

Committee of Presidents of Medical Colleges

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Dear Members of the Senate Committee

The Committee of Presidents of Medical Colleges welcomes the opportunity to make a submission to the Inquiry into the Medical Complaints Process in Australia.

All specialist Medical Colleges are fully committed to fulfilling their obligations to eliminate or minimise the risk of bullying. Each has undertaken a system review to ensure appropriate policies and procedures are in place to manage complaints relating to bullying, which also includes regular compliance checks to ensure policies and procedures are up-to-date and staff are provided with information and training. However, there are well reported serious deficiencies in many health sector agencies and the complaints processes need to be improved, because while all Colleges are making a considerable effort to improve processes they cannot do it alone and there needs to be agreed principles between all parties.

CPMC recommends the attached submission to the Committee. CPMC would be pleased to appear at any hearing should these become arranged. In the meantime, please do not hesitate to contact me via the secretariat on telephone _____ or email via _____ should you wish to discuss any of the matters raised in this submission.

Yours sincerely,

Laureate Professor Nicholas Talley
Chair, CPMC

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COMMITTEE OF PRESIDENTS OF MEDICAL COLLEGES

Submission to the Senate Community Affairs References Committee Inquiry into Medical Complaints in Australia

The Committee of Presidents of Medical Colleges (CPMC) is the peak body representing the interests of specialist Medical Colleges in Australia. CPMC works to ensure that individual medical specialties have a broad base of intercollegiate knowledge so as to enable them to provide for the Australian community the highest quality of medical care, delivered in accordance with accepted clinical principles, and to improve, protect and promote the health of the Australian public. CPMC is involved in policy development, and as the peak specialist medical body in Australia provides objective advice on health issues to Government and the wider community.

The individual Member Colleges are responsible for the determination and maintenance of standards for their respective disciplines and for the training and education of medical specialists in that particular discipline, and are free to provide their own submission to this inquiry accordingly.

CPMC welcomes the opportunity to provide a response to the Inquiry Terms of Reference.

(a) The prevalence of bullying and harassment in Australia's medical profession

There is a requirement for all accredited training practices to comply with occupational health and safety legislation, anti-discrimination legislation, industrial legislation and awards, Australian Workplace Agreements and Common Law.

All specialist Medical Colleges have policies which embrace the context of equity and diversity.

On 7 December 2015, CPMC publicly noted the establishment by the Royal Australasian College of Surgeons of an Expert Advisory Group for advice on strategies to prevent discrimination, bullying and sexual harassment in the practice of surgery in Australian and New Zealand hospitals and in the College. CPMC acknowledged that these issues were recognised as impacting the community, including the medical profession and the health sector more widely. (<http://cpmc.edu.au/media-release/cpmc-statement-on-bullying-discrimination-and-sexual-harassment/>)

While the primary focus of the EAG was to understand the extent of the problem in the practice of surgery in Australia and New Zealand, all specialist Medical Colleges have subsequently undertaken assessment processes to recommend actions their individual College could take directly and in partnership with hospitals and employers to mitigate and prevent such behaviours from occurring. While this does not necessarily mean that discrimination, bullying and sexual harassment is widely prevalent in Australia's medical profession, it means that specialist Medical Colleges take these issues seriously and are prepared to make adjustments as necessary to prevent it from occurring.

(b) Any barriers, whether real or perceived, to medical practitioners reporting bullying and harassment

CPMC is aware of the prevalence of discrimination, bullying, and sexual harassment (DBSH) in the health care industry and acknowledges the work of the Royal Australasian College of Surgeons in addressing it. An article published in the Medical Journal of Australia highlighted the perceived career damage that can result from reporting DBSH and the inconsistent standards of response. (<https://www.mja.com.au/journal/2015/203/4/discrimination-bullying-and-sexual-harassment-where-next-medical-leadership>)

Trainees and specialists are employed to work in a variety of settings in both the public and private sectors and would be made aware of the policy directives that are applicable to them through orientation programs and related communications.

In the public sector, policy directives apply to all public health organisations, the agencies, services and all other bodies under the control and direction of the relevant Minister for Health or Secretary/Director-General. There are mandatory requirements for all staff employed by these jurisdictions, where staff is generally defined to include all persons engaged by the institutions, and any person working in any capacity including volunteers and students.

The broad reach of policy directives in the public sector is certainly matched in the private sector with relevant policies and procedures in place to guide persons engaged by the relevant institution in what is expected of them. These are generally termed Codes of Conduct and they apply to all employees, volunteers, managers, directors, contractors, consultants and visiting medical officers.

In many jurisdictions there are anti-bullying management advisers who are responsible for providing information and coaching to managers on effective bullying complaints management and for the employee, independent advice is available for staff as well. However, there are well reported serious deficiencies in many organisations and the complaints processes need to be improved. According to Dr Peter Frost the acting Victorian Auditor-General at Page 9 of the report released 23 March, 2016 he found that:

Health sector agencies are failing to respond effectively to bullying and harassment as a serious OH&S risk. They are not demonstrating adequate leadership on these issues, which is illustrated by the fact that the audited agencies do not understand the extent, causes or impact of bullying and harassment in their respective organisations, even when such issues have resulted in significant media attention and reputational damage. Audited agencies also do not have the fundamental, underpinning foundations of effective policies and procedures, and do not adequately train their staff and managers to deal with inappropriate behaviours to prevent them escalating into serious bullying and harassment. And when issues become serious bullying and harassment matters these agencies do not have the appropriate procedures to manage them or document the details to help inform future planning and action

(source: http://www.audit.vic.gov.au/reports_and_publications/latest_reports/2015-16/20160323-bullying.aspx)

While all specialist Medical Colleges are making a considerable effort to improve processes they cannot do it alone and there needs to be agreed principles which apply within and across all jurisdictions.

