Chapter 6

Conclusions and recommendations

> From the GP perspective we are currently undergoing the worst crisis in our workforce in living memory and we have very limited capacity to respond to that. Our concerns about AHPRA's performance have been around the administrative competency. Inaccurate mail addresses for many doctors have led to significant distress and reduced patient access. There is no phone access that is timely to try to sort out problems. Many of our members waited for an hour to try to get through to have questions answered; consequently, their patients and families waited for that time as well. The internet access was of very little help to our doctors in trying to sort through the many problems of the registration and the culture of AHPRA was that it was the doctor's problem and just something they had to put up with.[1]

6.1 The committee acknowledges that the implementation of the new registration and accreditation regime for some 500,000 health practitioners was a huge undertaking. The committee also recognises that for a new organisation to take over the registration process from some 80 state and territory boards, and for that organisation to be up and fully operational on the day after those boards ceased, presented a challenge. It was a unique regulatory event, both in Australia and overseas.

6.2 However, the implementation was far from well managed. The Australian Medical Association described it as a 'debacle'. Ramsay Health Care Australia did not classify the difficulties being experienced as 'teething problems', rather it expected problems to last for the next two years.[2]

6.3 It is apparent from the evidence received that there were many stakeholders raising concerns about the implementation of the scheme from its earliest stages. These stakeholders had experience with registration within their own professions. The 1992 mutual recognition scheme also provided pointers to the possible problems that may have arisen and should have informed the setting of the timeframes and the staging of the process. The committee considers that the timeframes were inappropriate for such a complex task. Further, consideration should have been given to staging the time that the registration process for each of the ten professions was absorbed by the Australian Health Practitioner Regulation Agency (AHPRA). In addition, the timing of the changes to the accreditation process could have been managed so that a more gradual transition was facilitated. A more careful

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1 Professor Claire Jackson, President, Royal Australian College of General Practitioners, *Committee Hansard*, 4 May 2011, p. 28.

2 Ms Elizabeth Spaull, National Workforce Planning and Development Manager, Ramsay Health Care Australia, *Committee Hansard*, 4 May 2011, p. 46.

management of the implementation process may have assisted to more accurately estimate the funds required by AHPRA to carry out its functions.

6.4 As Ramsay Health Care Australia stated, it was 'too much, too soon, too quick'.

6.5 In addition, the sheer size of the databases to be migrated should have underscored the potential for problems to arise during the data migration. AHPRA itself recognised the extent of the data problems. While AHPRA maintained that delays in passing legislation in some jurisdictions exacerbated the data migration problems, the committee considers AHPRA's risk management was clearly inadequate and it should have developed more appropriate plans to overcome these problems. In particular, the committee considers that more rigorous forward planning would have facilitated data cleansing before the transfer of the data, as well as testing of the systems to allow a smoother migration of the data, and as a result may have reduced the amount of incorrect information and communication distributed by AHPRA.

6.6 Problems with accessing AHPRA staff through the 1300 call number and the website were unacceptable. The provision of insufficient, incorrect, inconsistent and, in some cases, no advice at all because of inadequate training of staff constitutes a grave failure. The publication of registers with incorrect information was an outcome of AHPRA's flawed processes. The committee considers that these matters undermined AHPRA's ability to fulfil its primary functions: to maintain the national register and to protect the public by ensuring that only practitioners who are suitably trained and qualified to practice in a competent and ethical manner are registered.

6.7 AHPRA's failure to provide practitioners with notification that their registration needed to be renewed, and also the inordinate amount of time taken to process registration applications, demonstrated AHPRA's poor management of the registration process. As a result, the registration of a number of practitioners lapsed, and the practitioners became deregistered, a matter of significant concern. Often due to the failure of AHPRA to provide any notification, the practitioner was completely unaware that they were no longer registered. In some instances, practitioners only found out that they were no longer registered when they were contacted by Medicare. This was a significant issue as not only were practitioners concerned about the potential effect on their professional indemnity insurance, but also practitioners ceased to see patients immediately, causing a disruption to patient care.

