11 October 2021

Pothida Youhorn
Committee Secretary
Senate Community Affairs References Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Email: community.affairs.sen@aph.gov.au

Dear Pothida

QoN arising from public hearing on 22 September 2021

I refer to our appearance at the 22 September 2021 public hearings where Ahpra took questions on notice from the Senate Community Affairs Reference Committee.

Our response is attached.

If you have any other queries, please do not hesitate to contact Andrea Oliver, Program Manager Government Relations via email: or phone:

Yours sincerely

Martin Fletcher
Chief Executive Officer

Attachment: Response to QoN from public hearing

QoN 1 – Information about notifier and practitioner experiences with notifications (page 40, Hansard proof)

In April 2020, *How Can We Make Health Regulation More Humane? A Quality Improvement Approach to Understanding Complainant and Practitioner Experiences* was published, which discussed the experience of notifiers and practitioners in the notifications process. This paper is attached.

We provide relevant survey data in **Table 1** below. Our survey data from the past two financial years reflects sentiment changes in response to process improvements implemented by the National Boards and Ahpra. From FY 2019/20 to 2020/21, there was a 21% increase in satisfaction with the frequency of contact made by Ahpra staff during the process from practitioners, and a 7% increase in responses from notifiers.

Notifier – I was satisfied with the frequency of updates I received on the progress of the notification

	Strongly agreed / Somewhat agreed	Neither agreed not disagreed	Strongly disagreed/somewhat disagreed
2018/19 (752)	34%	16%	50%
2019/20 (709)	28%	16%	56%
2020/21 (609)	35%	16%	49%

Practitioner – I was satisfied with the frequency of updates I received on the progress of the notification

	Strongly agreed / Somewhat agreed	Neither agreed not disagreed	Strongly disagreed/somewhat disagreed
2018/19 (831)	32%	24%	44%
2019/20 (713)	29%	20%	51%
2020/21 (831)	50%	21%	29%

Table 1. Sentiment changes from practitioners and notifiers over the last three complete financial years.

Although our Annual Report 2020/21 is **embargoed until tabled in a State or Territory Parliament** later this year, two pages (below) have been reproduced for Senators, that demonstrate some of the changes in sentiment reported through our embedding of the risk assessment and controls framework approach to notification management.

Attachment 1 – Questions on notice from 22 September appearance

What practitioners and notifiers tell us

We received **1,948** responses to our post-notifications surveys, 59.3% were from practitioners.

Practitioners tend to think we are on the side of the patient.

It's not uncommon for practitioners to feel judged when we tell them someone has made a notification. We're making changes to the language we use to explain notifications based on surveys of practitioners who have been through a notification process.

One practitioner told us that seeing a patient's allegation repeated in our initial letter made them feel that we accepted what the patient had told us as fact.

'[Complainants] can say untruthful things with personal bias and insult me professionally. I would have liked to challenge that person and ask them to justify their comments.'

We attempt to contact every practitioner who is the subject of a notification by phone. That way we have the opportunity to explain what a notification is – and what it isn't.

Practitioners are responding to this change positively. Practitioner satisfaction with the notification process overall increased to 59% in comparison to 53% last year.

'The matter was resolved quickly and not in a punitive way. I think Ahpra handled the whole matter in a kind and expeditious manner. It was nothing like I imagined it to be.

Notifiers tend to think we side with the practitioner.

Many notifications end without us taking regulatory action about the practitioner. Notifiers felt that this was because we represented practitioners and protected them from the complaint.

'I am disappointed that there was no consequence nor penalty for [the practitioner] whatsoever.'

Our risk assessment and controls approach helps us share information with notifiers about actions that a practitioner or their employer has taken to prevent a similar incident arising again.

Notifiers are letting us know, in our post-notification outcome surveys, that knowing about these actions can make a difference.

'The notification officer took details by phone. I got regular communications by email about progress and felt officers made adjustments to help me understand, which was appreciated. It was helpful to know that [the practitioner] made sure no one else would go through what I did.'

'Knowing that the practitioner as well as their employer was taking what I reported seriously showed the system was working.'

Practitioners are acknowledging the benefits of this approach as well!

'The outcome was fair and reasonable and Ahpra recognised the large effort I put into my response and into my self-improvement.'

It can be confronting and feel overwhelming to be the subject of a notification.

Practitioners often tell us that they thought notifications were only about very serious concerns.

'When I received the notification, even though I was told there was no case against me, I felt very anxious until I could contact someone the next day. I had never received even an informal complaint against me in 30 years. I was worried what the complainant's issue was that was so bad it went to Ahpra.'

Practitioners tell us that hearing from us directly helps. They also have helpful advice about seeking support from peers, professional associations and indemnity providers early.

'The lady who conducted the initial contact explained how it would work and she helped ease my shock and anxiety.'

'It is a fair process and just hang in there. It gives [practitioners] an opportunity to reflect on their practices and improve ... take it as constructive criticism though it is very stressful to wait for the outcome.'

'The process can take an extremely long period. Seek the assistance of your PI provider early.'

Sometimes we refer serious matters to the police.

It's important to understand that we are a regulator of professional standards. When a practitioner's conduct has the potential to amount to criminal conduct, having the police investigate and then charge and prosecute is important. It is the role of the criminal justice process to investigate and, where relevant, punish individuals for criminal behaviour.

