

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

## **APS contacts:**

Professor Lyn Littlefield

Mr David Stokes

April 2011

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

### **Recommendations**

**Recommendation 1:** That the components of registration that impede fast-track capacity (including police checks) be reviewed and remedies to delays be implemented.

**Recommendation 2:** That even at the this late stage AHPRA be advised to “pilot” all future renewals so as to increase certainty of avoidance of registrant injustice and community disadvantage.

**Recommendation 3:** That the Senate recommend to AHPRA that it set up a Professions Advisory Group membered by representatives of the current ten professions and the future additional four societies/associations to assist with collaborative decision making.

**Recommendation 4:** That AHPRA be directed to develop protocols for the national boards to increase the orderliness and consultative nature of standards creation and introduction; and for the appropriate and timely dissemination of information to practitioners.

**Recommendation 5:** That in cases of administrative failure or oversight, registrations will be deemed continuous and be renewed in the full sense. If this requires legislative change, then this should be recommended by the Senate.

**Recommendation 6:** That AHPRA consults with the Family Court and the APS to find an appropriate solution to inappropriate use of complaints processes against practitioners providing service to the Family Court

**Please Note: Two Attachments present**

## **Introduction**

The Australian Psychological Society (APS or the Society) represents a profession which is one of the original ten to come under the new Health Practitioner Regulation Act. Apart from experiencing the initial teething problems of the Australian Health Practitioner Regulation Agency (AHPRA), there were two other major events that exposed the community to significant risks through frustrating delays, regular misinformation, injustices and enormous amounts of work for both the Society and its members.

The first of these was brought about by major changes to standards for the profession imposed on it by the Psychology Board of Australia (PsyBA) without appropriate consultation. These standards, and the implementation implications, prompted many psychologists to approach AHPRA as the agency for the PsyBA to gain information and clarification regarding the changes. As a consequence of AHPRA's unavailability or lack of information, these enquiries, and their consequent investigations, fell heavily on the APS as the national peak body representing the profession and the only place left for psychologists seeking support. Since June 2010, the APS, at its own expense, put on new staff and diverted other staff just to handle the enormous volume of enquiries and anxiety raised by the changes. In effect, APS members through their fees, are subsidising the work of a national.

The second event that presented a high level of concern was the renewal of registrations in Queensland, Victoria and Tasmania. For these States, the renewal date was different from their previously established practices.. In addition, some of the database information transferred by those States to AHPRA was less than adequate, both in the quality and accuracy of the data on registrants. The APS attempt to resolve these issues with AHPRA were met with initial refusal to believe the problems and then avoidance of any responsibility on the part of AHPRA.

It is evident that the time and resources allocated to AHPRA prior to commencement of the National Scheme were clearly inadequate. It is in this context that the APS addresses the specific Terms of Reference identified by the Senate Committee. The major issues that the APS has had with implementation of the National Scheme are set out within the framework of the Terms of Reference.

### **ITEM (a): capacity and ability of AHPRA to implement and administer the national registration of health practitioners**

#### **Inadequate change management**

It is now clearly evident that AHPRA and each of the National Boards were unprepared on 1 July 2010, for the enormity of the task they had undertaken. It is not clear whether this was due to insufficient forward planning, a failure to undertake to have adequate resources, lack of adequate risk management measures for administrative decisions, or the impossibility of the task. In hindsight it is obvious that many of the problems encountered could have been managed if the task involved a step-wise introduction of professions into the scheme instead of ten at once.

Apart from the key function of ensuring the smooth transition of registration of practitioners, the National Boards are also responsible for the standards for each profession. In some professions the Boards have taken the opportunity to introduce changes to the standards. In the case of the PsyBA, the introduction of changes associated with the mechanism for recognition of specialist psychologists through endorsement under the national scheme created a situation of utter confusion and anxiety amongst psychology practitioners. A consultation paper released by the PsyBA in March 2010 had proposed a transition period of three years, involving 'grandfathering' arrangements to recognise practitioners who met the existing profession-wide standards for identification as a specialist psychologist. Two weeks before the implementation of the new Scheme on 1 July 2010, the PsyBA released its finalised guidelines on endorsement as a specialist psychologist which contained much stricter transition arrangements, with the new rules to apply from 1 July 2010.

This inadequate notification period and lack of procedural fairness caused mass confusion and outrage, and as a result the APS was able to negotiate with the PsyBA for a very limited grace period of three months for transition arrangements in relation to endorsement. The PsyBA has subsequently made a number of further adjustments to transition arrangements for endorsement as it realised that many of the changes were unworkable and counterproductive in achieving the desired aims, and this has resulted in further confusion within the profession.

