



The Royal Australasian  
College of Physicians

From the President

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Senate Finance and Public Administration Committees

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**Inquiry into the administration of health practitioner registration by the  
Australian Health Practitioner Regulation Agency (AHPRA)**

**Royal Australasian College of Physicians Submission**

The Royal Australasian College of Physicians (the College) welcomes the opportunity to provide a submission to the *Senate Finance and Public Administration Committees Inquiry into the administration of health practitioner registration by the Australian Health Practitioner Regulation Agency (AHPRA)*.

***Introduction***

The medical profession, along with nine other health professions, is regulated under the National Registration and Accreditation Scheme set up under the *Health Practitioner Regulation National Law Act*, which commenced on 1 July 2010. Physicians and trainees are registered as medical practitioners in either the specialist or general categories. In the course of their work, in both the public and private sectors, many physicians and trainees work and interact closely with other medical practitioners, members of the other health professions that are currently regulated under the national scheme and students.

The National Registration and Accreditation Scheme was, and continues to be, a massive undertaking. It entailed transferring the functions of 85 separate health practitioner boards to 10 national boards, with support and administration carried out by AHPRA. AHPRA's website notes that there are 525,000 health practitioners from 10 professions registered under the National Registration and Accreditation Scheme as of 11 March 2011. Four further health professions are to be included in the National Registration and Accreditation Scheme by 1 July 2012.

The Scheme, which creates uniform processes and standards in registration and accreditation of health practitioners, will allow the public to have increased confidence that all registered health practitioners meet appropriately high standards.

### ***Some problems with the operation of the National Registration and Accreditation Scheme***

The College recognises the magnitude of AHPRA's responsibilities and the speed with which it has had to implement new procedures. It would be unreasonable to expect it to have been error free. However, the College is aware of a number of incidents that are cause for concern. Fellows have reported to the College that their registration has been cancelled for non renewal of registration, in circumstances where it appears that they were never informed of their registration requirements, leading to an unconscious breach of registration requirements and resulting in deregistration. They have reported that deregistration occurred without prior warning and without any notification from AHPRA that it had occurred. Accordingly, affected Fellows continued to practice unregistered until notified by Medicare Australia that they had been deregistered.

The failure to notify our Fellows (and other health practitioners in similar situations) that they were deregistered was a serious matter. Section 116 of the *Health Practitioner Regulation National Law Act* provides that it is an offence to practice as a registered health practitioner when unregistered. Anyone discovering themselves to be unregistered is obliged to cease practice immediately, regardless of the inconvenience to patients and staff.

Re-registration has since occurred in these cases, but these events were not without adverse consequences, which included:

1. Loss or damage to medical specialists from:
  - a. the reimbursement to patients of Medicare benefits not paid for services supplied while unknowingly deregistered;

- b. inability to provide any further services while knowingly deregistered;
  - c. damage to reputation;
2. Loss or damage to patients because of:
    - a. non payment of Medicare benefits where the patient has not asked the medical specialist for a refund;
    - b. costs and inconvenience associated with making a new appointment with the same or a different medical specialist;
    - c. inconvenience to a patient who has undergone preparation for a procedure which has been cancelled due to deregistration;
  3. The uncertain medico-legal consequences as a result of deregistration under the circumstances; and
  4. Loss of confidence by patients, medical specialists and associated staff in the ability of AHPRA to perform its functions.

The kinds of incidents described above undermine the operation of the National Registration and Accreditation Scheme. An objective of the *Health Practitioner Regulation National Law Act* is “to facilitate access to services provided by health practitioners in accordance with the public interest.”

Two of the guiding principles are that “the scheme is to operate in a transparent, accountable, efficient, effective and fair way” and “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.”

Given the legislative requirements, it cannot have been AHPRA’s intention that health practitioners be deregistered for non payment of fees in the circumstances described above. The situation indicates that there may not have been enough safeguards to prevent such incidents from occurring.

### ***Recommendations***

The College makes the following specific recommendations for consideration by government:

- 1. All health practitioners liable to be deregistered for non payment of renewal fees should be given reasonable prior written notice of any***

***decision to deregister. Any decision to deregister for non payment of renewal fees that was not preceded by notice should be void.***

This is consistent with the general principles of natural justice, which provide that a person is entitled to notice and the opportunity to be heard before an adverse decision is made. This would also operate as a necessary failsafe for a system that deals with over a half a million registrants.

The above recommendation should be retrospective, with the practical effect that in cases where practitioners have been deregistered in circumstances outlined above, the registrations should be deemed never to have been lost.

***2. Correspondence between AHPRA and Medicare Australia regarding a health practitioner's registration status should always be copied to the health practitioner.***

This recommendation will assist in acting as a backup mechanism for informing health practitioners of deregistration decisions where notice has not been provided, so that a wrongful deregistration is more readily corrected without waiting for separate notification from Medicare Australia.

***3. There should be co-operation between APHRA and Medicare Australia to ensure that patients and health practitioners are reimbursed for Medicare benefits that have been refused because a health practitioner was temporarily and erroneously deregistered for non payment of fees.***

Given that it cannot have been the National Registration and Accreditation Scheme's purpose to deregister health practitioners under the circumstances outlined above, it follows that patients receiving services from such health practitioners should not have been denied Medicare benefits in relation to those services.

The College considers that the above recommendations will further the objectives of National Registration and Accreditation Scheme, address problems that have been identified and will help restore the confidence of all parties in the Scheme.

Yours sincerely

John Kolbe