We explain the role of regulation to notifiers.

Sometimes notifiers expect that a practitioner will suffer a punishment when something has gone wrong.

'Nothing was resolved ... I see no transparency or accountability in this case. [The practitioner] is still able to practise and wasn't punished in any way for what they did wrong.'

It's important to know what our role is, and what it isn't. We're here to make sure that risk to future patients is minimised. We use concerns notifiers tell us about as a trigger to check whether things need to be done to ensure that.

'The eventual outcome was everything that I had hoped for – education, not punishment (though initially I was very angry with the person under investigation).'

Practitioners can be relieved when they hear that we won't take any further action but they can find the process very stressful.

'I found my experience stressful and bewildering. I had been contacted by phone initially and informed about the notification. I heard nothing more for months until [I] received a notification stating no further action.'

'Ahpra was objective in their review and tried to balance the issues raised. Although I may not have agreed with the whole of the outcome, Ahpra was reasonable and endeavoured to be fair as much as possible to all parties concerned.'

QoN 2 – Comparison of notifications received between rural and regional practitioners and metropolitan practitioners? (page 51, Hansard proof)

Table 2 provides information for the last three complete financial years on:

- The metropolitan and rural/regional split for all registered practitioners in each financial year based on their nominated Principal Place of Practice (PPP). Rows in the table will not add to 100% because the table excludes practitioners who have not nominated a PPP and/or are located outside of Australia.
- The percentage of notifications received in each financial year based on the Principal Place of Practice of the practitioner subject to the notification.

The data suggest that the proportion of notifications received is consistent with the proportion of practitioners in metropolitan and rural/regional areas.

Year	Measure	Metropolitan	Rural and regional
2018/19	% of practitioners with a nominated PPP	80.9%	14.5%
	% of notifications made about practitioners with PPP	84.0%	12.3%
2019/20	% of practitioners with a nominated PPP	81.2%	14.5%
	% of notifications made about practitioners with PPP	83.9%	12.8%
2020/21	% of practitioners with a nominated PPP	81.5%	14.5%
	% of notifications made about practitioners with PPP	85.0%	12.2%

Table 2. Proportion of notifications made about practitioners from metropolitan and regional/rural areas, based on their nominated Principal Place of Practice (PPP)

QoN 3 – Enforcement of section 118 of the National Law, in any context (page 52, Hansard proof)

Since 2017, Ahpra has prosecuted 5 individuals in 6 sets of proceedings (one defendant was prosecuted in two different states) for offences under section 118 or section 115. Section 115 prohibits the use of a specialist title for a recognised specialty unless the person is registered in the specialty, so overlaps extensively with s118.

Ahpra has also undertaken prosecutions under section 116 of the National Law in relation to claims by people to be registered health practitioners. In the past 3 years, Ahpra has prosecuted a further 39 unregistered individuals for holding themselves out as registered health practitioners and/or using a protected title, and five other individuals and companies for holding another person out as a registered health practitioner.

We publish summary data of prosecutions in our Annual Reports and also issue media statements, unless legal restrictions prevent us. Examples of media statements are:

- Fake practitioner holding out as a registered psychologist and unlawfully using a specialist medical title (Jantos)
- Fake doctor Raffaele Di Paolo for holding himself out as a registered medical practitioner (July 2018)
- Further fines for fake doctor (Di Paolo Sept 2018)
- Victorian woman fined $20,000 for posing as a psychologist and a general practitioner
- Fake orthodontist convicted for performing restricted dental acts (Lipohar).

QoN 4 – Regulation of the title cosmetic surgeon (page 53, Hansard proof)

Cosmetic surgeon is not a protected title under the National Law. This means that use of the term 'cosmetic surgeon' is not a breach of the National Law because there is no recognised medical specialty or specialty field of 'cosmetic surgery' or protected title relating to 'cosmetic surgery'.

However, Ahpra can and does respond to notifications about registered medical practitioners and others who undertake cosmetic procedures. We have also developed information on cosmetic surgery and procedures to help inform and support people to make a safer choice.

We welcome the planned public consultation by Health Ministers on a proposed change to the National Law to restrict the use of the title 'surgeon' to provide better information for the public about the qualifications of surgeons.

Ahpra can and does prosecute individuals or companies for holding themselves, or another person, out as registered health practitioners authorised to provide cosmetic medical procedures at a time when they were not registered health practitioners. Ten prosecutions have been undertaken in the past five years.

A recent example is the action we took against a Ms Aliaa Mohammed Elmetwally Ismaeli Sherif. Following two separate investigations and a prosecution by Ahpra, Ms Sherif was convicted after a plea of guilty to 10 charges under the National Law and fined $15,000 by the Magistrates' Court of Victoria at Ringwood. Ms Sherif operated a cosmetic clinic in Victoria. The charges related to a range of activities including giving medical advice during media interviews, injecting patients with dermal fillers and botox, providing medical advice to a patient, providing unapproved antibiotics and producing and relying on a fraudulent registration certificate when trying to establish her business. Ms Sherif has never been registered as a medical practitioner with the Medical Board of Australia.

