HEALTH RIGHTS & COMMUNITY ACTION Inc

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Committee's Secretary,
Mr Richard Willis,
Legal and Social Issues Committee
Legislative Council
Parliament House
Spring Street
Melbourne
VIC 3002

1/3/2013

Dear Mr Willis,

Re: Inquiry into the Performance of the Australian Health Practitioner Regulation Agency.

HR&CA is a South Australian consumer group established in 1996, and has been promoting consumer health rights and better health complaint processes since that time. A membership pamphlet is attached to provide more background.

In our work, Health Rights and Community Action (HR&CA) we had previous/extensive dealings with the Medical Board of SA (MBSA) and more recently with AHPR, and value this opportunity to provide a view of the AHPRA, from a consumers experience/perspective.

Last financial year AHPRA's expenditure was over $150 million, with this expenditure not being well accounted for in their Annual Report.

HR&CA are appreciative of the opportunity to submit our concerns regarding the operations of AHPRA and believe our submission will assist this inquiry.

AHPRA was established as a result of the COAG Agreement and a meeting of COAG on the 26 March 2008 agreed to establish the scheme by 1 July 2010 with clear objectives.

> *"**5. OBJECTIVES ...***
>
> *5.3 The objectives of the national scheme, to be set out in the legislation, are to:*
>
> *(a) provide for the **protection of the public** by ensuring that only practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered;*
>
> *(b) **facilitate workforce mobility across Australia** and reduce red tape for practitioners;*
>
> *(c) facilitate the provision of high quality education and training and rigorous and responsive assessment of overseas-trained practitioners;*
>
> *(d) have regard to the public interest in promoting access to health services; and*
>
> *(e) have regard to the need to enable the continuous development of a flexible, responsive and sustainable Australian health workforce and enable innovation in education and service delivery.*
>
> ***5.4 The scheme will operate under the following principles, to be set out in the legislation:***
>
> ***(a) it should operate in a transparent, accountable, efficient, effective and fair manner;***
>
> *(b) it should ensure that **fees and charges are reasonable**; and*
>
> *(c) it should recognise that restrictions on the practice of a profession should only occur where the benefits of the restriction to the community as a whole outweigh the costs."*

What evidence is there that AHPRA has achieved its objectives of:

- Public protection?
- Effective workforce mobility? If so, where is the evidence that this is occurring?
- Public interest in promoting access to health service? How does the existence of AHPRA promote access to health services, which health services are public/private are concerned? Primary Health Services, Medicare Locals, GP Pluses, ...

We have little evidence to trust that APHRA follows their own principles;

- Transparency.
- Accountability.
- Efficiency.
- Effectiveness.
- And fairness.
- Fees and charges are reasonable.
  - Has AHPRA sought feedback re the fees and charges from registered health practitioners?
  - Are the fee increases in line with CPI?
- Who makes the determination of where the benefits of the restriction to the community as a whole outweigh the costs of restrictions to whom?

"2. PREAMBLE

2.1 In 2005, the Commonwealth Government asked the Productivity Commission to undertake a research study to examine issues impacting on the health workforce ***including the supply of, and demand for, health workforce professionals and propose solutions to ensure the continued delivery of quality healthcare over the next 10 years. ..."***

HR&CA believes none of the above objectives or principles have been achieved.

1. The Regulatory Efficacy of AHPRA

We note that in Mr Fitzgerald's evidence he made reference to how pre AHPRA the Boards were "*good boards, in Victoria*". We too, saw the Medical Practitioners Board of Victoria (MPBV) along with NSW as best example of a medical registration bodies dealing with complaints in Australia.

Historical Comparison

Statistical comparisons of the MPBV and MBSA show the number of complaints that went to Tribunal or a formal hearing were substantially higher than their SA counterpart.

I.e. Table of comparison from the2000 MPBV Annual Report and the MBSA

MPBV	**MPBV**	**MBSA**	**MBSA**
Complaints lodges	582		242
	Board decisions outcomes		Board decisions outcomes
No further investigation	235 (64%)	SA Insufficient evidence/ no further action	163 (67%)
Referred to Informal Hearing	81(a) (22%)		
		SA interviewed or counselled by Complaints Advisory Committee	36 (15%)
		Referred to **formal inquiry**	**8 (3%)**
		Awaiting legal advice	33
		Awaiting Medical Board Inquiry	3
Referred to Formal Hearing	49 (b) (13%)		5 (2%)
Formal Hearing	19 (3%)	Tribunal	3 (1%)
Referred to Health Committee	2 (>1%)		No info provided

MPBV Outcomes

- During 2000 the MPBV held 109 informal hearings with 47 (43%) resulting in unprofessional conduct, 58 (53%) the allegation was not proven and 4 referred to formal hearing. (Page 24)
- 11 matters resulting in Allegations Established Unprofessional Conduct of a Serious Nature,
- 3 matters resulting in Allegations Established Unprofessional Conduct Not of a Serious Nature
- 2 Allegations were not established,
- 3 Adjourned/Incomplete.