(C) The roles of the Medical Board of Australia, the Australian Health Practitioner Regulation Agency and other relevant organisations in managing investigations into the professional conduct (including allegations of bullying and harassment), performance or health of a registered medical practitioner or student

The Committee will already be aware of the role of the Medical Board of Australia (MBA) which is to register medical practitioners and medical students and develop the standards, codes and guidelines for the medical profession. If a complaint is received about a medical practitioner the MBA undertakes the investigation and follows a well-defined process to manage the complaint or notification. The MBA is supported by boards in each of Australia's jurisdictions, each of which has the power to make individual registration and notification complaints decisions with reference to the national policies and standards set by the National Board. The MBA also approves accreditation standards and accredited courses of study.

The role of the Australian Health Practitioner Regulation Agency (AHPRA) is to implement the National Registration and Accreditation Scheme comprising fourteen health professions, across Australia. AHPRA is governed by an Agency Management Committee which determines its policies and ensures that AHPRA works effectively with the fourteen National Health Practitioner Boards. One of these is the Medical Board of Australia.

Specialist Medical Colleges have policies and procedures in place for dealing with complaints, grievances and general trainee matters, including appeals processes. Many Colleges have reviewed and revised their policies to ensure the internal administrative procedures for dealing with complaints reflect contemporary practice.

An example of a College policy document on bullying, discrimination and harassment for Fellows and Trainees acting on behalf of the College of undertaking College functions can be found at: <http://www.anzca.edu.au/resources/corporate-policies/pdfs/anzca-policy-on-bullying-discrimination-and-harassment-20111129.pdf>

Most Colleges have established a DBSH working group or sub-committee with terms of reference, or have incorporated it into their Board agenda to identify the current resources within the Colleges to address issues of DBSH, evaluate them to ensure accessibility for all trainees, members and College staff, what the gaps may be and whether changes may be required. Importantly, all Colleges have in place a process to identify strategies which might lead to improved recognition and prevention of DBSH. One key strategy is the development of 'quality of training' surveys of all trainees and several of the questions relate to DBSH and whether the individual would like any assistance from their respective College via a designated staff member in dealing with any issues. Most Colleges have also surveyed all Fellows on the prevalence of DBSH.

While each College has tailored its approach to complaints management to ensure the most appropriate College Committee reviews the matter, if an individual remains dissatisfied there is always a referral for an independent review which is overseen by the College.

Matters involving ethical and professional conduct are generally considered by a Conduct Membership Committee and by way of example, the Royal Australia and New Zealand College of Psychiatrists convenes an independent committee which reports directly to the Board to consider ethical and professional conduct matters.

Each College has guidelines for the professional behaviour expected of Fellows, and an example can be found at <http://www.anzca.edu.au/resources/professional-documents/pdfs/Code-of-Conduct.pdf>

Most Colleges have reported that while much has been done to address DBSH there remains a great deal more to be done to streamline process and to improve support, education and training so as to prevent it from occurring. The role of the employer in this process is paramount given it is their responsibility to first ensure a safe working environment for trainees. Colleges report the relationship between employers (the hospitals) requires development to ensure consistent, fair and effective outcomes. Colleges have taken reference from the recommendations from the report by the Royal Australasian College of Surgeons in this regard.

(e) Whether the National Registration and Accreditation Scheme, established under the National Law, results in better health outcomes for patients, and supports a world-class standard of medical care in Australia

Australia has a world-class standard of medical care as recognised by the World Health Organisation. CPMC supported the concept of a national regulation system for health professions which would ensure:

- there is no reduction or compromise in the quality of care provided to all Australians;
- a ready movement of registered practitioners across Australian jurisdictional boundaries, supported by nationally uniform policies and regulatory guidelines without having to rely on mutual recognition of jurisdiction-based registration, and
- a level of protection against unilateral departures from uniformity over time by individual jurisdictions as political responses to subsequent events within those jurisdictions.

In establishing the NRAS it involved the consolidation of the establishment of seventy-five (75) Acts of Parliament and ninety-seven (97) separate health profession boards across eight States and Territories into a single National Scheme. This process occurred because of the fragmented system of regulation which was acknowledged as ineffective in assuring the safety and quality of patient care by the potential for practitioners to practise in multiple jurisdictions with varying conditions on practice and levels of scrutiny.

The Committee may wish to review the report from the independent review of the NRAS released in 2014 conducted to assess the extent to which it was meeting its objectives. <http://www.coaghealthcouncil.gov.au/Publications/Reports/ArtMID/514/ArticleID/68/The-Independent-Review-of-the-National-Registration-and-Accreditation-Scheme-for-health-professionals>

This report has been reviewed by the COAG Health Council, in August 2015, and CPMC welcomes the Health Ministers' support of recommendations to improve complaints and notification systems.

<http://www.otaus.com.au/sb/modules/newsevents/attachments/317/COAG%20Health%20Council%20NRAS%20final%20report%20communiqué%207%20August%202015.pdf>

In April 2016 a public report is expected to be released about the extent to which the complaints scheme can be strengthened and in particular, whether there are new ways to strengthen the accountability of the national scheme.

