

Submission to Senate Community Affairs References Committee

By Professor Paddy Dewan

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for inquiry and report on the medical complaints process in Australia.

To

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Dear Committee,

In making this submission I note that I am willing for the submission to be made public under parliamentary privilege.

My experience with the dysfunctional, bullying, and adversarial culture in medicine has seen a marked failure of most aspects of the monitoring of medical quality. The events in my training years reflect the findings of the College of Surgeons recent investigation into bullying, but the investigation has been disingenuous, given the response of the College to multiple submissions.

All of the National Ombudsman, the Victorian State Ombudsman, Worksafe, the Fair Work commission, the Coroner's Office, VCAT, the Supreme Court, the Health Service Commission, the College of surgeons and AHPRA lack oversight that would ensure that they appropriately protect the public; all have adversarial, legalistic mechanisms that lack transparency, accountability and patient focus and they do not have medical professional staff welfare as performance criteria.

A brief account of my experience is:

Having lost my contract with the [REDACTED] after a SHAM review of MY complaints about bullying and a number of clinical cases of concern, I have been subjected to "mobbing" that has included the involvement of AHPRA.

While at [REDACTED] until 2003, a review of my complaints of bullying was "investigated" by two Board members of [REDACTED] neither of whom had any training or expertise in bullying. Worksafe conducted an investigation, but were only able to investigate the available "processes". Genuine and serious concerns were dealt with dismissively, with disregard for the impact on patients.

After a career damaging loss of a position at [REDACTED] I presented to the Victorian Medical Board a list of 98 case scenarios that required appropriate investigation – in August 2004. On meeting with the lawyer and Registrar of the Victorian Medical Board, it was suggested that I recruit the assistance of patients, which I did, only to find that proceedings were started against me for having made one phone-a-call to one family.

The 98 cases did not lead to any formal hearings, despite a Paediatric Surgeon being named in relationship to quality of care concerns in 25 of the scenarios; nor have any of the subsequent cases that have been raised – Liam is one of the patients - <https://independentaustralia.net/life/life-display/putting-children-at-risk-the-story-of-liam-and-our-healthcare-system,8344>

However, a patient operated on in January 2005, with no complication and a good outcome, was then reported to [REDACTED] by a medical administrator. The subsequent events included a referral of the case to the Medical Board that lead to a finding of guilt for having operated inappropriately, which was overturned, but with the AHPRA legal team insisting that I be suspended, which did not occur, largely because approximately 90 people came to the "sentencing" hearing in December 2012. Much of the detail of events of bullying at [REDACTED] was presented at a parliamentary investigation to which both [REDACTED]

and [REDACTED] sent their corporate council to witness the presentation to the parliamentary committee. Behaviour of bullies.

http://www.parliament.vic.gov.au/images/stories/documents/council/SCFPA/Hospitals/Submissions/SCFPA_Hospitals_48.pdf

http://www.parliament.vic.gov.au/images/stories/documents/council/SCFPA/Hospitals/Transcripts/DEWAN_Pres.pdf

Subsequently, submissions were made to the legislative council on the investigation of the behaviour of administrators and AHPRA and VCAT, all of whom have been involved in a process of “mobbing”.

http://www.parliament.vic.gov.au/images/stories/documents/council/SCLSI/APHRA/APHRA_Sub_55_Dewan.pdf

http://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Leg_antee/AHPRA/Corrected.pdf

http://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Leg_antee/AHPRA/Responses/Dewan_hearing_presentation.pdf

Along the way, several submissions have been made to both the AMA and [REDACTED] including to the recent [REDACTED] committee that found there is a significant bullying problem in the world of surgery. That [REDACTED] was party to my loss of contract to the [REDACTED] Hospital (because the work was given to the [REDACTED] and that the [REDACTED] Chair of the Board was chair of the EAC of the College, indicate the role of the [REDACTED] as part of the bullying process, supported by the knowledge of the refusal, then tardiness, in dealing with specific cases of complaints of bullying: The EAG refused to deal with specific complaints.