Examples of media releases on other successful prosecutions include:

- Former enrolled nurse fined after Ahpra prosecution (Bechara)
- Cosmetic doctor fined $20,000 for practising after registration lapsed (Kumar)
- Fake nurse carrying out cosmetic injectables successfully prosecuted by Ahpra (McLennon)
- AHPRA successfully prosecutes fake nurse (Fairthorne)
- Deceptive GP reprimanded and disqualified for two years (Bernard 2021)
- Former registered medical practitioner successfully prosecuted (Bernard 2018)
- Doctor convicted and ordered to pay $100,000 for breaching National Law while suspended (Anwar)
- AHPRA prosecutes former doctor (Weinstein May 2016)
- AHPRA prosecutes former doctor (Weinstein Jan 2016)

QoN 5 – Questions about notifications regarding cosmetic surgery (pages 43 and 52, Hansard proof)

In our database, notifications made about a practitioner are recorded in relation to that practitioner. When there is a concern about an unexpected outcome from surgery, including cosmetic surgery, it is recorded in our database as a 'clinical care' issue. Currently, our system does not differentiate between clinical care issues that arise from a *cosmetic procedure* vs *another type of procedure*.

We have manually reviewed our data (for the past three financial years) to identify where the primary issue raised in the notification related to a clinical care issue, and to identify those that related to an outcome of a cosmetic procedure undertaken by a medical practitioner.

Between 1 July 2018 and 30 June 2021, we received 16,226 notifications about medical practitioners. When we reviewed the notifications that were about clinical care, or that indicated that the concern raised was about a procedure described by the notifier (using a series of core word searches) as a *botched*

surgery, a surgical outcome with a *complication* or resulting in *injury*, we identified 313 notifications relating to 183 practitioners over the three year period.

This review identified notifications relating to:
- administration of dermal fillers/anti-aging injections/dermal lasers, and/or
- other invasive cosmetic procedures or related surgeries (eg. tummy tuck, breast augmentation, facelift, liposuction, blepharoplasty).

Of the practitioners who had received a notification because of an issue arising from a *cosmetic procedure:*
- 96 hold registration in a surgical specialty,
- 9 hold specialist registration in either ophthalmology or dermatology, and
- 78 hold specialist registration as a General Practitioner or general registration.

We provide a summary of this data in **Table 3** below.

Specialist registered in Surgery (Plastic Surgery)	Practitioners who hold a surgical specialty (not plastic surgery)	Practitioners who hold a specialty registration in ophthalmology or dermatology	Practitioners who hold registration as a specialist general practitioner	Practitioners who do not hold specialist registration
68	28	9	46	32

Table 3. Summary of available data of notifications related to cosmetic surgery.

How Can We Make Health Regulation More Humane? A Quality Improvement Approach to Understanding Complainant and Practitioner Experiences

Susan Biggar, MA; Louisa M. Lobigs, PhD; Martin Fletcher, BA(Hons), M Man

ABSTRACT: Health-professional regulation plays a central role in patient safety by responding to concerns about the conduct of health practitioners that may breach professional standards. This study aims to understand the experience of both complainants and registered health practitioners during the management of a notification (complaint or concern) with a health-practitioner board in Australia.

Experience-survey responses from complainants (n=1,217) and practitioners (n=1,604) with a recently closed notification were analyzed using descriptive and thematic analysis.

Respondents in both groups felt the process was not fair or impartial, and lacked transparency and adequate updates. The time taken to reach an outcome was a frustration for many (complainants 46%, practitioners 49%). A notable difference between the groups was their view of the outcome: 70% of practitioners were satisfied and 71% of complainants dissatisfied. Finally, many practitioners (89%) reported high levels of stress.

Designing regulatory processes that are robust and humane is complex and multifaceted. However, the symmetry of priorities for both parties identified — fairness, transparency, communication, timeliness and empathic contact — highlights the value of understanding both complainant and practitioner experiences. This knowledge can lead to improvements in the trustworthiness and effectiveness of health-practitioner regulation, and its contribution to patient safety.

Introduction

The regulation of health practitioners aims to serve the public interest by ensuring that only those who are fit to practice safely are registered. One important way regulators seek to achieve this is by responding to complaints or concerns (referred to in this paper as "notifications"— the common terminology used in Australia) about individual practitioners that may raise questions about adherence to professional standards and public and patient safety. This study focuses on the Australian Health Practitioner Regulation Agency (Ahpra), through which more than 730,000 practitioners are registered.[1] Ahpra works in partnership with 15 health practitioner boards and manages notifications related to a practitioner's performance, health or conduct that may place the public at risk of harm. In Australia, patients and the public are the largest source of notifications about health practitioners,[2] with similar trends internationally.[3]

Regulators worldwide are increasingly focusing on the experience of complainants and practitioners. This is in response to high levels of reported dissatisfaction and increasing recognition that the regulatory process can cause unintended harm to those involved.[3-7] Few studies to date have considered both the complainant and practitioner experience together.

