ANZAOMS
AUSTRALIAN AND NEW ZEALAND ASSOCIATION OF ORAL & MAXILLOFACIAL SURGEONS

30 April 2021

Consultation Response Senate Enquiry: Administration of Registration and Notifications by AHPRA.

Administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law – Parliament of Australia (aph.gov.au)

To: Committee Secretary, Senate Standing Committees on Community Affairs, Department of Senate
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General

Thank you for the opportunity to provide feedback to the Senate Enquiry into the Administration and Registration of Notifications by the Australian Health Practitioner Regulation Agency (AHPRA).

ANZAOMS is the peak body representing specialist Oral and Maxillofacial Surgeons (OMS) in Australia and New Zealand. The association is consulted on policy matters around oral and maxillofacial surgery by state and federal governments, Medicare, private health insurance providers, consumer bodies and specialist medical and surgical colleges.

Oral and Maxillofacial Surgery is a unique specialty at the intersection of the medical and dental professions.

- The specialty is both a medical (surgical) specialty and a dental specialty.
- Practitioners must complete both a medical and dental degree.
- Practitioners are jointly regulated by both the Medical Board of Australia (“MBA”) and the Dental Board of Australia (“DBA”).
- Both the Australian Medical Council (“AMC”) and the Australian Dental Council (“ADC”) jointly assessed the qualifications to recognise the specialty.

ANZAOMS Members contribute to the training, examination and the governance of OMS surgical training through the Board of Studies of the Royal Australasian College of Dental Surgeons (RACDS). Oral & Maxillofacial Surgery is also recognised as one of the listed principal surgical specialities. Specialists are required to hold both Medical and Dental qualifications.

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The Dental Board of Australia recognises the specialty of Oral and Maxillofacial Surgery as: "*The part of surgery that deals with the diagnosis and surgical and adjunctive treatment of diseases, injuries and defects of human jaws and associated structures.".*

Representing over 270 health practitioners ANZAOMS has well placed to comment on a range of issues associated with mandatory and voluntary notifications. ANZAOMS supports a compliance system which is transparent and accountable. It is vitally important that the profession retains the confidence of the public, and a transparent, easy-to-access complaints and disciplinary system is essential to achieve this goal. This system needs to be fair and uphold the principles of natural justice for all stakeholders. It is vital that the system shows a commitment to impartiality and due process. It is also vital that the wellbeing and state of mind of the practitioner be at the forefront of AHPRA's considerations.

ANZAOMS recognises the work done by AHPRA and Dental and Medical Boards of Australia to improve processes and their willingness to continue to work with the professions to continually identify areas for improvement and act upon them.

Terms of Reference and Commentary

The administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law, with particularly reference to:

(a) the current standards for registration of health practitioners by the Australian Health Practitioner Regulation Agency (AHPRA) and the National Boards under the Health Practitioner Regulation National Law (National Law);

ANZAOMS Comment: N/A

(b) the role of AHPRA, the National Boards, and other relevant organisations, in addressing concerns about the practice and conduct of registered health practitioners;

ANZAOMS Comment:

Our members have noted concerns regarding the level of expert knowledge and expertise amongst AHPRA staff to deal adequately with complaints regarding practitioners. It is often difficult for non-medical/clinical staff to appropriately assess complex health and medical related issues. This can result in significant delays in the processing of complaints to a satisfactory conclusion, often leaving practitioners in a state of limbo as they await a determination of the notification.

(c) the adequacy and suitability of arrangements for health practitioners subject to supervised practice as part of the registration process or due to a notification;

ANZAOMS Comment: N/A

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(d) the application of additional requirements for overseas-qualified health practitioners seeking to become registered in their profession in Australia;

ANZAOMS Comment:

ANZAOMS supports consistency in the registration requirements for both locally and overseas trained practitioners and specialists. Ensuring equivalency in qualification, training and experience for overseas trained practitioners with locally trained and registered practitioners is essential to ensure appropriate public health outcomes and fairness and equity in terms of a clinicians right to practice.

Of particular note and relevance to our specialty is the anomaly created by the Trans-Tasman Mutual Recognition Act 1997.

Training in the specialty of Oral & Maxillofacial Surgery (OMS) is administered by the Board of Studies of the Royal Australasian College of Dental Surgeons (RACDS). This training was accredited by the joint Australian Medical Council (AMC) & Australian Dental Council (ADC) in 2006 and has been re-accredited since that time.