The PsyBA has also introduced a number of additional and complex mandatory changes which were applicable from the first day of the Scheme, for example, the detailed and prescriptive continuing professional development requirements. These were introduced without adequate consultation with the profession and have again caused unnecessary anxiety and confusion amongst practitioners. Attempts by the APS to negotiate a graded introduction to the full suite of requirements over subsequent registration cycles have not been successful. Currently, the APS is again fielding a large number of enquiries from concerned psychologists as the end of the first annual cycle (the deadline by which requirements must be met) draws closer.

### **Lack of planning with existing State and Territory Registration Boards**

It also became apparent that AHPRA either did not have the time or resources necessary to set up cooperative and appropriate processes between the outgoing State-based registration Boards and the incoming National Boards such that information and processes could be appropriately transferred to the new National Boards.

Coupled with the lack of cooperation between the outgoing and incoming administrators, the amount of time between formation of the professional Boards and the commencement date of the scheme appears to have been far too short to enable the adequate testing of database and registration systems.

The enormity and complexity of providing appropriate services to half a million registrants, while inheriting a mishmash of databases and previous Registration Boards' processes, is acknowledged. However, AHPRA should have had an awareness of the likelihood of difficulties arising in transitioning database information which should have been grounds for caution and considerable care. There appears to have been insufficient planning for the transition from jurisdictionally-based registration to one that is nationally based, and the

necessary risk management strategies to mitigate against possible glitches in the new system.

### **Flawed Legislation**

It is also evident that some of AHPRA's failures have resulted from the legislation on which AHPRA is based. Repeatedly, the APS over the years preceding the commencement of national registration attempted to express views to the Government, and the drafters of the Bills, that there were inherent problems in the sweeping and sometimes even draconian measures in the Bill. There was a failure to properly plan for an orderly transition process, including the timely phasing in by AHPRA of National Boards and associated gradual phasing out of State Registration Boards and instead an abrupt "go live" date was implemented. The APS suggested repeatedly that the consequences of this unsatisfactory legislation would be inevitable injustices to practitioners and damage to community members until reform of the Act and the development of more balanced legislation.

### **ITEM (b): performance of AHPRA in administering the registration of health practitioners**

Apart from the obvious difficulties set out above, there was a lack of clear leadership by AHPRA from the beginning. This appears to have been contributed to by the lack of clarity in how the legislative changes were to be operationalised and the division of roles and responsibilities between AHPRA and the new National Boards.

### **Lack of responsiveness and provision of incorrect advice**

Psychologists reported multiple difficulties trying to contact AHPRA. From July 1 2010, the APS was repeatedly informed of overwhelming difficulties in accessing AHPRA staff either by telephone or e-mail. Beside phone lines being continually engaged (and in Queensland initially being diverted to an oil company) and the website frequently being offline, the online website enquiry system also experienced significant delays, resulting in delayed registration of health professionals. Another Victorian psychologist trying to renew her registration was reportedly standing in a queue at AHPRA on January 31 (last day of grace period) having failed to make contact with AHPRA staff by either phone or email since mid-December. It was reliably reported to the Society that for the first few days of July, phone and reception staff at AHPRA were actually in training workshops and not taking calls.

Another repeated complaint was that information given by AHPRA telephone staff was incorrect or that staff had no knowledge of the issue. Psychologists regularly reported that they had been directed by AHPRA to the APS regarding issues and information that was clearly the responsibility of AHPRA and the national boards to provide. This resulted in an immense amount of extra work for the APS in firstly identifying people within AHPRA or PsyBA who were able to find and articulate the requirements of the National Scheme, challenge inconsistencies, and then present that information in an understandable way to the profession. This was not assisted by constant changes instigated by PsyBA in reaction to concerns raised after it continued to make decisions without consultation with the profession. AHPRA did not appear to have any protocol or guidelines available to the national boards to avoid such problems.

### **Errors in registration renewal**

A large number of psychologists failed to receive a renewal notice or any of the subsequent reminders. It is impossible to ascertain the extent of this problem, but the APS received frantic emails from at least 30 psychologists from Queensland claiming that they had suddenly received disciplinary letters for failing to renew their registration - or were informed by their clients (see later section) - without having received any prior correspondence. More than a few psychologists in Victoria and Tasmania reported likewise, however, the crisis in the southern States was partially mitigated by the APS sending out reminders as an attempt to prevent a repeat of the Queensland situation.