Public involvement forms the backbone of health regulation, enhances the legitimacy and accountability of the regulator, and gives a voice to community concerns.[8,9] Poor experiences by complainants in a regulatory system are likely to erode confidence and reporting of notifications. Community trust and engagement with the regulator is fundamental for an effective reporting culture in which people appropriately make notifications.[10-12]

Previous work has highlighted the adverse health impacts, largely stress-related, that being subject to a notification can have on a practitioner.[6,13-16] Studies have shown physicians subject to a notification were at higher risk of suicidal thoughts, anxiety and depression compared to their peers,[6] reporting anger, guilt, depression and shame following a notification.[14] These studies reported practitioners practicing defensively, becoming overcautious and avoiding more complex patients,[6] with reduced trust and less goodwill towards patients.[14]

The aim of this work was to better understand the experiences of both complainants and practitioners subject to a notification in Australia and use that understanding to make changes targeted at increasing

confidence in the regulator. Trust in the purpose and fairness of the notifications process is of critical importance for all professional regulators and complaints processes more widely.

Methods

Complainants and health practitioners, with a recently closed notification with Ahpra, were invited to complete an anonymous survey about their experience. This study analyzes data from January 2017 to July 2018. We did not survey practitioners with a health impairment-related notification. No information was collected on the notification itself, its management or the time to closure.

Survey questions included closed- and open-end questions on overall satisfaction with the notification's management and outcome, as well as demographic information. Respondents indicated their level of agreement or disagreement to closed-end questions on a five-point Likert scale. Wilcoxon matched-pairs signed-rank sum tests analyzed the difference between complainant and practitioner responses, significance set at $p < 0.05$. Practitioners were also asked to give a rating from 1 to 10 about how stressful the process was.

Open-end questions addressed what had worked well and how the respondent's experience could be improved. We performed separate thematic analyses on the complainant and practitioner responses.[17,18] First, an original coding frame was developed. When new codes emerged, the coding frame was adjusted, and the survey responses were reanalyzed to fit the new framework. This process was used to develop categories that were conceptualized into broad themes. All conflicts regarding the interpretation of a theme were discussed within the research team until a consensus was reached.

Consent was provided by all survey participants to use the survey information for quality improvement purposes and to publish the results. All survey responses were anonymous. According to the policy activities that constitute research at Ahpra, this work met the criteria for operational improvement activities exempt from ethics review. This quality improvement paper is presented as per SQUIRE guidelines.[19] This investigation was conducted in accordance with the Helsinki Declaration (2013).

Results

Survey responses were received from 1,311 complainants and 1,687 practitioners; the response rate for both groups was 22%. We excluded responses from 94 complainants and 83 practitioners, who provided only demographic details. The final sample for analysis included 1,217 responses from complainants and 1,604 from practitioners. Of these, 974 complainants and 545 practitioners provided free-text comments on what could have improved their experience, while 468 complainants and 21 practitioners provided free-text comments on what worked well.

Complainant and Practitioner Demographics

Of the complainants, 60% were female, 39% male and 1% did not specify their sex. The majority were patients or patient representatives (68%). Health practitioners (24%) and education providers (6%) were also represented; the remaining selected "other." Complainants were mostly aged 35 to 54 years (49%) or over 55 years (37%); 14% were less than 34 years. Practitioner respondents included medical practitioners (50%), nurses (19%), psychologists (9%), dentists (7%), pharmacists (5%) and others (10%).

Positive Aspects of the Complainant and Practitioner Experience

More than half the complainants agreed it was easy to find information on submitting a notification (56%, Table 1), submitting the notification itself was simple (52%) and that they had been able to submit all relevant information (56%). Similarly, 49% of practitioners felt it was easy to find information about the notification management, 62% felt they were given adequate opportunity to respond and 70% were satisfied with the outcome.

When asked about what aspects worked well, complainants often referred to the telephone communication with Ahpra: "My first contact on the phone was great; she made the process easy." Where phone contact was made, complainants often described that as being an important humanizing element of the process. Practitioners also noted the value of this: "I thought that my contact person allocated by Ahpra was very understanding and compassionate every time I had to contact her."

Negative Aspects of the Complainant and Practitioner Experience

Most complainants were dissatisfied with the overall management of the notification (66%) and the outcome (71%, Table 1). From 974 open-ended responses, four main themes emerged around complainant dissatisfaction: (1) fairness, (2) communication, (3) outcome and (4) timeliness (Figure 1, Table 2).

