



AUSTRALIAN DENTAL
ASSOCIATION INC.

Australian Dental Association Inc.

Senate Finance and Public Administration Committees

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

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1. About the Australian Dental Association

The Australian Dental Association Inc. (ADA) is the peak national professional body representing about 12,000 registered dentists engaged in clinical practice. ADA members work in both the public and private sectors. The ADA represents the vast majority of dental care providers.

The primary objectives of the ADA are to:

- encourage the improvement of the oral and general health of the public and to advance and promote the ethics, art and science of dentistry; and
- to support members of the Association in enhancing their ability to provide safe, high quality professional oral healthcare.

There are Branches in all States and Territories other than in the ACT, with individual dentists belonging to both their home Branch and the national body. Further information on the activities of the ADA and its Branches can be found at www.ada.org.au.

2. Introduction

The Australian Dental Association (ADA Inc.) has sought feedback from Branches and members as to the registration problems faced by practitioners since the introduction of the National Registration and Accreditation Scheme and the creation of the Australian Health Practitioner Regulation Agency (AHPRA) as the national registration body.

ADA Inc. has been advised of a multitude of issues that were faced by practitioners. These were mainly due to a systemic lack of responsiveness, communication and proper processes surrounding the administration of the registration process.

The issues are of a serious nature and include:

- legal and financial liability consequences associated with delayed registration or non-registration of practitioners;
- unreliable communication between practitioners and AHPRA relevant to renewal of registration and as to specific regulatory requirements;
- non-registration of practitioners through a lack of communication and proper notification processes from AHPRA; and
- inconsistencies in the complaints' handling processes of AHPRA.

ADA Inc. is pleased to provide the Inquiry with feedback on these issues as per the Terms of Reference.

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3. Performance of AHPRA in administering the registration of health practitioners

- a. As AHPRA would appreciate, registration of a health professional is crucial to their livelihood.

One of the most serious performance shortcomings of the administration of the registration of dentists was the failure to create an educational program to inform practitioners as to what would be required of them in this new national registration process to enable them to register.

This was then significantly compounded by the later failure to enable practitioners to be able to communicate with AHPRA so as to inform themselves as to issues they were required to confront under the new registration process.

Members and Branches have reported that dentists found it virtually impossible to correspond with AHPRA in the early stages of the new registration process. It was evident that AHPRA Boards and offices were significantly under resourced. Bearing in mind that this was the first time that our members had been required to register with AHPRA, the failure to provide proper communication channels was a very serious flaw in the administration of the scheme. In many cases dentists were unable to have their enquiries answered or be provided with advice to enable renewal of their registration to take place.

Communication with AHPRA remains an issue with dentists. Whilst the ADA appreciates that there has been a significant development in the infra-structure of AHPRA, the problem continues and must be further addressed.

- b. In New South Wales alone, based on reports to the Australian Dental Association (New South Wales Branch) Limited (ADANSW), at least 6 members did not receive renewal notification from AHPRA and claimed that as such, they were unaware it was required. Even when applications for registration had been lodged, members did not receive confirmation that their registration documentation had been received by AHPRA and/or confirmation that it had been processed. The ADANSW attempted to contact AHPRA on behalf of members on numerous occasions and could not obtain a response.

This left practitioners feeling very uncertain as to their status and thus their ability to practise.

- c. AHPRA also displayed a lack of understanding of one of the key initiatives of the Scheme-namely the need to avoid the necessity for practitioners to register in each State or Territory where they actually practise. Practitioners in this situation received multiple registration requests. This also added to the confusion experienced in this new process. Confusion led to mistakes which in turn led to non-registration of some practitioners.

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4. Impact of AHPRA processes and administration on health practitioners, patients, hospitals and service providers

- a. The main impact of AHPRA's failures in its processes and its administration of health practitioners and service providers has been in respect of dentists practising in private practice. At times, such dental professionals found themselves unregistered through ignorance as to registration requirements (e.g. due to AHPRA's lack of communication on renewal dates or confirmation of processing the registration application submitted to AHPRA). This had the consequence that they were therefore unable to undertake procedures or prescribe treatment. The same problem does not seem to have been encountered by practitioners practising in the public sector due their administration officers informing them of their obligations.

