

Our reference: AF 3029
Contact person: Amber Read
Phone:
Email:

11 October 2021

Ms Pothida Youhorn
Committee Secretary
Standing Committee on Community Affairs References Committee
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Submitted by email to: community.affairs.sen@aph.gov.au

Dear Ms Youhorn

Response to questions

During the Senate Community Affairs Reference Committee's Inquiry into the administration of registration and notifications by the Australian Health Practitioner Regulation Agency public hearing of 22 September 2021, I undertook to provide the attached responses to the Committee's questions.

Yours sincerely

Sue Dawson
Commissioner

Question 1

Are there penalties for making false allegations in complaints?

Response

Section 99 of the *Health Care Complaints Act 2013* (NSW) provides:

*A person who furnishes the Commission with information for the purposes of this Act knowing that it is false or misleading in a material particular is guilty of an offence.
Maximum penalty—200 penalty units.*

Question 2

What are the possible outcomes to a complaint about a registered health practitioner, and the proportion within each category?

Response

There are eight possible outcomes to a complaint **assessment**. These, and the relevant proportion of each, in financial year 2019-20, are:

Outcome	% of total 2019-20
1. Discontinue the complaint – for example, if records or responses gathered do not support the allegations or the complainant does not wish to provide details that are needed to proceed.	43.6%
2. Refer a complaint to the relevant professional council to consider action to address poor performance or conduct, or an impairment of a registered practitioner.	16%
3. Discontinue with comments - if the issues raised are minor but corrections to practices or procedures are nevertheless required.	11.3%
4. Refer for local resolution where a public health provider is able and willing to work directly with the complainant to address concerns.	7%
5. Refer the complaint to another body that is more suitable to deal with the issues of concern. For example, a complaint about conditions in a nursing home can be referred to the Aged Care Quality and Safety Commission.	5.6%
6. Referral to the Commission's Resolution Service provides an option of independent facilitation to help bring the provider and complainant to a better understanding and agreement on action.	5.3%
7. Investigation of complaints that raise a significant risk to public health or safety or, if substantiated, would provide grounds for disciplinary action.	4.8%
8. Complaints may be resolved during assessment, if the complainant is satisfied that the health service provider has addressed their concerns.	4.6%
<i>Matters not finalised in the reporting period</i>	1.8%

If an assessment results in more detailed formal **investigation** of the complaint, the possible **investigation outcomes**, and the relevant proportion of each, in financial year 2019-20, are:

Outcome	% of total 2019-20
1. Refer the complaint to the independent Director of Proceedings, who determines whether a registered health practitioner should be prosecuted before a disciplinary body having regard to the protection of the health and safety of the public, the seriousness of the allegation, the prospects of a successful prosecution and any submissions made by the practitioner.	49.7%
2. Refer the complaint to the relevant professional council under s 20A of the <i>Health Care Complaints Act 1993</i> (NSW), during the course of the investigation, rather than awaiting the end of an investigation. This outcome ensures that matters most appropriate for management by the professional council are able to be referred in an efficient and timely fashion.	16.1%
3. Refer the complaint to the relevant professional council to address poor performance, conduct or health problems. This occurs when the available evidence shows that the alleged care and treatment or misconduct did not meet the threshold for the consideration of disciplinary action, but there is still sufficient concern to warrant further action to address health, performance or conduct issues.	13.9%
4. Take no further action, however the National Board is informed. For example, where the registered practitioner has retired or removed themselves from the register, so that the matters considered in the investigation can be considered if the practitioner seeks to re-register or change their registration status.	8.9%
5. Terminate the complaint and take no further action where the investigation has not found sufficient evidence of inappropriate conduct, care or treatment, or where the risk has already been removed	7.8%
6. Make comments to practitioners where there has been poor care or treatment, but not to an extent that would justify prosecution and where there is no risk to public health or safety.	3.1%
7. Refer to another organisation for investigation. For example, if a matter related to a patient's experience in a disability service, we may refer that matter to the NDIS Quality and Safeguards Commission.	0.4%
8. Refer the complaint to the NSW Director of Public Prosecutions to consider criminal charges.	0%

Disclaimer – Rounding of statistical figures

As percentages have been rounded, there may be discrepancies between the totals and the sums of the component items. Published percentages are calculated prior to rounding, and therefore there may be some discrepancy between these percentages and those that are calculated from rounded figures.