Table 1

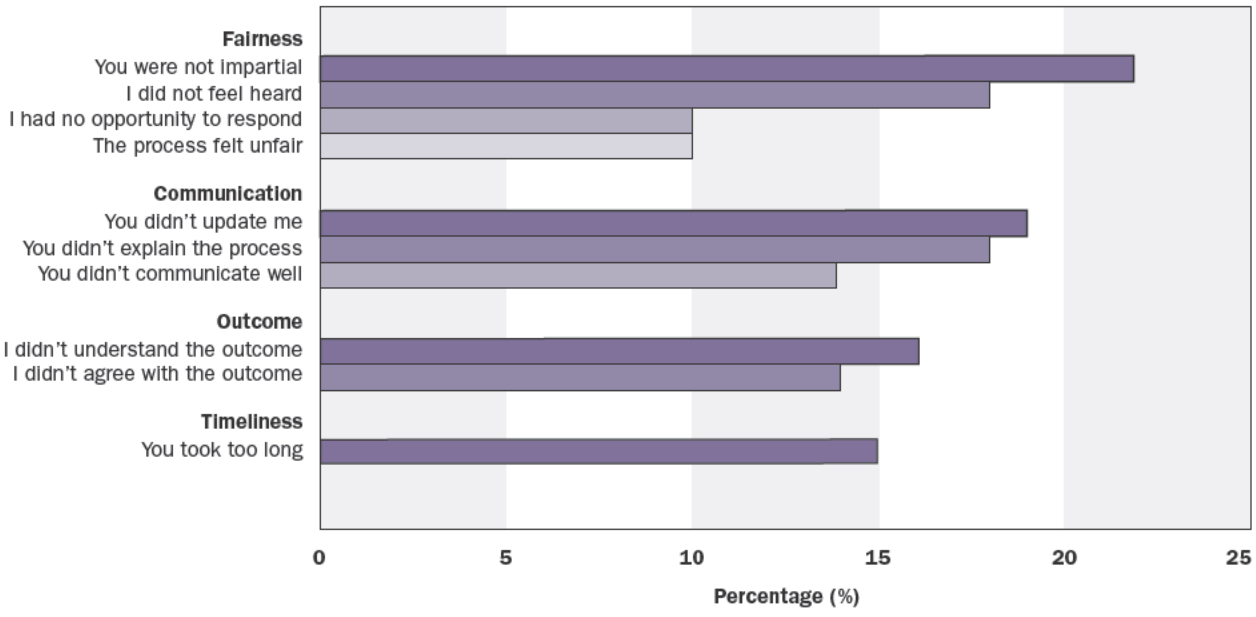
Complainant and Practitioner Responses to Closed-End Survey Questions on the Ahpra Notifications Process

Question	Count (n)# Complainant / Practitioner	Agree (%)	Neutral (%)	Disagree (%)	Wilcoxon signed rank sum test)
It is easy to find information about how to make a [notification]*/about how [notifications] are managed.	1217 1596	56 49	23 24	21 27	 p<0.05
Making a [notification] with Ahpra was a simple process.	1209 n/a	52 n/a	20 n/a	28 n/a	 n/a
I was given the opportunity to submit all the information that was relevant to my [notification].	1183 1591	56 62	15 13	29 25	 p<0.05
Ahpra regularly updated me on the progress of my [notification].	1186 1586	32 32	16 17	52 51†	 p=0.445
My [notification] was managed in a timely manner.	1180 1583	32 40	19 14	49 46†	 p<0.05
I am satisfied with the outcome of my [notification].	1176 1577	18 70	11 11	71 19	 p<0.05
Overall, I was satisfied with how the [notification] was managed by Ahpra.	1171 1574	22 47	12 14	66 39††	 p<0.05

Note: the 5-point Likert scale data was combined into three categories: agree, neutral and disagree. Responses from agree and strongly agree were combined into the agree category; and disagree and strongly disagree responses were combined into the disagree category. *The term "complaint/concern" was used in the original survey. #Not all survey respondents answered all survey questions and had the option to skip questions. † 70% of practitioners with a notification closed after investigation disagreed the process was timely. †† 54% of practitioners with a notification closed after investigation were dissatisfied with the management.

Figure 1

Distribution of the Primary Themes from Complainant Responses on Areas of Dissatisfaction*



*Note: Some respondents contributed to more than one theme (n = 974 respondents).

Table 2
Complainants' and Practitioners' Experiences of the Notification Management

Theme	Example Complainant Quotes	Example Practitioner Quotes
Communication		
You didn't explain the process	"I was unaware of what could and couldn't be achieved by raising complaints with Ahpra until after I lodged my complaint"	"The managing person in Ahpra needs to be more transparent and clear on the processes and upfront"
You didn't communicate well	"You have specifically designed a system to eliminate the human factor"	"…I particularly object to the language of the letters from Ahpra which were almost insulting in the choice of words"
You didn't update me	"Although I was the reporting person I was told virtually nothing about the investigation"	"No updates provided. I had to seek them — at one stage no information provided for 8 months until I requested an update"
Fairness		
I didn't feel heard	"At what point does someone (normal patient) get listened to? Do I need to be a politician or a lawyer?"	n/a
I had no opportunity to respond	"…the recommendation by Ahpra provided no basis of response by the complainant"	n/a
The notification was minor or groundless	n/a	"The complaint against me absolutely had no merit and shouldn't have been put forward to me by Ahpra…"
The process felt unfair	"There is no transparency, one has to trust completely in Ahpra's investigations"	"I have concerns that there was no medical input into your assessment. The lack of understanding of the complexity of this case by your staff is bewildering…"
You were not impartial	"It would be nice if you actually listened to the person who actually experienced the issue, rather than taking sides with the medical 'professional'"	"I felt I was treated as a guilty party until the very end of my case"
I didn't agree with the outcome	"It takes considerable strength to make a complaint, the outcome left me wondering where is the justice?"	n/a
I didn't understand the outcome	"I am only told that an action has been taken and that's it. There is no explanation of what action and the reason behind the action"	n/a
Stress		
This impacted my health and well-being	n/a	"It affected and is still affecting my life and that of my family after 10 months. I never felt that Ahpra considered my mental health and stress going through this process. It broke my self-confidence as a doctor and as a person."
Timeliness		
You took too long	"I am not sure of what timeline this is meant to be tracked against"	"Extremely drawn out process with no time frame given for resolution"
You didn't give me enough time to prepare	n/a	"It is galling that tight deadlines are set for responses at every turn, framed with quite threatening language, and yet no such deadlines seem to exist for Ahpra"

Only one-third of practitioners felt they were adequately updated on the progress of their notification (32%, Table 1). While practitioners with a matter closed after an initial assessment felt the process was timely (51%), those with matters closed after further investigation were less likely to agree that the process was timely (70%) or managed well (54%, Table 1). From the 545 open-ended responses, four major themes emerged relating to negative practitioner experience: (1) timeliness, (2) stress, (3) fairness and (4) communication (see Figure 2, Table 2).