The APS understands that AHPRA's registration renewal process involved AHPRA sending renewal notices to registered psychologists across Australia in September 2010 to provide an invoice, login ID and password for a psychologist to access renewal services via an online system. Additionally, AHPRA sent reminders via emails, SMS and newsletters. However, where AHPRA had the wrong address in the first place these seemingly comprehensive measures were of no value at all. Once again, an orderly transition process would have identified the risks of registrant data errors and implemented appropriate measures to address these.

In addition, those psychologists who did not receive any form of communication also did not have access to their User ID and Password to enable on-line renewal. Contacting AHPRA by phone or email to remedy these problems was almost impossible.

AHPRA assumed that wrong addresses were the failure of registrants who had moved and failed to notify their registration bodies. However, members of the APS reported that their records were well established with the previous Psychologists Registration Board of Queensland and they had not moved or changed any details, so were unable to understand the administrative failures. The APS provided the AHPRA office in Queensland a list of over 20 names of psychologists who asserted that they had never received a renewal notice or any reminder.

Those Queensland members who rapidly responded to correct the errors that gave rise to their loss of registration status were informed that there was a "fast track" system for re-registration that could be effected on-line. A number of psychologists were still waiting for renewals weeks later, during which time they were technically unable to practice.

**Recommendation 1: That the components of registration that impede fast-track capacity (including police checks) be reviewed and remedies to delays be implemented.**

### **System failures generally**

It is of general concern that AHPRA did not demonstrate greater care and planning and behave more moderately toward inadvertently unregistered psychologists, given that this was among the first tests of the renewal system (doctors and nurses, it is understood, had already experienced injustices). For many psychologists, their previous system allowed **3 months** to remedy oversights and errors of communication, whereas the current AHPRA system has imposed a new deadline of one month. Failing to appreciate the potential for

human error in the system and the impact of 'surprise' lapsed registration was evidence of poor management and judgment. Clearly the transfer of data from State systems to a national one created room for errors of all types and the change of processes were inherently risky. It is anticipated that if a more cooperative relationship with the outgoing bodies had been established, there may have been less difficulty in transfer of information.

It is the contention of the Society that AHPRA could have sought permission from the Government - or exercised powers it already had - to pilot the whole system for up to two years to ensure errors were significantly reduced. It could still have exercised its powers to de-register for disciplinary matters without exercising sanctions in areas where it could not be assured of having total control over its information. The concept being suggested as "piloting" is to effect renewals as expected but not to implement sanctions for non-renewals until confidence in processes is increased.

**Recommendation 2: That even at the this late stage AHPRA be advised to "pilot" all future renewals so as to increase certainty of avoidance of registrant injustice and community disadvantage.**

The second measure AHPRA could have considered was to co-opt professional societies and associations to assist in ensuring effective contacts with all registrants. In the case of Psychology, it was the Society who took measures to contact psychologists in Victoria and Tasmania and reminded them of renewals to try and reduce the errors that had occurred in Queensland. However, from the commencement of the initiative the national boards had reportedly received direction to distance themselves from the professional bodies supporting health practitioners. This impractical attitude towards professional bodies has done substantial damage to the whole scheme and created voids and tensions that need never have existed.

**Recommendation 3: That the Senate recommend to AHPRA that it set up a Professions Advisory Group membered by representatives of the current ten professions and the future additional four societies/associations to assist with collaborative decision making.**

**ITEM (c): impact of AHPRA processes and administration on health practitioners, patients, hospitals and service providers;**

Far from reducing the amount of 'red tape' that health providers were subject to, the new system appears to have multiplied the difficulties in continuing to practice as a health professional<sup>1</sup>. Again, this appears to have its foundations in the lack of leadership demonstrated by AHPRA and onerous aspects of the legislation. With the apparent lack of understanding of roles and responsibilities, and little in the way of guidelines or protocols, the National Boards appear to have had a 'free hand' to dictate rules for registration without any regard to prior procedures and without due consideration of the impact upon practitioners or the services that employ them.

<sup>1</sup> Letters to the Editor, *InPsych*, 33, 2, Pages 20, 21.

**Unwarranted complications.** Registration requirements published by PsyBA changed on a regular basis over the first six months of operation of the National Scheme and conflicting information remained on its website for extended periods. Changes were made without prior consultation with the profession and then further changes were made in reaction to vociferous feedback, particularly from students studying to participate as members of the profession in the future. Had AHPRA instigated protocols for the implementation of registration standards and the dissemination of information to members of the profession, this significant disruption to psychologists may have been avoided.

