Question on notice no. 5

Portfolio question number: Ahpra-2024.005

2023-24 Additional estimates

Community Affairs Committee, Australian Health Practitioner Regulation Agency Portfolio

Senator the Hon. James McGrath: asked the Australian Health Practitioner Regulation Agency on 21 February 2024—

Question 1: To what extent is Artificial Intelligence

(AI) being utilised in the Australian Health Practitioner Regulation Agency?

Question 2: Has the Australian Health Practitioner Regulation Agency been advised by any federal departments or agencies on how to develop policies and procedures on the utilisation of AI in the Australian Health Practitioner Regulation Agency? If so, please table this advice and correspondence.

Question 3: Does the Australian Health Practitioner Regulation Agency have any internal policies or procedures relating to the utilisation of AI in the Australian Health Practitioner Regulation Agency? If so, please table these internal policies and/or procedures.

Question 4: If there are internal policies or procedures relating to the utilisation of AI in the Australian Health Practitioner Regulation Agency, has there been any breaches of these policies and procedures? Please provide de-identified summaries of such breaches since May 2022.

Question 5: Please provide any correspondence, briefing notes, file notes, memoranda, emails, or other records relating to internal policies on AI since May 2022.

Question 6: Please provide any briefing notes, file notes, memoranda, emails, or other records relating to correspondence between the Australian Health Practitioner Regulation Agency and other federal departments and agencies on AI since May 2022.

Question 7: Has the Australian Health Practitioner Regulation Agency completed an assessment on the benefits of AI in the Australian Health Practitioner Regulation Agency? If so, when was this completed and what is the criteria for assessing a benefit? Please provide a copy of this assessment if applicable.

Question 8: Has the Australian Health Practitioner Regulation Agency completed an assessment on the risks that AI poses to the ability for the Australian Health Practitioner Regulation Agency to successfully execute its aims and objectives?

If so, when was this completed and what is the criteria for assessing a benefit? Please provide a copy of this assessment if applicable.

Question 9: Are there any cases of staff being reprimanded for the misuse of AI, such as using ChatGPT to complete reports or inputting confidential information into online chat boxes?
Answer —
Please see attached answer.

Senate Committee: Community Affairs Committee

QUESTION ON NOTICE

Additional Budget Estimates 2023-2024

Question Subject: Use of artificial intelligence (AI)

Type of Question: Written

Senator: James McGrath

Question:

Q1: To what extent is Artificial Intelligence (AI) being utilised in the Australian Health Practitioner Regulation Agency?

Answer:

Ahpra is not using Artificial Intelligence in the delivery of its regulatory functions.

Q2: Has the Australian Health Practitioner Regulation Agency been advised by any federal departments or agencies on how to develop policies and procedures on the utilisation of AI in the Australian Health Practitioner Regulation Agency? If so, please table this advice and correspondence.

Answer:

No.

Q3: Does the Australian Health Practitioner Regulation Agency have any internal policies or procedures relating to the utilisation of AI in the Australian Health Practitioner Regulation Agency? If so, please table these internal policies and/or procedures.

Q4: If there are internal policies or procedures relating to the utilisation of AI in the Australian Health Practitioner Regulation Agency, has there been any breaches of these policies and procedures? Please provide de-identified summaries of such breaches since May 2022.

Answer:

The Ahpra Information and IT acceptable use policy is being updated to incorporate specific generative AI guidelines, based on the *Interim guidance on government use of public generative AI tools – November 2023 | Australian Government Architecture* https://architecture.digital.gov.au/guidance-generative-ai.

Q5: Please provide any correspondence, briefing notes, file notes, memoranda, emails, or other records relating to internal policies on AI since May 2022.

Not applicable – refer to answer above.

Q6: Please provide any briefing notes, file notes, memoranda, emails, or other records relating to correspondence between the Australian Health Practitioner Regulation Agency and other federal departments and agencies on AI since May 2022.

Answer:

Ahpra has not sent correspondence to other federal departments and agencies about AI since May 2022.

In July 2023, Ahpra provided a submission to the Department of Industry, Science and Resources' *Supporting responsible AI discussion paper.* Our submission **is attached** and key points include:
- The use of analytics in practitioner regulation – noting we have now published our Data Strategy. Our summative understanding from consultation was one of general support for the use of advanced analytics in our regulatory role within a legal and ethical framework that support transparency and robust governance.
- Our broad approach to the use of AI by health practitioners – generally noting our expectation of requiring practitioners to meet current regulations applicable to AI (such as privacy legislation). Our Codes of Conduct make clear the responsibilities of health practitioners to put the needs and interests of patients first in their work.

Q7: Has the Australian Health Practitioner Regulation Agency completed an assessment on the benefits of AI in the Australian Health Practitioner Regulation Agency? If so, when was this completed and what is the criteria for assessing a benefit? Please provide a copy of this assessment if applicable.

Q8: Has the Australian Health Practitioner Regulation Agency completed an assessment on the risks that AI poses to the ability for the Australian Health Practitioner Regulation Agency to successfully execute its aims and objectives? If so, when was this completed and what is the criteria for assessing a benefit? Please provide a copy of this assessment if applicable.

Answer:

Ahpra has developed and consulted on a [Data strategy 2023-2028](#) which sets the strategic directions for the collection, use and disclosure of the data we hold and for future strategic data projects in the National Registration and Accreditation Scheme. One of the statements of intent in the Data Strategy is in relation to use of advanced analytics (including AI) in supporting health practitioner regulation and the principle that 'regulatory decisions are made by humans, supported by data.'

In this context, Ahpra has identified general benefits of an AI Strategy but has not yet undertaken more detailed work on benefits and risks.