Some of the details of the events that indicate a bullying culture in health generally, the role of AHPRA as a tool of the bully and the phenomenon of “mobbing” of those who choose to speak against healthcare’s “cancer”, have been recorded in articles written, and are referenced below:

September 2012

<https://independentaustralia.net/life/life-display/shooting-the-messenger,4505>

October 2012

<https://independentaustralia.net/life/life-display/the-three-ring-medical-circus,4598>

<https://independentaustralia.net/life/life-display/shooting-the-messenger-and-kicking-him-while-hes-down,4565>

.....the most obvious episode of bullying by AHPRA

December 2012

<https://independentaustralia.net/life/life-display/crisis-of-confidence-in-public-health,4826>

May 2014

<https://independentaustralia.net/life/life-display/ahpra-has-again-been-investigated-and-found-wanting,6493>

.....comments on the Legislative Council investigation of AHPRA

October 2015

<https://independentaustralia.net/life/life-display/the-real-victims-of-bullying-in-health-care-are-the-patients,8234>

<https://independentaustralia.net/life/life-display/one-young-boys-saga-as-a-victim-of-puerile-behaviour-in-our-health-care,8266>

November 2015

<https://independentaustralia.net/life/life-display/putting-children-at-risk-the-story-of-liam-and-our-healthcare-system,8344>

.....Evidence of bullying of a family by AHPRA

The report of the Legislative Council of Victoria and the Forrester investigation show the lack of transparency and accountability, and the poor processes, but those investigations do not show the role of AHPRA as both a bully and the tool of the bully.

http://www.parliament.vic.gov.au/file_uploads/Final_version_AHPRA_report_30314_nnVxPmWJ.pdf

<http://statements.qld.gov.au/Content/MediaAttachments/2013/pdf/16-4forrester.pdf>

In the Forrester report it is stated: - The panel has completed the examination of the 596 files Of these files, 233 were considered by the panel to have been dealt with in a timely and appropriate manner, compliant with the legislative objectives. This report therefore focuses on the 363 files (224 legacy and 139 non-legacy) which the panel considered as not having been dealt with in a manner that was timely and/or appropriate and/or in compliance with the legislative objectives.

Clearly, the processes that were in place in Queensland have not changed substantively, and are similar in other states.

And, alarmingly, that the medical board had sort action against me for publishing concerns about the process in VCAT indicated that they are prepared to attempt to deny freedom of expression.

Also, the two cases run by AHPRA against me that relate to the management of chronic constipation should be highlighted. Such surgery is conducted in all major centres in Australia and internationally, yet AHPRA has attempted to have me deregistered for doing what is in the patient interest and similar to other practitioners; most importantly, the second patient had surgery at the Royal Children's Hospital in Melbourne, and yet AHPRA's lawyer rang me in the middle of the night (she knew I was conducting volunteer surgery in Mauritius), informing me of an "immediate actions committee" meeting that I would have to attend, and as a result of which I could have been summarily deregistered, yet the same patient has since had the intended surgery by another surgeon, without any challenge of his role. Noting that AHPRA has never attempted to review the practice of others to compare my performance, but seeks "hired guns", another point that addresses the term of reference:

" 'benchmarking' complaints about complication rates of particular medical practitioners against complication rates for the same procedure against other similarly qualified and experienced medical practitioners when assessing complaints; "

In effect, AHPRA has targeted an individual for raising concerns about their poor processes.

The above is merely a snapshot of vilification of an individual medical practitioner who has been abused by a national regulator and others, because he has chosen to advocate for a safer healthcare workplace.

The full extent of the dysfunction in regulation will need to be investigated by a judicial review. In the interim, I am happy to provide more information both in writing and in a presentation to the Senate Committee.

Importantly, I trust the committee will consider the important scenario of the late Dr Emil Popovic, and the role the behaviour of the regulator may have had in him taking his own life.

Yours sincerely

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