

ANSWERS TO QUESTIONS ON NOTICE

HEALTH AND AGEING PORTFOLIO

30 April 2010

Question no: 4

OUTCOME 12: Health Workforce Capacity

Topic: HEALTH PRACTITIONER REGULATION (CONSEQUENTIAL AMENDMENTS) BILL

Hansard Page: CA 29

Senator Adams asked:

“So could you explain whether there would be an exemption in that respect or would that all come in under mandatory reporting?”

Answer:

The *Health Practitioner Regulation National Law Act 2009* (known as the National Law in participating jurisdictions) requires practitioners, employers and education providers to report ‘notifiable conduct’, as defined in section 140 of the National Law, to the Australian Health Practitioner Regulation Agency (the Agency). This includes a registered health practitioner who has:

- (a) practised the profession while intoxicated by drugs or alcohol, or
- (b) engaged in sexual misconduct in connection with their practice of the profession, or
- (c) placed the public at risk of substantial harm in their practice because they have an impairment, or
- (d) placed the public at risk of harm because of a significant departure from accepted professional standards.

The threshold to be met to trigger the requirement to report notifiable conduct in relation to a practitioner is high; and the practitioner or employer must have first formed a reasonable belief that the behaviour constitutes notifiable conduct.

The aim of the notification requirements is to prevent the public from being placed at risk of harm. The intention is that practitioners notify the Agency if they believe that another practitioner has behaved in a way which presents a serious risk to the public. The requirements focus on serious instances of sub-standard practice or conduct by practitioners or serious cases of impairment of students or practitioners.

A practitioner is exempt from reporting in certain circumstances, including, if they form a reasonable belief that a professional colleague’s conduct is notifiable conduct whilst:

- employed by an insurer that provides professional indemnity insurance;
- if they are a legal practitioner and form the belief whilst providing legal services;
- if they form the belief in the course of exercising functions as a member of a quality insurance committee; or
- if they reasonably believe that the notifiable conduct has already been reported to the Agency.

In April 2010, all National Boards undertook a consultation on draft codes and guidelines for mandatory reporting to explain how the National Boards will interpret these mandatory notification requirements. The final codes and guidelines on mandatory reporting will help practitioners, employers and education providers understand how to work with these requirements; that is, whether they must make a notification about a practitioner's conduct and when.