professional dentist of many years experience, I am deeply concerned about the state of healthcare regulation in this country.

When I learned about the current Inquiry of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (the Committee) into the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017 (the Bill), I chose to provide the following submission to the inquiry.

I am very fortunate to never have been subject to a complaint, nor any form of personal inquiry or investigation into my practice. Nor have I had conditions placed upon my registration, having served as a dentist in private practice for 26 years. It is alarming that I have been informed that this freedom from investigation is very unlikely to be the case at the end of my career. I have been assured that it is not a matter of 'if' I will be subject to a report, rather it is a matter of 'when'.

Of far greater concern is the fact that I have bourn witness to the direct impact of AHPRA investigations made against of a number of my colleagues. I use the word 'against' very specifically, and for reasons that will be detailed below.

What I will urge you, members of the parliament, is to consider that there are serious flaws and failures in the current regulatory system, and that the proposed amendments will do nothing to address these problems. Nor will they reduce their harming impact on healthcare providers. If anything, these changes will tip the balance further in the already adverse and adversarial way in which complaints are handled. It is important that you consider that an already punitive system *has done absolutely nothing to improve the practices of medicine, psychology, nursing and other allied healthcare professions*. It has however pushed us (the healthcare providers) to practice in ways that are highly defensive, fearful and rigid. This comes with substantial economic, social and human health impacts, none of which the regulator has taken into consideration with its stated mandate of "protecting the public".

It is for this reason that I have decided to present as evidence for Committee's consideration a statement of the direct impacts I have witnessed upon health practitioners, during and after being subjected to investigation by a health authority so empowered under the *Health Practitioner Regulation National Law Act 2009* (the Law).

This submission bears direct relevance to the Bill, because the Bill as tabled will provide additional powers to those health authorities established and/or empowered under the Law and some of those proposed additional powers, in my view, will only serve to increase the potential for health practitioners, subjected to such investigation under the amended Law, to suffer impacts similar to, and most likely even worse than, those I have witnessed, those powers without doubt being and becoming even more so, excessive, unwarranted, unfair and harmful.

Should those additional powers be enacted, without due or adequate consideration for the substantial flaws in the current system, and without any attempt to correct them, the result will be detrimental to the provision of healthcare in this nation.

IMPACT STATEMENT

I do not have the authority or consent of the practitioners to list their names. What I can state is that one is a medical specialist/physician, the other two are registered psychologists. All of them are people I have known for a period between 5 and 10 years.

In all cases the practitioners were investigated by AHPRA and the investigations were triggered by complaints. In the case of the medical specialist, it was a complaint made by a patient. The psychologist's complaints were made by third parties who were not patients.

In every case, the practitioners were subjected to investigations that took place over years. These men and women were required to dedicate many hundreds of hours to writing responses to AHPRA investigators, whilst working in full time practice and taking care of their families. I saw them become weary and at times demoralized. The medical specialist informed me that at times they had considered leaving clinical practice altogether as they believed they were unable to practice the sort of medicine that was so important to them. Should this come to pass, it will be an enormous loss to medicine. This person is one of the finest doctors I have met; considerate, caring and highly skilled.

One of the psychologists experienced the breakdown of their marriage during the protracted AHPRA investigation process. This was in no small part related to the strain of the investigation. It must be noted that this process was conducted not over failed treatment of a patient, but over a blog that the practitioner had written and had published on a third party website.

This person experienced severe emotional distress resulting in poor sleep and moments in which they considered suicide. At no time did the psychological board take the mental health of their member into consideration, nor did they offer support.

This lack of awareness and care on the part of the Board's that form AHPRA is deeply alarming, especially at a time when the suicide of doctors and other healthcare providers has become common public knowledge and formed the basis for many articles in the print media and current affairs programs.

These cases highlight a number of concerns with the investigative process.

- In all cases the harms done by the practitioners were disproportionate to the length and the traumatic nature of the investigations.
- In two cases, the complaints were **not** registered by patients or clients, but third parties. The investigations that were initiated did not seem to take this into account. They were handled as though patients had been directly harmed by the practitioners.
- There was no scope for the practitioners to find out what was happening with their investigations. There were long periods of non-communication from the regulator. When demands were made by the regulator for a response, the timing was insufficient, placing the practitioners under unacceptable levels of stress.
- There was no attempt to distinguish a genuine complaint from a vexatious one. Drawn out investigations over vexatious complaints expose practitioners to unacceptable stress, and are a flagrant waste of government resources.

RECOMMENDATIONS

Based on what I have witnessed for these practitioners and others who have discussed similar experiences with me I recommend that:

1. The committee recognises the evidence submitted to the committee by health practitioners who have been through the investigative process. It is crucial that the expressions of practitioners feeling unfairly treated, harmed and traumatised, their experiences in having their careers irrevocably impacted, by the harsh and overbearing powers and conduct of authorities permissible under the current Law are taken seriously, and not dismissed as irrelevant or of insignificant impact.
2. The committee, proceeding from recommendation 1 above, accepts that the Law as implemented is producing harmful outcomes that are either not intended by the original policy intentions. If those harms are intended by the policy, they are an indication that the **policy intentions were/are disturbingly wrong**. Either way it is asked that this inquiry accepts responsibility on behalf of all participating legislatures take immediate and assertive actions to initiate the required far-reaching reform so clearly needed.
3. The committee, with regard to the Bill before it, in examining the Bill scrutinises all provisions of the Bill to identify all clauses that may impose upon, or permit, further unfairness, harm and detriment to practitioners in addition to that which is currently permitted and occurring under the existing Law, and recommends either that the Bill not be passed in its entirety, or the removal of those clauses from the Bill.
4. The committee, as an instrument of the Parliament of Queensland, the host jurisdiction for the application of the National Law in Australia, recognizes its key responsibility, and that of the Queensland Parliament, to initiate appropriate measures to correct the significant and disturbing deficiencies of the Law and the resulting harm and detriment to practitioners as presented in the evidence before this inquiry and outlined in this submission.
5. The committee, in recognizing its responsibilities and those of the Queensland Parliament, as stated in recommendation no. 4 above, recommends in its report to the House on this Bill that Queensland acts assertively and urgently to call for a royal commission, as a matter of priority, to review the Law and the operations of all health authorities that are established by and empowered under the Law in all participating jurisdictions of Australia.
6. The committee, as paramount to the Bill proceeding, recommends amendments to the Bill to enact that the rights and interests of practitioners are seen as equal to those of their patients and the general public. Practitioners have equal rights to be protected from abuse, a right to freedom of association and should not be investigated on the basis of vexatious, malicious or otherwise unsubstantiated complaints.

In making my submission I note that I am willing for my submission to be made public under parliamentary privilege.



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