

Question on notice no. 2

Portfolio question number: 2

2022-23 Budget estimates October and November

Community Affairs Committee, Australian Health Practitioner Regulation Agency Portfolio

Senator Alexander Antic: asked the Australian Health Practitioner Regulation Agency on 10 November 2022—

Senator ANTIC: The complaint I hear from doctors routinely is that AHPRA has now fundamentally damaged the doctor-patient relationship by centralising control of COVID management with the so-called position statement on COVID, the 9 March statement. Firstly, why did AHPRA see fit to do this now for COVID when it has never done it before? I want to ask you some further questions about that position statement as well.

Mr Fletcher: I want to start my comments by acknowledging the extraordinary work that registered health practitioners have done across Australia in relation to the COVID-19 pandemic. We are very keen to support that work in any way we can. The joint position statement that was issued in March 2021 was actually issued by AHPRA and all of the 15 national boards collectively. It's not just a view from AHPRA, it represents the view of the boards for all of the regulated health professions in Australia. It was a response to queries that we were receiving about practitioner obligations in relation to COVID-19 vaccination, and that was at a time when a number of jurisdictions were also putting in place requirements around mandatory vaccination. The statement essentially aims to make clear how national boards are applying existing regulatory frameworks in the context of COVID-19. I think it's important to emphasise that the obligations in that statement were not new obligations. They are obligations that are entirely consistent with the code of conduct for each of the 15 national boards, and they obviously predate the pandemic. At the core of that was an expectation, as it has always been, that health practitioners would use both their professional judgement and the best available evidence in practice, and that includes providing information to patients and the public on things like social media.

Senator ANTIC: Can I just stop you there. That's not how it rolled out in practice, though, was it? Many doctors tried to use their professional judgement with respect to concerns raised about the vaccines and their safety and efficacy, which we now know is a nonsense, and in so doing incurred the ire and the wrath of the regulator. Many have been deregistered for doing so. My question to you is: do you accept that position statement has disfranchised large elements of the medical profession and forever damaged the doctor-patient relationship?

Mr Fletcher: It's important to separate?

Senator ANTIC: That's a question.

CHAIR: Apologies for interrupting. Senator Antic, are you willing to table the media release you're referring to?

Senator ANTIC: It's a position statement. It's on the website.

CHAIR: Are you happy for that to be tabled?

Senator ANTIC: Yes; it's their position statement.

CHAIR: I've just had a request for the document to be tabled.

Senator ANTIC: I don't have it with me.

Prof. Murphy: We could arrange for that.

CHAIR: Thank you. Please proceed.

Answer —

See attached answer.

22 December 2022

Response to question on notice from 10 November 2022 Senate estimates – Senator Antic

QoN from Senator Antic during Senate Inquiry hearing about the joint National Boards and Ahpra statement

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Ahpra response

This question was responded to by Mr Martin Fletcher during the hearing – please refer to page 10 where the question was put to Mr Fletcher and pages 11 to 12 of the published hearing transcript for Mr Fletcher's response.

For ease of reference – an extract from the transcript is provided below.

Senator ANTIC: The question was: has the doctor-patient relationship been fundamentally damaged?

Thursday, 10 November 2022 Senate Page 11
COMMUNITY AFFAIRS LEGISLATION COMMITTEE

Mr Fletcher: What I think is important to clarify here is these extraordinary claims that AHPRA is actually deregistering or threatening to deregister doctors and other health practitioners who raise concerns about COVID-19. I welcome this opportunity to set the record straight. I think the first thing to say is that in fact AHPRA and national boards have no powers to deregister, under national law, or cancel the registration of any health practitioner. That is the decision of an independent state or territory tribunal or a court. It's only the case in very serious matters, and each case is decided on its own merits. I can tell you today, to date, no health practitioner has had their registration cancelled in a tribunal in the jurisdictions in which we have responsibility for because of the views they've expressed about COVID-19.

Senator ANTIC: How many doctors, medical professionals and allied healthcare professionals have been investigated during this period by AHPRA?