6.8 The manner in which registrations were processed by AHPRA pointed to poor planning and a lack of understanding of basic processes to keep registrants informed, for example, lack of confirmations and the inability to track applications through processing stages. These circumstances indicate poor internal processes and document management.

6.9 The committee was provided with extensive evidence on the impact of AHPRA's flawed processes. Practitioners reported loss of income, and in some cases loss of employment. Some practitioners argued that their reputations have been

damaged as a result of incorrect registration information or deregistration through no fault of their own. They also reported added stress and anxiety as a result of their registration difficulties. Concerns were raised about the implications for legal liability when practitioners continued to practice when they did not know that they were not registered. As noted by many practitioners, these problems took them away from their core task: the provision of health services to patients.

6.10 Health providers also gave evidence of the impact on their organisations. Many reported significant time was required to access information about potential employees and to assist current employees with registration problems. Due to AHPRA's failure to support and advise practitioners during the transition, the onus has fallen on health providers and employers of health practitioners.

Recommendation 1

6.11 The committee recommends that AHPRA should issue a letter of apology to practitioners who were deregistered because of the problems revealed by the inquiry and, where it is established a lapse or delay in registration took place, AHPRA should reimburse practitioners for any loss of direct Medicare payments.

Recommendation 2

6.12 The committee recommends that AHPRA should rectify any situation where a practitioner is left liable due to their professional indemnity insurance lapsing, or being voided, during a period where they were deregistered by AHPRA's administrative failings.

6.13 The effects of AHPRA's failure to adequately perform its functions were not limited to practitioners; patients experienced financial loss as they could not claim Medicare rebates for services provided by deregistered practitioners. Patients of practitioners who were deregistered had appointments cancelled or postponed. This was of great inconvenience and concern.

6.14 The committee also notes AHPRA's poor management of the registration process has effected recruitment of overseas practitioners. This is a significant matter: many communities in rural areas rely on overseas practitioners to take up positions in local practices. The committee was provided with examples of communities losing the opportunity to employ health practitioners because of significant delays in the registration of these practitioners. In particular, the advice provided about, and the inconsistent administration of, the English test for overseas practitioners was seen as a significant concern. The committee agrees that the English language requirement is crucial; however, it should be applied in a more consistent manner.

6.15 The committee concludes that this is an area where AHPRA must significantly improve its performance. Further, the committee considers that updates on the registration of overseas trained practitioners should be considered by the Ministerial Council on a regular basis. AHPRA should also establish Key

Performance Indicators to cover registration timeframes for this category of registration and report outcomes in its annual report.

6.16 Submitters to the inquiry pointed to the lack of accountability of AHPRA. AHPRA reports to nine ministers–eight state and territory ministers and the Commonwealth minister for health. However, far from improving accountability, this appears to have resulted in fragmented responsibility and diminution of scrutiny. The committee considers that in the establishment of AHPRA, greater attention should have been paid to accountability issues. Further, that if other similar cross jurisdictional bodies are established, accountability must be clearly provided for in any establishing legislation.

Recommendation 3

6.17 The committee recommends that the Commonwealth Government seek the support of the Australian Health Workforce Ministerial Council to undertake a regular review of the registration of overseas trained health practitioners.

Recommendation 4

6.18 The committee recommends that AHPRA establish Key Performance Indicators in relation to the registration of overseas trained health practitioners and provide detailed information on this matter in its annual report.

6.19 In relation to complaints about health practitioners, the committee identified a number of areas where improvements are required including inconsistencies in application of complaint processes, the prescriptiveness of the application form and the way in which vexatious complaints are handled. The committee considers that further development of the complaints process is urgently required.

Recommendation 5

6.20 The committee recommends that complaints processing within AHPRA be reviewed to ensure more accurate reporting of notifications and to reduce the impact of vexatious complaints on health practitioners.