The MPBV in all cases where the allegations against the practitioner were established named practitioners, the allegations noted and the findings/determination reported. This level of reporting and detail has not occurred since AHPRA. To obtain any detailed information the only option is the record of formal hearings accessible via Austlii.

By contrast the **MBSA 2000 Annual Report provided no other information in relation to outcomes** other than that in the above table, with only one medical practitioner being named since 2000 to the present time. There was and still is no transparency of the MBSA's process or outcomes.

a) South Australian Ombudsman Brought More Transparency to the MBSA

Many HR&CA members lodged complaints with the Medical Board of South Australia. They felt their complaints were not dealt with appropriately, so our members and other aggrieved consumer lodged complaints with the SA Ombudsman regarding the MBSA.

As a result these complaints re the MBSA with the assistance of the SA Ombudsman developed better procedures in 1999, with the MBSA publication "*Requirements and Procedures for Dealing with Matters of Complaints Concerning Registered Medical Practitioners 1999"*. Page 16 of the book spelt out including consumers in the investigation process.

> I.e. "*In addition, steps have recently been taken to ensure that* ***factual material provided by a practitioner in response to a complaint will be checked and verified with the complainant and that the complainant has an opportunity to comment thereon as part of the investigative process*****."**

Under the new legislation lodging a complaint with the State Ombudsman is no longer an option for South Australian consumers. Similarly we understand that consumers in Victoria could lodge an appeal re the outcome of their complaint with The Victorian Civil and Administrative Tribunal (VCAT). This avenue is also no longer available.

Now consumers can lodge a complaint with the National Health Practitioner Ombudsman (NHPO). 2 members of our group who have had dealings with this authority found that the NHPO is an inaccessible and unwelcoming process that lacks impartiality.

From the AHPRA 2011-12 Annual Report:

"*AHPRA directly received 73 complaints from the NHP Ombudsman. Of those, 71 were resolved, with two pending.*

- *Major issues included:*
- *• Complaints related to registration fees*
- *• Complaints related to the English language requirements*
- *Time to assess and process a new registration*
- *Time to assess and process a renewal*
- *Time to assess and process an overseas application or renewal*
- *Lack of communication regarding registration*
- *Due process of investigations not followed*
- *Inadequate communication regarding a notification matter*
- *Delay in investigation of a notification*"

The NHPO 2010-11 reported 189 complaints, with only 6 outcomes reported as case studies. There is still no NHPO 2011-12 Annual Report (accessed on 27th February 2013).

Our experience suggests the best form of contact with the NHPO is either by letter or email as the office is only staffed on a temporary basis. Here is some cuts from a consumer's correspondence with the NHPO to highlight the problem.

One person rang the NHPO and left several messages regarding a complaint about AHPRA's process but received no response. They then sent an email, receiving an automatic response:

> "*Original Message From: nhpombudsmanprvacy@health.vic.gov.au To: <XXX> Sent: ... Subject: AUTO: nhpombudsmanprivacy is out of the office (returning 01/11/2010) I am out of the office until 01/11/2010. I will be out of the office from 6 October until 1 November http://www.nhpopc.gov.au/ If you wish to obtain a complaint form please visit www.nhpopc.gov.au. Note: This is an automated response to your message "Meeting Procedure" sent on 21/10/10 15:27:36. This is the only notification you will receive while this person is away."*

After waiting 14 days after the person was due to return and still receiving no response, the person sent another email requesting contact

> "*From: XXX To: nhpombudsmanprivacy@health.vic.gov.au> Cc: "YYY Date: 15/11/2010 08:47 AM Subject: Re: nhpombudsmanprivacy is out of the office (returning 01/11/2010)*
>
> *Dear Ombudsman/Commissioner It is now 14 days since your advised return to the office and I have not received a reply ... Sincerely XXX*"

Below is the **full response the person received** (the name has been replaced with XXX)

> "*To: XXX Sent: Monday, November 15, 2010 1:33 PM Subject: Re: nhpombudsmanprivacy is out of the office (returning 01/11/2010)*
>
> ***I will follow up with AHPRA. Please note I will follow up with your correspondence as my work schedule allows.*** *Ian Pollerd Manager Office of the National Health Practitioner Ombudsman and Privacy Commissioner 30/570 Bourke Street Melbourne 3000 T 03 86015234 F 03 86015895*"