Negative Aspects of the Complainant Experience

Fairness

You were not impartial: Many complainants referred to a perceived lack of impartiality in the management of the notification and decision. This contributed to a lack of trust in the process and "not having a chance." Many also felt the process unduly protected the health practitioner.

I didn't feel heard: Many complainants commented on their sense that they were not being taken seriously, not being listened to, or not being understood. They questioned why Ahpra had not "followed up" to ask for more information or seek clarification from them.

The process felt unfair: Complainants felt Ahpra had not investigated their concerns properly, relied on inaccurate information and did not verify "false facts" (provided by the practitioner) and did not do enough to "collect all the evidence."

I had no opportunity to respond: Some complainants were frustrated that they were not given the opportunity to challenge, respond to, or clarify the outcome.

Communication

You didn't update me: A substantial number of complainants commented on receiving no or infrequent communication regarding the progress of their notification, leaving them feeling "alienated" and wondering if their matter had been forgotten. Some felt there was a "complete lack of transparency."

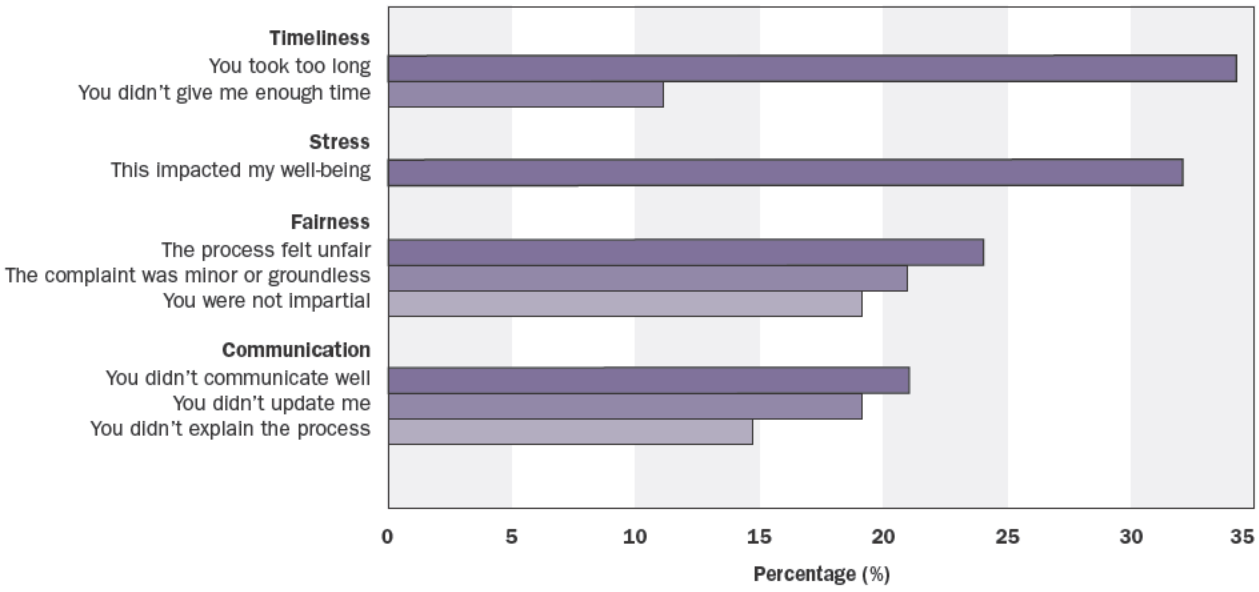
You didn't explain the process: Many complainants felt Ahpra's role and functions were not clear, particularly in understanding the outcomes that can and cannot be achieved via the regulator.

You didn't communicate well: Complainants reported that the communication was at times "inhuman," "impersonal" and they wanted more face-to-face or phone contact. The tone of written communication was referred to by one complainant as "incomprehensible bureaucratese."

Outcome

I didn't understand the outcome: Complainants commonly mentioned a lack of clarity in the outcome letter. The wording in the letters was considered

Figure 2
Distribution of the Primary Themes from Practitioner Responses on Areas of Dissatisfaction*



*Note, some respondents contributed to more than one theme (n = 545 respondents).

"vague," "bureaucratic," "impersonal," "insensitive," with "inappropriate assumptions." Fifty complainants said they did not know that an outcome had been reached, yet due to the anonymous nature of the surveys the reason for this cannot be verified.

I didn't agree with the outcome: The majority of complainants did not agree with the outcome. Comments reflected on the process being a "waste of time," "the practitioner was not made accountable," and outcome "failed to act in the public interest."