6.21 In relation to information provided to Australian Health Workforce Ministerial Council (AHWMC), the committee notes that AHPRA officials have met with AHWMC to provide briefings on the implementation of the National Registration and Accreditation Scheme (NRAS). AHPRA will now meet more regularly with the chair of the council to provide briefings on progress.[3] However, the committee is concerned that the only public reporting of the implementation of the NRAS and the work of AHPRA is provided in its annual report and occasional communiqués from AHWMC. The committee considers that better accountability

3 Mr Martin Fletcher, Chief Executive Officer, Australian Health Practitioners Regulation Agency, *Committee Hansard*, 5 May 2011, p.30.

mechanisms must be established to ensure that the scheme does operate in a 'transparent, accountable, efficient, effective and fair way'.

Recommendation 6

6.22 The committee recommends that the Commonwealth Government seek the support of the Australian Health Workforce Ministerial Council to identify and establish mechanisms to improve the accountability of AHPRA to the parliaments of all jurisdictions and the Australian public.

6.23 To improve consultation with professional organisations, including provider organisations, the committee considers that AHPRA should establish professional consultative groups. Such a mechanism would improve communications between AHPRA and professional organisations and help to quickly identify shortcomings in AHPRA processes.

Recommendation 7

6.24 The committee recommends that AHPRA, as a matter of urgency, establish consultative groups with professional organisations and health providers.

6.25 A significant concern raised in evidence was that some practitioners were deregistered because of flawed administrative processes by AHPRA including loss of documents, incorrect contact data and lack of notification. The committee considers that in such circumstances that there should be a grace period so that health practitioners are not penalised for administrative errors.

Recommendation 8

6.26 The committee recommends that the Commonwealth Government seek the support of the Australian Health Workforce Ministerial Council to amend the National Law to provide AHPRA with a discretion to grant a grace period where a health practitioner faces deregistration as a result of administrative error by AHPRA.

6.27 The committee is concerned that there is no flexibility for health practitioners wishing to teach and mentor students or to practise in a limited way. This will have a detrimental impact on academic institutions and the health workforce. The committee therefore considers that greater flexibility in the categories of registration is required and that the AHWMC should address this matter urgently.

Recommendation 9

6.28 The committee recommends that the Commonwealth Government seek the support of the Australian Health Workforce Ministerial Council to amend the National Law to provide further practicing classifications for practitioners in academic institutions and for those who practise in a limited manner.

6.29 The committee received extensive evidence concerning the mandatory notification requirements under the National Law. The committee has noted that this is a difficult area of regulation and the safety of the Australian public must be paramount. However, the committee considers that there is merit in examining the operation of the mandatory notification regime operating in Western Australia.

Recommendation 10

6.30 The committee recommends that the Commonwealth Government seek the support of the Australian Health Workforce Ministerial Council to implement a review of the mandatory notifications requirements and in particular take into account the Western Australia model of mandatory reporting.

6.31 In conclusion, the committee notes that it is stated in National Law that:

> The guiding principles of the national registration and accreditation scheme are as follows–
>
> (a) the scheme is to operate in a transparent, accountable, efficient, effective and fair way;
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> (b) fees required to be paid under the scheme are to be reasonable having regard to the efficient and effective operation of the scheme;
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> (c) restrictions on the practice of a health profession are to be imposed under the scheme only if it is necessary to ensure health services are provided safely and are of an appropriate quality.[4]

6.32 The committee concludes that the mistakes, omissions and poor processes that were clearly evident from the evidence received during the inquiry calls into question the ability of AHPRA carry out its primary purpose. For AHPRA itself to be responsible for a breakdown of the entire system of registration of health practitioners in Australia is a dismal example of policy implementation and public administration.

6.33 The committee expects that the lessons learned during this phase of implementation of the NRAS will be applied to the next tranche of professions to come with the scheme. This will mean that AHPRA will need to adequately address planning, timing and resource issues. In undertaking this process, AHPRA must keep the AHWMC fully informed of developments.

Senator Mitch Fifield
Chair

4 The Schedule to the *Health Practitioner Regulation National Law Act 2009*, subsection 3(3).