The prescribed qualification for registration as a surgeon in OMS in both the Medical Board of Australia (MBA) and the Dental Board of Australia (DBA) is Fellowship in the RACDS: FRACDS(OMS)

Training comprises:

1. *Medical & Dental degrees*
2. *A year of general surgery resident positions*
3. *Prescribed courses (x4 as per other specialties e.g. CCrISP)*
4. *Four years of training in OMS (including SST and Final Examination)*

*The Medical Council of **New Zealand** recognise the FRACDS(OMS) as the requisite qualification for registration as a specialist OMS. However, there is a major difference in the minimum training accepted by the Dental Council of New Zealand (DCNZ) for registration in OMS listed in the prescribed qualifications;*

Training comprises:

1. *Medical & Dental degrees*
2. *2 years or more of post---graduate training in an academic institution (NZ OMS specialist examination)*

This reduced level of training in New Zealand compared to Australia in OMS is not comparable nor sufficient for the scope of surgery that is practised in Australia.

The TTMRA applies to dentistry but not medicine. Hence, it can be exploited as in the following example that has taken place over the past 2 years.

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"Surgeon A completed 2 years of training in NZ and was registered as an OMS by the DCNZ. Using the TTMRA, he then registered as a specialist OMS in Australia. He then used a general Dental Fellowship (FRACDS, not the FRACDS(OMS)) and was incorrectly registered as a medical specialist in OMS."

This is a serious matter of patient safety and ANZAOMS position is that as OMS is a specialty of medicine and dentistry, that it be rightfully exempted from the provision of the TTMRA.

(e) the role of universities and other education providers in the registration of students undertaking an approved program of study or clinical training in a health profession;

ANZAOMS Comment: N/A

(f) access, availability and adequacy of supports available to health practitioners subject to AHPRA notifications or other related professional investigations;

ANZAOMS Comment:

Under the current complaint management system there is a perception by the profession that AHPRA adopt a presumption of guilt upon a practitioner once a complaint is made. Members of ANZAOMS have voiced this view when sharing their experience of the AHPRA complaint handling process, either as someone who has had a complaint lodged against them, or as a practitioner invited to participate in peer review of individual cases.

The burden of proof is placed on the practitioner against whom a complaint is made and regardless of whether there is any evidence to support the complaint, it is the practitioner's responsibility to provide the evidence to counter the claim, effectively a "guilty until proven innocent approach''. Furthermore, it would appear that practitioners are given very short timeframes to provide such evidence, but then wait long periods of time to know what is happening within AHPRA. The activation of already identified key performance indicators around such timeframes is important going forward.

ANZAOMS recognises the importance of safety of the public; however, equally a level of protection must also be afforded to the practitioner until the complaint is established. The stress and anguish to the practitioner and their families that result from a notification cannot be overstated. It has an effect on their self-esteem, their standing among peers, their ability to retain staff and patients and hence threatens their livelihood.

Further developing strategies to minimise the number of vexatious complaints, that ensures neither the patient nor the profession is disadvantaged, are also required. ANZAOMS acknowledges the Vexatious complaints framework implemented in late 2020 and appreciates this important move to provide a degree of protection for clinicians, however we believe that more needs to be done to protect practitioners from such complaints and to create significant disincentive to complainants who are clearly using the system to create nuisance to the practitioner with unfounded and unjustified grievances.

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(g) the timeliness of AHPRA's investigation of notifications, including any delays in handling, assessment and decision-making, and responsiveness to notifiers;

ANZAOMS Comment:

Our members have reported many instances of significant delay in the handling of assessment processes, timeframes are far too long considering the severe negative impact that being subject of a notification has on a practitioner and their (and their family) mental and physical wellbeing as well as their ability to continue to practice at a normal level. Notification management timeframes must be closely managed, well communicated and expedited as rapidly as possible for the well being of all concerned, both notifier and practitioner.

(h) management of conflict of interest and professional differences between AHPRA, National Boards and health practitioners in the investigation and outcomes of notifications;

ANZAOMS Comment: N/A

(i) the role of independent decision-makers, including state and territory tribunals and courts, in determining the outcomes of certain notifications under the National Law;

ANZAOMS Comment: N/A

(j) mechanisms of appeal available to health practitioners where regulatory decisions are made about their practice as a result of a notification;

ANZAOMS Comment: N/A

(k) how the recommendations of previous Senate inquiries into the administration of notifications under the National Law have been addressed by the relevant parties; and

ANZAOMS Comment: N/A

(l) any other related matters.

ANZAOMS Comment: N/A