Mr Fletcher: Let me give you the facts and figures for 2021-22 for COVID-19 notifications. It's probably worth reminding you that we do not deal with notifications in New South Wales. They are dealt with in a separate system, and we only deal with those notifications in Queensland that are referred to us by the Office of the Health Ombudsman. Noting that, we dealt with, or we received, 1,303 notifications about the conduct or health or performance of a registered health practitioner relating to COVID-19 during 2021-22. That related to 1,006 practitioners and they were across the professions of medicine, nursing, chiropractic, dental, pharmacy, paramedicine and psychology. That represented about 12 per cent of all the notifications we received in 2021-22. We dealt with about 10,800 notifications in that year. If I just give you an idea of the flow, between September to December 2021 that averaged about 36 per week. By June 2022 it was about five per week.

Senator ANTIC: So, this is a broader question, then. It is very clear that medical professionals, healthcare professionals and others have not been in a position to express their professional judgement with respect to some of these issues. Many have balked at the vaccine rollout, for good reason, in my view. Whether it be at the hands of the regulatory body or AHPRA, is it the position of AHPRA that there needs to be an amendment to the legislation to enable further freedom to doctors to prescribe in accordance with their own treating practices?

Mr Fletcher: We are not seeking any amendment to the legislation.

Senator ANTIC: So, you are quite comfortable with doctors being silenced on this issue?

Mr Fletcher: I don't believe we are silencing doctors. If I could perhaps just finish my answer and explain the type of concerns that we deal with, just to give you a flavour. Firstly, we've had concerns in relation to clinical care, which is typically related to things like vaccine exemptions that have not appropriately followed the ATAGI guidelines. We've had concerns from patients about not being able to access care, because health practitioners have refused to treat them because of concerns about COVID-19. We've had concerns expressed to us about the behaviour or conduct of health practitioners. For example, refusals to wear masks, not complying with public health directions or lockdown requirements. We've had concerns about people practising while they were unwell, and poor infection control, and we've also had concerns about the online conduct of health practitioners, for example, propagating what might be termed conspiracy theories.

Senator ANTIC: I want to stop you there. The position statement says that national boards expect health practitioners and students to provide accurate information and advice regarding COVID-19 vaccination. Who exactly determines what accurate advice is?

Mr Fletcher: Our reference point in relation to the accuracy of advice would be the public health guidance that was in place within each of the states and territories and the Commonwealth. If we were looking at issues around vaccines exemptions, we would look to the advice from ATAGI and we would also look to TGA as our major sources of advice.

Senator ANTIC: So, in effect, this is a great big bureaucratic stitch-up over the top of medical practitioners? It's a cartel, if you will, of regulatory totalitarianism? Is that how you'd describe it?

Mr Fletcher: I wouldn't describe it like that, no.

Prof. Murphy: It's a regulatory environment that works on the basis of the best available evidence.

Senator ANTIC: But the chain of command ultimately has been stifling medical practitioners?

Mr Fletcher: I don't accept that characterisation. I don't believe the data bears out what you're saying.

Senator ANTIC: What exactly constitutes an antivaccination statement?

Mr Fletcher: What we would look at is the guidance that is in place at the time, so when the statement was being made, and decide whether there was any issue with the consistency, as I say, with those authoritative sources that we would look to in terms of jurisdictions, TGA and ATAGI.

Senator ANTIC: You just do what the guys up the tree tell you to do; is that right?

Mr Fletcher: Sorry?

Senator ANTIC: You just do what the bureaucrats up the tree do?

Mr Fletcher: No.

Senator ANTIC: Follow suit like a conga line?

Mr Fletcher: I think it's also important to note that it is not AHPRA making the regulatory decisions about these practitioners. We have boards for each of the 16 regulated professions. There are 15 national boards.

They are comprised of practitioner members and community members. If needed, particularly if we were going to a tribunal with a matter, we would also probably seek expert opinion from a practitioner who is from within the profession of the practitioner that we're concerned about.

Senator ANTIC: Why is it, therefore, that AHPRA and indeed all of the bureaucratic conga line do not trust healthcare workers enough to provide advice for their patients who they see every day in conjunction with their own medical expertise?

Mr Fletcher: I don't believe that's the case. We do trust our health practitioners. The guidance that we issue, as I say, is entirely consistent with the code of conduct and is designed to make clear the obligations and expectations for our practitioners.