Mr Pollerd then wrote to the person dated 30th Nov 2010:

> "*Dear Ms X, Thank you for your complaint emailed to this office dated 21 October 2010. I contacted AHPRA with your concerns. AHPRA have since provided you with a letter dated 22 November 2010. Meetings of the Medical Board of Australia (including committees) are not formal hearings. ... Clause 12 Schedule 4 of the National Law provides that the procedure for conduct of business at meetings of National Boards or their committees are determined by the National Board. The Medical Board of Australia has determined the meetings of the South Australian Professional Standards and Performance Committee are to be for members and appropriate AHPRA staff only. This office will take no further action in relation your complaint*
>
> *Yours sincerely Ian Pollerd*"

In other words the NHPO does not investigate or decide if procedural fairness has been adhered to, instead it takes the response received as the way the matter will be handled. Any authority requires an effective watchdog/mediator; AHPRA now has no such watchdog. Appendix A is an example of recent contact with the NHPO.

b) Consumers Court Action Added to More Transparency to the MBSA

Some of our members lodged Freedom of Information applications for MBSA documents, with 3 people, John Shepperd, Kathleen Poynter and myself, Pam Moore all applying to the District Court for access. We were all successful in obtaining documents, with my Judgment no: [2001] SADC 106, Moore vs. the Registrar of the Medical Board of SA delivered 8 August 2001 provides the Board with the judicial responsibility to allow the true complainant to be present at such meetings. The Judgement also alluded to many problems within the MBSA. For example; "*The belated response to the complainant was cryptic in the extreme ...* "

c) SA Parliamentary Inquiry into the MBSA

The Statutory Authorities Committee of the SA Parliament made significant recommendations (Full 2006 and 2007 recommendations Appendix A) regarding the operations of the MBSA. Many of these recommendations were taken up. Below are a few cuts from the inquiry and recommendations.

A. ***"5. RECOMMENDATIONS***

8.2 The complaints procedure

Recommendation 4 *The Medical Board of South Australia be stripped of its powers to investigate complaints and undertake disciplinary hearings in relation to medical practitioners, providers and medical students. "*

This was because the MBSA was not protecting the public.

B. **Some medical practitioners also expressed concerns with the MBSA's process.**

"*Dr Harry Nash (Medical Practitioner) wrote in his submission that his dealings with the Board were of a most biased, unjust and punitive nature.*

He went on to say: 11 The Medical Board has operated in a heartless and adversarial manner. ***It lacks the basic tenets and code of ethics involved in the fundamental processes of Natural Justice. It seems to ignore the basic elements of human dignity and compassion towards the general public and certain medical practitioners***."

C. **"*8.4 Drug affected medical practitioners. Recommendation 14*** *All medical practitioners and interns practising in a clinical environment be subject to random drug testing with zero tolerance*."

The Parliamentary Inquiry heard how the MBSA had known of at least two medical practitioners who had been addicted to drugs and had failed to act to protect the public for several years.

D. **"*Recommendation 16*** *Findings and decisions in full of the responsible body and the Tribunal be published both on the website and in the Annual Report with full names, unless a suppression order is in place*."

The MBSA had not made information about medical practitioners who had acted inappropriately public, which had put the public at more risk. Unfortunately the MBSA never followed this recommendation. (Confirmation via Austlii)

E. **"*Recommendation 5*** *Certificates of Good Standing must not be issued to medical practitioners under current investigation. The certificate must clearly display all past guilty findings by the responsible body and the Tribunal*."

The MBSA had given a "*Certificate of Good Standing*" for a SA medical practitioner to practice in NSW, even though the MBSA was investigating this practitioner for infecting numerous patients with Hep C. This practitioner was addicted to morphine; he would inject patients who did not need morphine with some after injecting most of the morphine into himself.

All of the above influenced the positive result so that by the late 2000's the MBSA dealt with complaints in a better manner, with the last MBSA Annual Report states;

"*2% of notifications resulted in disciplinary proceedings being instituted against the registered person*." (AR 2008-09 page 26).

The Annual Report gave the background and outcome for the 4 Tribunal Hearings and 2 Board hearings. That year the MBSA received 243 notifications.

Since AHPRA

However since the inception of AHPRA there has again been a lack of transparency and no consumer complaints regarding South Australian medical practitioners have had publically reported outcome.

The Use of the Term Notifier Rather than Complainant.

HR&CA understands AHPRA's process is about public safety. Our concern is with the term notifier, rather than complainant disenfranchises the consumer/complainant rights.