By way of further example, standards for continuing professional development and professional supervision are so varied and complicated as to require booklets of explanation. An analysis of the continuing professional development requirements of each of the 10 national boards indicates that the requirements of the PsyBA are by far the most onerous of all the other health professions and also the most prescriptive (e.g., in specifying the length of the required journal entry for each hour of professional development undertaken). Prior to the introduction of the National Scheme it was recognised that our country's health professionals are already overworked. Creating a system of compliance that requires such detailed translation does not assist practitioners in providing professional services, it simply adds to the burden of compliance.

**Recommendation 4: That AHPRA be directed to develop protocols for the national boards to increase the orderliness and consultative nature of standards creation and introduction; and for the appropriate and timely dissemination of information to practitioners.**

### **Injustice to psychologists and their clients**

Many psychologists were made aware of their registration lapse by clients who lodged a claim with Medicare only to have it denied. It appears that AHPRA, acting in accordance with its interpretation of the legislation, notified Medicare promptly once the December 31 deadline passed (for Queensland psychologists) and psychologists who continued to provide services, unaware that they were then in breach of the law, were notified by Medicare or a client of their "unregistered" status. The APS has been told by psychologists that AHPRA were made aware well in advance of December 31 that there were gaps and errors in their database and yet they continued to act as if there were no risks of injustice to practitioners or risks to community members.

Being characterised as "unregistered" is damaging to a practitioner's reputation and not meaningfully understood by clients. It was necessary for the full explanation to be given to all clients to explain the cancellation of services. No offer to remedy this slur on the reputation of the psychologists was ever made by AHPRA.

Not surprisingly, clients/patients were obliged to ask unjustifiably:

- Why is my practitioner "struck off the register"? Should I trust this practitioner again? What about all those private things I expressed to the practitioner?
- How can I afford to see my practitioner again now they cannot bulk bill me?



**ITEM (d): implications of any maladministration of the registration process for Medicare benefits and private health insurance claims; Serious treatment disruptions for psychologists' clients**

The poorly managed renewal of registrations for psychologists in Queensland, Victoria and Tasmania produced major disruptions and injustices not just for psychologists but for many of their clients. Clients have had their psychological treatment disrupted by the inability to obtain Medicare rebates as a result of the lapse in registration of their treating psychologist because of data failures in the registration system.

The worst situation was in Queensland where the "grace" period for psychologist's renewal expired on Dec 31, 2010. (The equivalent in Victoria and Tasmania was January 31, 2011). Many of the clients of psychologists accessing the mental health and chronic disease Medicare items (Better Access to Mental Health Care, Autism Spectrum Disorder, Chronic Disease Management) were financially disadvantaged and may not have been able to access such services without the rebate system. Clients with serious mental or physical health issues without warning were no longer eligible for Medicare rebates and in most cases their treatment was disrupted. In Queensland this error occurred in the midst of the devastating January floods, which meant traumatised clients could not access treatment from psychologists affected by the registration renewal debacle.

Meanwhile, for many psychologists who persisted providing services in ignorance of the Medicare status, this meant covering the costs of their clients, ie not receiving any payment for services. In many cases this has brought severe hardship to the practitioners. The illustrative case included at the end of this submission is not an exceptional one.

**ITEM (e): legal liability and risk for health practitioners, hospitals and service providers resulting from any implications of the revised registration process**

It is of concern that the new registration process appears to be dictated by the National Board without due consideration of the practical consequences to health practitioners. "*Continuous development of a flexible, responsive and sustainable Australian health workforce*" has in our experience, not been contemplated in the implementation of the National Scheme. Nor does the operation of the National Scheme to date have any apparent transparency or accountability.

**Precipitate changes for the profession**

In general, legislation has a lead-in process so that anyone affected by that legislation has the chance to find out how it might impact on them prior to implementation. A similar process should have been adopted in introducing the National Scheme. Although the PsyBA set registration standards and informed health practitioners and service providers what the standards would be from a given date, registrants needed more time to understand and adjust to these new standards. Since May 2010, psychologists, and the services that employ them, have been challenged with an ever-changing set of requirements and standards having immediate effect, without warning. The high degree of uncertainty inherent in that process has caused huge disruption for health practitioners and service providers.