As a consequence:

- Dentists' livelihoods were seriously impacted upon.
 - Patients found themselves unable to be treated by their dentist.
- b. In some instances, some practitioners, thinking that they had correctly followed the registration process, found that through delays occasioned at AHPRA with their registration process, they were in fact not registered and thus had claims made on Private Health Insurers and Medicare refused. Whilst AHPRA has since attempted to deal with this issue, severe reputational damage has been suffered by the dental practitioner.
 - c. Similarly non registration of practitioners or the delay in processing registration left some practitioners unregistered when they thought they had been registered. Practising when unregistered in such circumstances has potentially compromised the validity of their professional indemnity cover.
 - d. A related scenario arose with dentists requiring the utilisation of hospital facilities. Hospitals prevented these practitioners from delivering treatment as they could not allow "unregistered" practitioners to provide health services.

5. Implications of any maladministration of the registration process for Medicare benefits and private health insurance claims.

- a. As far as ADA Inc. is aware, there has been no actual investigation by private health insurers (PHIs) relevant to rebates as a result of a practitioner being inadvertently unregistered. This is not to say the situation may not arise in the future.
- b. However, there have been many such instances of this in regard to Medicare payments. Minister Roxon has previously recognised the inequity of this situation by declaring that all such claims will be met.

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- c. What was of serious concern was that Medicare had been advised by AHPRA of the fact that some practitioners were not registered practitioners when the actual practitioners had not in fact themselves been informed of this by AHPRA. Such information was crucial to the practitioner and should at least have been firstly communicated to the practitioner directly.

6. Legal liability and risk for health practitioners, hospitals and service providers resulting from any implications of the revised registration process.

- a. As a result of AHPRA's failures in communicating with practitioners as regards the status of their registration, some practitioners were of the view that they were in fact registered when they were not. It would be expected that such temporarily unregistered practitioners may be at risk that their professional indemnity cover will not cover them for their practice during this time.
- b. However, some insurers and indemnifiers have generally expressed that if an indemnity claim situation should arise and the practitioner was not covered due to non-registration, attributable to AHPRA's failure to properly communicate with practitioners, cover may be provided. If communications and advice from AHPRA to practitioners had been at a satisfactory standard, indemnifiers and practitioners would not have been placed in this situation.
- c. As stated in (b) above, it is unknown whether indemnifiers will actually decline a practitioner cover pursuant to their policy in these situations. The situation has not yet arisen within this scope.
- d. It is of urgent concern to ADA Inc. and its members that AHPRA improves its communication standards to avoid this situation continuing for further tranches of dentist registrants. Education programs must be developed for new registrants in the future.

7. Liability for financial and economic loss incurred by health practitioners, patients and service providers resulting from any implications of the revised registration process.

- a. The liability for financial and economic loss incurred by health practitioners as a result of the revised registration process is at this stage largely unknown.
- b. As a result of the transition to national-based registration, there have been direct cost increases to practitioners for registration fees. It should be remembered that one of the major motives for the creation of this registration process was that 'benefits (economies) of scale' would be achieved. The Commonwealth Government committed funds to the establishment of the new scheme. These were to offset any establishment costs and the resulting process of registration was going to be more streamlined and efficient.

In fact to the detriment of dentists, the opposite has proven to be the case. For example, in Western Australia, fees for registration of a



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dentist rose from \$250.00 per year to \$545.00 per year. A similar scenario has occurred nationally.

In ADA Inc.'s view, this significant increase in renewal fees for a practitioner is totally unwarranted. The consequences of registration under AHPRA are identical to that which existed previously. There can be no justification for this increase in these circumstances. Immediate steps must be taken to rectify this.

8. Response times to individual registration enquiries

Based on reports from ADA Branches, there have on occasions often been several weeks between the making of written queries by practitioners or professional bodies and the provision of a response from AHPRA. Occasionally no correspondence is received at all. As mentioned in the creation of a new scheme such rudimentary communication failures are completely unsatisfactory.

