



GARY FETTKE
M.B.,B.S.,F.R.A.C.S.(Ortho), F.A.Orth.A.
ORTHOPAEDIC SURGEON
TASMANIA, AUSTRALIA

November 14, 2016

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sirs,

Re: Response to notice by Senator Rachel Siewert, Chair Senate Inquiry

Senator Siewert, under notice to me, requested suggestions regarding consideration of options for improving the investigation process and addressing systemic bullying and harassment. Clearly both issues can be intertwined as per the evidence submitted for the Senate Inquiry to consider.

I refer to several solutions in my submission of 23 October 2016 and clarify below.

The issue of non appellable decisions should be abolished.

All AHPRA determinations should have the right of appeal. The current process is completely lacking in procedural fairness.

My case in point has left me with a lifelong determination with no clear boundaries, supervisory process and no recourse. An AHPRA determination needs to be declared to every employer, and potential employer, for all time. That creates bias and discrimination.

If the issue of a vexatious notification or flawed process is raised, then it should be open to independent review.

I note that the submission from the National Health Practitioner Ombudsman and Privacy Commissioner (the NHPOPC) refers to the non appellable decisions of AHPRA. From that document the NHPOPC is in current discussions with AHPRA regarding the natural justice of the current practice.

I dutifully request that this non appellable decision process is rescinded and retrospectively invoked.

Psychological Stress

There must be a clear consideration on the psychological stress on health practitioners and their families undergoing the notification process.

Early mediation and counselling should be made available to health practitioners under investigation.

Appropriate time frames for assessment of notifications.

The current process of lengthy inquisitions that go on for years creates enormous psychological stress upon the accused and their family, particularly in vexatious circumstances.

If there is true danger to the community, then decisions should be made in a timely fashion and not years down the track.

If the time frames are prolonged, then AHPRA is either under resourced or the process is flawed. I believe it is the latter.

Mediation should be considered rather than punishment and restrictions in the first instance.

Clearly define a review process and time frame for determinations of the AHPRA Board.

The current process does not leave a review process in place. In my own case I cannot appeal the decision even if I was to gain further qualification. It is not appellable and it is lifelong.

There is no formal process for review, finalisation and reversal of conditions/restrictions placed upon health practitioners.

Vexatious notifications.

All notifications should be accompanied by a Statutory Declaration that the notification is with the 'best of intent' and is not vexatious.

Allowing vexatious notifications to be manipulated by those with vested interests is inappropriate.

If the issue of a vexatious notification or flawed process is raised, then it should be open to independent review.

Investigators

Should be suitably qualified, have appropriate experience and appropriate senior oversight and reportable audit.

Access to submitted documentation in one's investigation should be allowed under Freedom of Information.

Evidence submitted to AHPRA notifications should be verifiable and available for cross checking.

Bullying and Harassment

Early mediation and counselling is recommended.

A cultural shift is required at an institutional level but early skilled mediation should be made available before the psychological stress becomes all consuming.

I recognised that this Senate Inquiry is not to address individual circumstances but by my example, the hospital system supports bullying and harassment. The AHPRA process is aggressive, can be vexatious, non appellable and is clearly stressful. The determination has lifelong implications by way of its nature. It just isn't fair and natural justice.

Yours sincerely,

A rectangular area that has been redacted, likely containing a signature or name.

Gary Fettke

Orthopaedic Surgeon

M.B.,B.S.(University NSW), F.R.A.C.S.(Orthopaedic Surgery), F.A.Orth.A.