### **Discontinuous registration status**

Another aspect of AHPRA's processes that has potential for injustice is that the "renewed" registration created by AHPRA for those psychologists who failed to receive a renewal notice is dated from the date of processing the application, and is therefore not a renewal in the true sense but a new registration. For some people this was weeks after their registration lapsed. This could have implications for a practitioner's track record of continuous registration which, as it is known, is available for review and taken into consideration by the national boards on any occasion.

The APS fears that the full consequences of this breakdown of appropriate administration have not yet been fully appreciated, and that there may well be additional impacts on both practitioners and the public which will further render this process damaging and unfair. The APS seeks a full review and investigation followed by changes to procedures and the legislation if necessary.

**Recommendation 5: That in cases of administrative failure or oversight, registrations will be deemed continuous and be renewed in the full sense. If this requires legislative change, then this should be recommended by the Senate.**

### **ITEM (f): liability for financial and economic loss incurred by health practitioners, patients and service providers resulting from any implications of the revised registration process**

Despite there being solid evidence of administrative failures, AHPRA has consistently refused to rectify or reverse its notifications to Medicare. To add further insult to practitioners, the CEO of AHPRA, Martin Fletcher, was quoted in the media<sup>2</sup> as saying the number of lapsed renewals was in the "expected range". This comes across as very dismissive of a series of events that have impacted significantly on numerous practitioners and members of the community. What is "expected" of AHPRA is risk mitigation and acknowledgment and redress of errors.

As a Government agency, AHPRA's behaviour following this series of events has been far below expectations. Its credibility was already under considerable stress over poor services, but to fail to apologise and accept at least some responsibility is not acceptable.

The other issues facing registrants is the increase of costs. While registration fees themselves have increased for many registrants, it is the additional fees and charges registrants face when making special applications or additional requests that are in some cases unreasonable. A specific example is inequity in the processing fees that directly affects psychologists when they lodge AEAT-76 for endorsement. AHPRA charges \$205 whether they conduct the full assessment of the documents or the not. A fairer arrangement would be a substantially reduced fee for applications which have been already assessed by

<sup>2</sup> <http://www.theage.com.au/victoria/staff-chaos-hits-hospitals-20110201-1acfh.html>

the APS only requiring them to submit a certified copy of the assessment letter. Another is to be found at Attachment One and comes from a group of postgraduate students.

#### **ITEM (g): response times to individual registration enquiries**

The APS has received calls from concerned provisional psychologists who have completed all of the requirements of their training and are now seeking full registration. Following submission of their application, they report significant delays in the registration process with one applicant still waiting four months after submitting his application. When querying the time frame with AHPRA he was told that his application was still under review and that they were not obliged to tell him how long the process would take. During one of these phone calls he was told by the AHPRA administrator that they were two months behind in responding to mail.

#### **ITEM (h): AHPRA's complaints handling processes**

A major issue exists for psychologists who provide services for the Family Court of Australia and the way in which AHPRA is managing complaints from litigants associated with cases before the Court. This is well set out in Attachment Two and is a concern that the Society fully supports as needing resolution.

**Recommendation 6: That AHPRA consults with the Family Court and the APS to find an appropriate solution to inappropriate use of complaints processes against practitioners providing service to the Family Court**

The APS is unable to further comment on the way AHPRA handles complaints from patients and clients of practitioners as it has no knowledge of this process. What it can say is that such processes appear non-existent for practitioners. They have, on paper at least, good process for consumers, but nothing is that clear or promoted for registrants. This lack of transparency is unjust and unjustifiable. It has been pointed out that less-than-obvious under Complaints is a capacity to complain to a National Health Practitioner Ombudsman but it is never made prominent that this service is available and appropriate for registrants to lodge a concern.

The APS has started to receive enquiries from practitioners about the powers and responsibilities of investigators appointed under the National Scheme. Greater explanation of the investigative process and its impact upon practitioners who are asked for information should immediately be made available.

One such area needing clarification, for instance, is the confidentiality and privacy obligations of a practitioner who has another practitioner as a client about whom a complaint or notification has been made to AHPRA and in respect of whom AHPRA has requested information.

**ITEM (i): budget and financial viability of AHPRA**

The APS is not in a position to comment on this.

**Item (j): any other related matters**

One of the overriding impressions of the new registration processes is that it has resulted in added administrative and compliance burdens on practitioners rather than in any way reducing that burden.

### Illustrative registrant case study from Queensland

(A Queensland psychologist agreed to share her details with the Senate Committee as long as she was not identified. The “Jane Smith” is a pseudonym.)