As a regulatory authority response times to both practitioners and the public must be virtually immediate. This had been the case with previous State and Territory Boards and this must be replicated. Otherwise the Authority is fundamentally failing in its duties.

9. AHPRA's complaints' handling processes

a. Right to respond to a complaint

There are inconsistencies between State and Territory jurisdictions as to whether a dentist has an automatic right to respond to a complaint by a patient. Recent advice regarding the South Australian AHPRA office was to the effect that the dentist (the subject of the notification) was not to be permitted the opportunity to respond to a complaint in the preliminary assessment phase. As such it is believed that the matter progressed to investigation stage without the opportunity for the dentist to comment. It is the ADA's view that this constitutes a denial of natural justice.

In respect of all such claims the dentist must have the right to respond at the earliest opportunity.

b. Variation for response times in the preliminary assessment phase

In the preliminary assessment phase there are variations across jurisdictions regarding the dentist's ability to respond to notification of a complaint. Some jurisdictions allow 14 days (which is too short), others 21 days and some cases 28 days. ADA Inc. recommends a nationally consistent approach be taken and that the dentist be allowed 28 days within which to respond.



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c. Inconsistency in detail provided to the health practitioner in the preliminary assessment phase

In some cases, the ADA has been advised that the dentist, the subject of a claim, received no information about the claim other than the name of the complainant or notifier. In other cases other additional, essential information has been provided.

The ADA argues that in respect of all claims made, comprehensive details of the matter be provided to the practitioner; sufficient to allow the practitioner the ability to clearly identify the issue(s) to be addressed.

d. Notification form

There is concern from both Branches and members regarding the prescriptive nature of the notification form published. It is felt that the construction of the form may lead a notifier to make choices which are not reflective of their actual concerns. The form needs to be re-constructed to allow the complainant/notifier to clearly identify their complaint without being influenced by the nature of the questions required to be answered. A more even-handed form, allowing the complainant to clearly outline their grievance, should be created.

The ADA recommends that separate complaint forms be developed for patient notifications and mandatory notifications.

General

On the positive side, the ADA, through its participation in the Professions Reference Group, has seen that AHPRA is cognizant of its shortcomings and is seeking to redress some of them. Its decision to create a Practitioner Consultative (User) Group will enhance greater communication between AHPRA and the professions as it will enable face to face dialogue to help quickly address issues as they arise.

The ADA recommends establishing an expanded group for on-going consultation with professional bodies.

The efforts of the AHPRA's CEO are greatly appreciated and it is hoped that on-going communication will enhance the operation of the Scheme.

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10. Summary of Recommendations

- i. A comprehensive education process be established to provide clear requirements and timelines for AHPRA to notify practitioners of their registration obligations, due dates and processes;
- ii. Provision of faster and more reliable communications between AHPRA and practitioners, the public and/or practitioner bodies be established to ensure inquiries are dealt with in a timely manner;
- iii. Creation of nationally-consistent requirements for the response times of practitioners who have a complaint made against them;
- iv. Provision of the right for a practitioner to respond to a complaint before it is escalated to investigation status be made available in all cases;
- v. A review of the notification and complaints form be undertaken to remove the potential for the escalation of the nature of the claim and thus enable provision of a more balanced presentation of the issues;
- vi. Separate complaint forms to be developed for patient notifications and mandatory notifications;
- vii. That AHPRA provide more detailed information to practitioners regarding the specific nature of the complaint a patient may have made to enable the practitioner to respond in a more timely and detailed manner;
- viii. The development of a clearer understanding from AHPRA that the de-registration of dental practitioners endangers the livelihoods of those practitioners.
- ix. AHPRA should take all steps possible to notify dental practitioners of the risk of de-registration due to non-renewal within a reasonable time frame (90 days from end of registration date); and
- x. That AHPRA establishes a formal advisory committee of the registered professions, to discuss issues related to the administration of the new scheme on an on-going basis.