Timeliness

You took too long: Many complainants were disappointed with the time taken to reach an outcome. They found this frustrating, unreasonable and stressful, with some describing adverse impacts on their personal and work life.

Negative Aspects of the Practitioner Experience

Fairness

The process felt unfair: The investigation was described as inadequate and many practitioners believed it did not involve clinical experts. Practitioners often felt the "complaint was not put into context" and did not consider the "stressful environments" of their practice. Comments also reflected on the investigation process being "secretive," suggesting a lack of transparency contributed to a lack of confidence: "it is hard to have confidence in an anonymous system."

The notification was minor or groundless: Many practitioners felt that the notification was "inappropriate," "invalid" or "a waste of time." Practitioners felt vulnerable to "vexatious" or "groundless" notifications. "…It is time-consuming and stressful to have to reply to a petty complaint in my case…There should be a better way to triage these complaints…"

You were not impartial: There was a common sentiment expressed by practitioners that the process was biased against them, that they were treated like a criminal, and felt "guilty until proven innocent."

Communication

You didn't communicate well: Some practitioners described the communication received as unhelpful. They felt the communication was at times "intimidating," "defensive" and lacked "empathy" and "humanity."

You didn't update me: The lack of regular and useful (informative) updates on the progress of the notification was a source of frustration to many practitioners. The lack of information led to feelings of anxiety and stress; "better ongoing communication would have made the matter a lot less stressful."

You didn't explain the process: Some practitioners felt that the notifications process was not explained and that they "lacked specific information" regarding decisions or the notification itself.

Stress

This impacted my health and well-being: When asked how stressful the notifications process was on a scale of 1 to 10 (with 10 being extremely stressful), 89% selected ≥ 7, with 51% selecting 10. Many practitioners felt this stress was not adequately acknowledged by Ahpra. Practitioners noted that the negative effects were often long-lasting and impacted on both their personal and work life. Timeliness and the lack of useful updates often heightened their stress levels.

THIS STUDY ANALYZED SURVEY RESPONSES FROM MORE THAN 1,200 COMPLAINANTS AND 1,600 PRACTITIONERS WITH A CLOSED NOTIFICATION WITH AHPRA, PROVIDING IMPORTANT INSIGHTS…

Timeliness

You took too long: Many practitioners commented on the length of time required to reach a conclusion. A lengthy process prolonged the stress experienced by the practitioner.

You didn't give me enough time to prepare: A subset of practitioners described the time allowed for their response with words like "inadequate" and "unacceptable." This was contrasted with the lengthy time taken by Ahpra.

Discussion

This study analyzed survey responses from more than 1,200 complainants and 1,600 practitioners with a closed notification with Ahpra, providing important insights for initiatives targeted to make health regulation more trustworthy and humane for all involved. Three important findings emerged from the data.

First, there was a strong synergy between the concerns raised about the notifications process by complainants and practitioners. Both groups commonly felt the process was not fair or impartial, that there was a lack of transparency, and that the updates were too infrequent and devoid of useful

information. Second, the most notable difference between the groups was their view of the adequacy of the notification outcome. Most complainants (71%) were dissatisfied with the outcome. Conversely, most practitioners (70%) were satisfied with the outcome of their matter, yet many felt the regulatory threshold for even considering the notification was too low. Third, the level of stress experienced by practitioners was high and seen as under-appreciated by the regulator.

Implications for Regulators: Improving the Experience

Designing regulatory processes that are robust and humane is a complex and multifaceted task, which requires attention to both intended and unintended consequences. Trust in the regulator depends in part on the belief that a reasonable outcome has been achieved.[20,21] However, the definition of "reasonable" may differ for complainants and practitioners (Table 2, Fairness), depending on their view and understanding of the role of the regulator, the nature of the event, and what they see as the most appropriate outcome.[4,10,21-24] Our findings suggest that both complainants and practitioners are unclear about the role of the regulator, the thresholds for assessing or investigating a notification (Table 2), and what can be expected to be achieved through the regulatory process. Regulators need to place greater emphasis on communicating the possible outcomes that can be achieved and the processes by which an outcome is reached.

The high levels of reported practitioner stress aligns with previous findings.[5,13-16] Here, many practitioners connected their stress levels to the length of time taken and a lack of information (Table 2). This suggests that some, but not all, of that stress is linked to tangible elements of the notification process which are amenable to change—for example, the timeliness, fairness, transparency and personalization. Practitioners also commonly described feeling that they were seen as guilty by the regulator, often both before and after a favorable outcome (Table 2). We believe this perception impacts significantly on practitioner stress, yet is much harder for the regulator to change.

What Does 'Good' Look Like? Defining a Better Experience is Essential for Change

The identified issues and concerns are not unique to Australia and apply to complaints processes more widely.[25] We, thus, suggest that new approaches are required for regulators worldwide.

First, the nature of the desired experience for complainants and practitioners should be clearly defined. In the case of Ahpra, the organization is developing service principles that include respect, listening, transparency, updating, timeliness, apology, improvement and fairness to describe a "good experience."