*Jane Smith is a psychologist from Queensland who is a sole practitioner working in a private practice. She has been continually registered for 15 years and had not moved either residence or practice.*

*Jane received a letter on January 18 from AHPRA advising her she had been de-registered because she ‘failed’ to pay registration renewal fees. She was disappointed to discover that the letter was dated January 12 and that she had been de-registered since January 7.*

*Jane called AHPRA immediately. After taking **five hours** to speak with a representative at AHPRA, she was informed she was not currently registered and must stop practising immediately. In order to re-register Jane was faxed a ‘fast track’ application which was completed and posted back to AHPRA by express post the same day.*

*Jane was advised that she may only continue to practise once her application to renew registration had been received by AHPRA. **Six days** later, on January 24, Jane received a standard email acknowledging receipt of her ‘fast track’ application which was being considered and she would be advised if her registration would be renewed. She also noticed that the money was deducted from her account at that time.*

*During the six days Jane was waiting for AHPRA to acknowledge receipt of her application, she did not practise. She was the sole bread winner of her family and was unable to earn an income for the month of January which had a significant negative impact on her livelihood. She reluctantly had to cancel clients, who were already emotionally distressed.*

*On January 26 Jane received a letter from Medicare advising her that her Medicare provider number was also cancelled because she was not registered. This meant her clients were not able to claim rebates for Medicare-funded services provided by her since she had been de-registered on January 7.*

*Jane resumed practising after receiving confirmation on January 24 that AHPRA received her application to renew registration. However, her clients were still unable to claim for Medicare-funded services. Jane also received numerous distressed calls from her clients, who received letters from Medicare in response to claims submitted since January 7. They were advised that they were unable to receive rebates as she was not a registered psychologist. Some clients had spent up to an hour at Medicare offices in order to claim their rebate only to be advised that as Jane was not registered they would not be paid. This has caused Jane a great amount of embarrassment and humiliation and she felt it affected her professional credibility.*

*In addition, Jane was not able to see some new clients because her Medicare provider number was cancelled. In one case, a client had come to see Jane for an initial session, then went to their GP to get a referral for Medicare-funded services,*

*and then attended a second session. After presenting the invoice to Medicare, the client was told Jane was not a registered psychologist. He called Jane to discuss the issue and she assured him it would soon be resolved. However, he subsequently called and cancelled all further appointments..*

*Although approving psychologists to continue practising while processing their application, AHPRA did not advise Medicare of this or the administrative errors behind Jane being de-registered. Her Medicare provider number was not aptly restored.*

*Jane was finally granted registration on February 7, eighteen days after submitting her "fast-track" application to re-register and one month subsequent to being de-registered. She was given no explanation as to why her application took eighteen days to process. Nor was this a renewal of registration but actually a new registration from February 7.*

*As Jane felt an ethical obligation to her clients and in order to ensure their ongoing well being, she elected to not charge them for sessions in January. She believed her clients should not bear the cost of not being able to claim Medicare rebates. However, for Jane, this led to an additional loss of income from January 7 to February 7.*

*Adding further stress to the situation, Jane was obliged to reverse some of the invoiced sessions in order to adjust them to no charge; however in many cases the clients had already paid her. The process of adjusting invoices and re-organising her accounts was also stressful and extremely time consuming.*

*Jane's hardship, and the distressing experience of being de-registered, has prompted her to take a break from the profession for a time.*

## **ATTACHMENT ONE**

### **A Submission letter from student members of the APS Clinical College**

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11 April, 2011

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

#### **Re: Administration of the Psychology Board of Australia; registration fees for Postgraduate Students**

This submission is made by the Australian Psychological Society's (APS) College of Clinical Psychologists on behalf of students enrolled in professional psychology programs throughout Australia. This submission refers in particular to the Psychology Board of Australia (PsyBA) and is relevant to point (c) in the inquiry terms of reference: *The impact of AHPRA processes and administration on health practitioners*.

The APS College of Clinical Psychologists recognises the essential role played by both the PsyBA, and AHPRA in protecting the public and ensuring members of the psychology profession adhere to the highest standards of practice. However, the APS College of Clinical Psychologists is nonetheless concerned about the current fee structure for psychology postgraduate students who are undertaking professional training programs.

Registration as a Provisional Psychologist is a requirement for students who are enrolled in professional postgraduate psychology training programs. At present, the annual registration fee for Provisional Psychologists is \$390. This is equivalent to the fee charged for general registration as a Psychologist. In addition, the PsyBA requires an initial application fee of \$410, although this application fee is currently waived. It is unclear how long the PsyBA will continue in waiving this application fee. These fees were recently reviewed (March, 2011) by the PsyBA's finance and management committee and AHPRA, and were left unaltered.