In 2021, Ahpra contributed to a comparative study looking at developing an artificial intelligence (AI)–based tool for improving the consistency and efficiency of decision making in the nursing complaints process in three countries. The study was published in October 2021 in the Journal of Nursing Regulation.

Q9: Are there any cases of staff being reprimanded for the misuse of AI, such as using ChatGPT to complete reports or inputting confidential information into online chat boxes?

Answer:

No.

17 July 2023

Technology Strategy Branch
Department of Industry, Science and Resources
Australian Government

Dear Technology Strategy Branch

Ahpra and National Boards' submission on the *Supporting responsible AI: discussion paper*

The Australian Health Practitioner Regulation Agency (Ahpra) and National Boards welcome the opportunity to provide feedback to the consultation on supporting responsible AI and recognise the substantial work being undertaken to mitigate any potential risks of AI and support safe and responsible AI practices.

Our submission provides an overview of our work relevant to the issues raised in the discussion paper and our experience as a regulator.

While we appreciate that you may be familiar with the National Registration and Accreditation Scheme (National Scheme) we've included some background in case it is helpful to give context to our feedback.

Background

The Ahpra and the fifteen National Boards regulate registered health practitioners in sixteen professions through the National Scheme under the Health Practitioner Regulation National Law, as in force in each state and territory (the National Law). Our primary role is public protection, and we adopt a risk-based approach to regulation, taking action proportionate to the future risk of harm.

National Board standards, codes and guidelines

Each National Board sets a regulatory framework for the profession it regulates in addition to requirements in the National Law. Standards, codes and guidelines set out the respective National Board's requirements and expectations in relation to:
- registration - registration standards define the requirements that applicants, registrants or students need to meet to be registered
- accreditation – accreditation standards define the requirements that education providers and their programs need to meet to ensure graduating students are suitably qualified and skilled to apply to register as a health practitioner
- professional standards, codes and guidelines - define the professional obligations that practitioners must meet to deliver effective regulated health services within an ethical framework and provide guidance to the profession.

This comprehensive and integrated regulatory framework enables rigorous assessment for entry to the relevant profession and requires registrants to meet clear requirements to remain registered.

Australian Health Practitioner Regulation Agency
National Boards
GPO Box 9958 Melbourne VIC 3001   Ahpra.gov.au   1300 419 495

Ahpra and the National Boards regulate these registered health professions: Aboriginal and Torres Strait Islander health practice, Chinese medicine, chiropractic, dental, medical, medical radiation practice, midwifery, nursing, occupational therapy, optometry, osteopathy, paramedicine, pharmacy, physiotherapy, podiatry and psychology.

Submission

While some of the issues raised in the discussion paper are beyond the scope of our regulatory role, we would like to provide the following information, noting the references in the discussion paper to health care and medical devices and that health has been flagged as a high-risk setting and area for AI.

We also note that the range of issues and risks will vary depending on the health professions involved.

Our use of advanced analytics in health practitioner regulation

We recently held public consultation on the development of our Data strategy. This consultation sought input from our stakeholders on how we should approach using advanced analytics and machine learning technologies. We heard that our stakeholders are supportive of us using advanced analytics within a robust legal and ethical framework to improve the efficiency and effectiveness of health practitioner regulation and to support health workforce planning. Transparency, robust data governance and ensuring humans continue to be involved in complex regulatory decision-making was important to our stakeholders.

Our consultation report is available here. We are working to finalise and publish our Data strategy soon.

We are also working on developing our legal and ethical framework to support the use of advanced analytics in our work regulating Australia's 850,000+ registered health practitioners, drawing on good practice examples in Australia and internationally, including your Department's work.

Health practitioners' use of AI

Registered health practitioners using AI technology in practice would be required to continue to meet the regulatory frameworks established by National Boards (standards, codes and guidelines referred to above) as well as any other specific guidance that National Boards may develop in future.

We also note that the health practitioners we regulate have to comply with current regulations applicable to AI, including privacy and AI specific legislation, e.g. Radiologists would continue to have to comply with any broader legislative or regulatory requirements established for AI.

It is imperative that, where relevant, a human element remains in the use of AI within healthcare decision making and that the health practitioner, in conjunction with the patient, remains the final decision-maker. This is consistent with the emphasis in National Boards' Codes of Conduct or equivalent about patient/client centred care. For example, the shared Code of Conduct for 12 professions outlines the responsibilities of the health practitioner and contributes to the Board's regulatory approach to work in partnership with patients and putting patient safety first.

The section in the discussion paper on potential for bias is well-described. It is important that the Therapeutic Goods Administration, as the regulator of medical devices, is engaged with the approval of devices using AI for medical reasons and considers technical standards including validation of findings and potential for bias in its approach to approving devices. We are considering the impacts of bias in our data and it is important that registered health practitioners consider the underlying bias that exists within medical data specifically related to underrepresented groups and priority populations.

Cultural safety for Aboriginal and Torres Strait Islander Peoples

We support an approach to collecting and using data that considers cultural safety for Aboriginal and Torres Strait Islander Peoples.

This recognition is grounded within the aspirations inherent within the National Scheme's Aboriginal and Torres Strait Islander Health and Cultural Safety Strategy 2020-2025. In recognising our ongoing commitment to recognising the voices and needs of our Aboriginal and/ or Torres Strait Islander health consumers and health practitioners we are actively working to ensure our future Data Strategy reflects the principles of cultural safety and good data governance.

Thank you for the opportunity to provide this response. We support and share the government's commitment to support safe and responsible development and adoption of AI. We would welcome the opportunity to meet with the Technology Strategy Branch to discuss our response further.

If you have any queries regarding the information provided, please contact Helen Townley, National Director, Policy and Accreditation by emailing

Yours sincerely

Chris Robertson
Executive Director, Strategy and Policy