Table 3 summarizes proposed action steps to guide future initiatives targeted at an improved complainant-practitioner experience. The model is focused on clarifying public knowledge around three key aspects of health regulation: (1) the role of the regulator, the complainant and the practitioner; (2) the purpose of the regulatory process and greater transparency around the process; and (3) the limitations of regulatory outcomes and reasons for outcomes (Table 3).

Second, it is important to set clear expectations early in the process. Previous studies have suggested that so-called "expectation gaps" may contribute to the high levels of dissatisfaction observed in complainants.[4,11,23,24] Our findings also support this, with many complainants disagreeing with the outcome (Table 1), or potentially arriving at the regulator's door with unrealizable expectations about the outcome (Table 2). Similarly, our findings indicate that practitioners often do not understand the regulator's obligation to assess all notifications that meet basic legal grounds,[9] leading to an early belief that the process is flawed and biased against them (Table 2). Further, while a regulatory process may always be associated with stress for many practitioners, the extremely high levels of reported stress appear to be disproportionate to the profile of regulatory outcomes. In Australia, less than 30% of notifications result in any regulatory action and less than 1% end in the suspension or cancellation of a practitioner's registration.[2] Clarifying and setting appropriate expectations early may improve confidence in the process and acceptance of the outcome.[4,11] There may also be benefit in initiatives to guide complainants to the most relevant organization for their concern.

THE IDENTIFIED ISSUES AND CONCERNS ARE NOT UNIQUE TO AUSTRALIA AND APPLY TO COMPLAINTS PROCESSES MORE WIDELY. WE, THUS, SUGGEST THAT NEW APPROACHES ARE REQUIRED FOR REGULATORS WORLDWIDE.

Third, commit to ensuring fair and impartial processes and communicating these well. Complainants and practitioners shared similar concerns about the overall fairness and the nature of the communications

they received, describing the experience as impersonal and dehumanizing (Table 2). A fair process can be recognized, in part, with clear explanations of what can and can't be done, what is being done, what was done and why. Empowering and supporting regulatory staff with the permission, tools and skills to interact in a more personal and empathic way, while maintaining impartiality and efficiency, may also require a cultural change for most regulators.

Ahpra, along with other health practitioner regulators internationally,[26] has introduced ongoing staff training in effective communication strategies, including active listening skills, the capacity to respond to people in distress (including threats of suicide and self-harm), managing expectations, communicating outcomes and responding to complaints about the process. Initial feedback from Ahpra staff has been positive, noting the direct relevance for their daily work. However, an evaluation of the impacts of these initiatives is required to ensure staff are adequately equipped.

Fourth, communicate better. Complainant and practitioner feedback in this study highlighted the impact of both oral and written communication for the experience of both groups (see Figures 1 and 2 and results section: positive aspects). Thus, we believe that improving the tone and clarity of correspondence with complainants and practitioners is an important consideration for regulators hoping to improve experiences.[26]

Finally, our findings suggest that complainants place a high value on clear and fulsome reasons for regulatory decisions (Table 2). Independent to these survey findings, amendments were recently made to the National Law in Australia (September 2017), allowing national boards to inform complainants of the reasoning behind outcomes.[27] This new power is designed to improve the complainant experience and help them to better understand regulatory outcomes.

Limitations

Due to the study's descriptive nature, no causal conclusions could be made. Response biases must be considered when interpreting the findings, with most survey respondents being dissatisfied. Also, some notifications may have required months to years to reach an outcome. No information was collected on the non-responders. Finally, information on the complainants' initial expectations was not collected.

Table 3
What Does Good Look Like?

	Clarification of the role of the complainant, practitioner and regulator	Understanding the regulatory process	Explaining what outcomes are likely from the regulator
Targeted Improvement Initiatives	The primary purpose, role and mandate of the regulator is clearly explained (e.g., the obligation to look at all notifications).	Provide clear information and set appropriate expectations early about the process.	Clarify expectations early—explaining (through statistics and past experience) what is likely to be achieved. Provide information for complainants about other complaints options.
	The complainant is treated as a stakeholder in the process not just a source of information.	Meaningful updates are provided at key stages of the process.	Communicate that regulatory action is proportionate and protective—the least restrictive action is taken in relation to the assessed risks of harm to the public.
	Regulatory staff are provided with tools to respond to complainant and practitioner concerns and/or stress.	A reasonable timeframe is provided, with an explanation of any changes to the timeframe.	Clear communication of the reasons for a regulatory decision, including a decision that no regulatory action is needed.
Targeted Outcomes	Suitable concerns/notifications are received by the regulator. The complainant feels heard and the practitioner is treated fairly. The complainant and practitioner receive personalized, empathic communication and meaningful updates. The complainant and practitioner understand the process and have realistic expectations. The timeframe is reasonable and expected timeframes are communicated. The outcome and reason for a decision is understood. Public and patient safety is achieved.		

Conclusion

This study highlights the value of systematically collecting feedback from complainants and practitioners about the notifications process with both groups reporting substantial concerns about their experience. These concerns are not unique to Australia and apply to complaints processes internationally. The symmetry of issues for both parties—expectations, fairness, transparency, communication, timeliness and empathic contact—highlight the importance of understanding the combined complainant and practitioner experience. This experience can and should lead to improvements in the notifications process. Achieving trust and confidence from both the community and regulated health practitioners is fundamental for effective and humane regulation to keep the public safe. ■

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