The Australian Vice-Chancellors' Committee (AVCC, 2007) reported that 'postgraduate coursework students in particular are struggling to complete their programs due to financial pressure and other commitments'. A recent survey commissioned by the APS's College of Clinical Psychologists reported on data from 153 students enrolled in clinical postgraduate training programs throughout Australia and highlighted that financial hardship was a significant ongoing issue for postgraduate students. It is most unfortunate that AHPRA registration fees are exacerbating this financial pressure for psychology postgraduate students. The current Provisional Registration fee constitutes a significant proportion of the average annual income for a postgraduate student, and is financially burdensome for a group who are already under significant financial pressure.

There are several degree pathways for students undertaking professional postgraduate training in Australia. While most students opt for the 2 year full time Masters degree, others undertake higher qualifications (which are highly sought after in the mental health sector) such as the 3 year Doctor of Psychology or the 5 year Master of Psychology / PhD. As

psychology postgraduate students are required to have Provisional Registration whilst enrolled in all years of their course, for those undertaking higher degrees the annual \$390 fee for Provisional Registration impacts even more significantly as it must be paid repeatedly. This effectively acts as a penalty and disincentive for students to pursue higher postgraduate psychology qualifications. This has negative implications for the health workforce as it will likely discourage the attainment of the advanced skills training provided by these higher professional degrees.

There are limited opportunities for postgraduate psychology students to supplement their income and thereby offset the burden of the Provisional Registration fee. This is because of the restrictions placed upon students by universities regarding the number of paid hours of employment students can engage in (usually within the range of 10 hours per week). This places significant restriction on the income of students and further highlights the imposition of the \$390 fee.

Many Provisional Psychologists who undertake the alternative professional training route of 4 years undergraduate study and 2 years supervised practice are able to derive income from their work as a Provisional Psychologist. This is generally not the case for postgraduate students. In fact, many universities forbid students from using paid employment as part of their placement hours as such work is not designed to meet learning objectives for postgraduate training.

The Provisional Registration fee for postgraduate psychology students is also out of kilter with other allied health professions. Students of other allied health professions are at present not required to pay any fee for registration during their training period.

We acknowledge that the PsyBA utilises the registration fees of Psychologists and Provisional Psychologists to undertake its business. Further, we believe it is appropriate that postgraduate students contribute to the administrative costs of Provisional Registration. However, we believe it inequitable that postgraduate students are charged the same registration fee as fully registered general psychologists. Further, in some cases the PsyBA fee for Provisional Registration is more than doubled the registration fee charged under the previous state based system. For example, prior to the implementation of the National Registration and Accreditation Scheme the now disbanded Victorian Psychologists Registration Board charged postgraduate students an annual registration fee of \$180. Accordingly, we seek a fee of this (e.g. \$180), or similar magnitude, for postgraduate students.

In sum, the current registration fee for Provisional Registration impacts significantly on the financial situation of psychology postgraduate students. It is our hope that AHPRA and the PsyBA may see it appropriate to reduce this fee. Thank you for the opportunity to provide this submission in relation to administration of health practitioner registration by the Australian Health Practitioner Regulation Agency (AHPRA).

Thank you for consideration of this submission.

Sincerely,

Anthony Cichello  
Specialist Clinical Psychologist  
Chair  
College of Clinical Psychologist

Simon Rice  
Provisional Psychologist  
Student Representative  
College of Clinical  
Psychologists

Ryan Kaplan  
Provisional Psychologist  
Student Representative  
College of Clinical  
Psychologists



## **ATTACHMENT TWO**

### **Submission by the Australian Psychological Society (APS) Family Law and Psychology Interest Group to the Senate Standing Committee on Finance and Public Administration References - Inquiry into the administration of health practitioner registration by the Australian Health Practitioners Regulation Agency (AHPRA)**

And specifically

- The impact of AHPRA processes and administration on health practitioners
- AHPRA's complaints handling processes

Since the introduction of the new Australian Health Practitioners Regulation Agency (AHPRA) to investigate complaints about psychologists' professional conduct, those psychologists who work in the family law arena have been beset with complaints. It is the view of this Interest Group that AHPRA's handling of these types of complaints has been negligent, incompetent and uninformed. Further, psychologists have been placed in untenable positions where they could potentially face legal ramifications and consequences if they follow the demands of AHPRA staff and investigators.

Psychologists who undertake assessments in family court matters are routinely regularly reported to AHPRA following family court assessments.

This has been recognised internationally in family law to be reflective of the nature of Family Law processes, and generally represent the litigant's attempt:

- To invalidate the opinion of the clinician,
- To use legal leverage by excluding the psychologist from future court proceedings, and
- To gain revenge and retribution on the psychologist when the opinions expressed in reports do not favour them.

AHPRA fails to consider the particular professional, financial and physical risks for psychologists specialising in Family Law and the potential for competing responsibilities between their duty to the court and current parameters for professional practice.

While we do not suggest that Family Law psychologists should be exempt from complaints about their professional practice, we submit that the high number of complaints to psychologist registration boards and professional bodies, not just in Australia but internationally, represents a base rate problem that we are seeking AHPRA acknowledge in their initial investigation of complaints.

We submit that there needs to be some changes in the way AHPRA approaches these complaints. Firstly, some of our concerns relate to the failure of AHPRA to consider the motivations of complainants. We submit that there needs to be some mechanism where these complaints are screened to avoid wasting time, energy and money in undertaking investigations where the litigant obviously has malicious motives.

We also emphasise that AHPRA consistently fails to appreciate the legal context and our obligations under the *Family Law Act 1975* and the *Family Law Rules 2004*. For example, it

is not uncommon for AHPRA to demand our file or reports when the disclosure of such information is constrained under section 121 of the *Family Law Act 1975*.

AHPRA also routinely ignores the rights of other parties and children involved in assessments. It is typical practice for AHPRA to rely on the complainant's view without seeking input from the other party and to demand files and reports without consideration for the other participants' rights and our ethical and legal responsibilities to them.

It has also become clear that some Family Law litigants who do not get the professional psychological opinion that they expect in a Family Law assessment, frequently use the complaint process to pervert the legal process.

In Victoria, the Psychologist's Registration Board of Victoria had historically recognised that complaints about psychologists arising from litigants in Family Court matters have particular attributes and require some consideration about the motivations of the complainants, the context of the complaint and the legal jurisdiction.

Importantly, up until AHPRA assumed responsibility, the Psychologist's Registration Board of Victoria had refused to investigate complaints about psychologists who had been appointed by the court to undertake assessment for the court, when the matter was still proceeding through the court. As having an ongoing AHPRA investigation of a complaint naturally forces the psychologist to withdraw from the case, this was some recognition that litigants can use the complaint process to exclude the psychologist in the legal matter, and reject the psychological opinion given in a report as part of a legal gambit.

We also know of examples where lawyers have encouraged clients to make a complaint as a legal strategy, to prevent an unfavourable opinion of their client being admitted to the Court.

Since the evolution of APRHA, complaints are now being actioned and investigated during the progress of the legal matter. We submit that AHPRA should develop some protocols to prevent this occurring. If a litigant is unhappy with a psychological opinion, the proper jurisdiction to challenge this in the first instance is before the Court, not AHPRA.

We are also concerned about the confusion of investigation and judicial powers, and we question that AHPRA does not have open and transparent processes. We have grave concerns about the lack of independence, and have noted that investigating officers may also contribute to, and participate in, decision making.

Additionally, APRHA have typically had psychologists assess these complaints whose experience does not allow them to be fully equipped to evaluate the practice of the psychologist, as it is well recognized that the family court arena poses specific challenges that are outside the expertise of most psychologists. Soon our members may be forced, under new mandatory reporting rules, to begin making allegations of professional incompetence against psychologists working for AHPRA for undertaking forensic interviews and investigations without competence in either forensic investigations or psychological practice in family law.

It is a significant failure of AHPRA's operations that there has been no education of their staff or attempts to understand these issues.

We submit that changes should be made in how investigations of complaints by AHPRA are undertaken, specifically:

- That complaints are not actioned until the legal proceedings are completed,

- That complaints are initially screened by someone who has Family Law experience to avoid unnecessary investigations by vexatious litigants,
- That AHPRA investigators acknowledge our legal responsibilities, including appreciating that the court is our client, that a health model is not appropriate, and an understanding of the legal parameters under which we work so they do not repeatedly demand that we violate those responsibilities,
- That AHPRA psychologist investigators have competence in forensic investigation and family law experience,
- That investigation and judgment become independent and separate processes.

Dr Jennifer Neoh  
Secretary APS Family Law and Psychology Interest Group  
On behalf of members  
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