The term "Notifier" denies the consumers' rights to a proper process as defined in the International Standard (ISO 10002:2004, MOD). The standard provides guidance for complaints handling processes for services and products within an organisation. "... *within an organization, including planning, design, operation, maintenance and improvement. The complaints-handling process described is suitable for use as one of the processes of an overall quality management system."*

The ISO standard:

a*) enhancing customer satisfaction by creating a customer-focused environment that is open to feedback (including complaints), resolving any complaints received, and enhancing the organization's ability to improve its product and customer service;*

b) top management involvement and commitment through adequate acquisition and deployment of resources, including personnel training;

c) recognizing and addressing the needs and expectations of complainants;

d) providing complainants with an open, effective and easy-to-use complaints process;

e) analysing and evaluating complaints in order to improve the product and customer service quality;

f) auditing of the complaints-handling process;

g) reviewing the effectiveness and efficiency of the complaints-handling process."

Since AHPRA this standard does not apply, so the handling of complaints/concerns regarding health practitioners are not subject to any recognised standard. This means that one of the important functions of AHPRA are subject to a piecemeal approach and therefore makes efficacy of health registration is questionable.

HR&CA is also concerned with consumer satisfaction in the complaints process. Consumers that decide to complain, do so because they do not want the same thing to happen to others. It's the complainant that is concerned for public safety. In HR&CA's 17 year experience we have only ever heard people say, "*I am speaking out to stop others going through the same experience*".

If this term is to be used it requires a standard for process to be measured against.

Outcomes of Notifications

Number of South Australia Voluntary Notifications Resulting in Tribunal Hearings for				
Profession	**2010 – 11** (page 58 AR)	**2011-12** (page 86 AR)	**Hearings**	
Chiropractor	**22**	**19**	**1**	**2%**
Dental practitioner	**69**	**32**	**6**	**6%**
Medical practitioner	**308**	**207**	**0**	**0***
Midwife & Nurse	**288**	**162**	**20**	**4%**
Optometrist	**5**	**3**	**-**	
Osteopath	**1**	**1**	**-**	
Pharmacist	**29**	**16**	**1**	**2%**
Physiotherapist	**8**	**13**	**-**	
Podiatrist	**5**	**4**	**-**	
Psychologist	**22**	**26**	**-**	

***There was 1 hearing in SA regarding a medical practitioner Tribunal Hearing but it was a mandatory notification.**

http://www.austlii.edu.au/au/cases/sa/SAHPT/2012/4.html

1. "These proceedings before the Tribunal are for the purposes of enquiring **into a complaint** (now amended) laid against a medical practitioner Dr C, on 31 January 2012 by the Medical Board of Australia.
2. It is alleged against Dr C that during the period 2 Jul 2009 to 25 May 2011 she self administered:

(a) Morphine or morphine sulphate, ...
(b) Diazepam, ... and
(c) Endone ...."

"*38. However the Tribunal wishes to emphasise that the conduct complained of is such that ordinarily the Tribunal would have been inclined to impose a period of suspension in the order of the period over which the practitioner has ceased to practise but in this case, imposes no period of suspension*."

This is the only matter Australia wide where a practitioner has been found guilty under the Act and not named.

In other words for 515 complaints since AHPRA there have been no publically reported outcomes.

Comparison for voluntary notifications outcomes since AHPRA for Victoria and Queensland.

Number of Victorian Voluntary Notifications Resulting in Tribunal Hearings per Profession and year				
Profession	2010 - 11	2011 -12	Hearings	
Chiropractor	17	29	3 (all for same person)	7%
Dental practitioner	285	195	17 (5 for same person)	4%
Medical practitioner	836	743	46	3%
Midwife & Nurse	236	328	7	1%
Optometrist	8	14	2	9%
Osteopath	7	4	1`	9%
Pharmacist	98	88	3	2%
Physiotherapist	27	20		
Podiatrist	15	10		
Psychologist	102	96	15	8%

Number of Queensland Voluntary Notifications Resulting in Tribunal Hearings for				
Profession	**2010 – 11** (page 58 AR)	**2011-12** (page 86 AR)	**Hearings**	
Chiropractor	**25**	**26**	**1**	**2%**
Dental practitioner	**230**	**162**	**6**	**6%**
Medical practitioner	**1050**	**866**	**22**	**1%**
Midwife & Nurse	**277**	**330**	**19**	**3%**
Optometrist	**10**	**6**	**-**	
Osteopath	**4**	**1**	**-**	
Pharmacist	**114**	**57**	**8**	**5%**
Physiotherapist	**22**	**15**	**-**	
Podiatrist	**8**	**62**	**-**	
Psychologist	**110**	**26**	**2**	**1%**

States & Territories Medical Board Hearing not covered in the tables.

- NSW - 42 Hearings
- Tasmania - 5 Hearings
- ACT - 2 Hearings,
- Western Australia -2 Hearings
- Northern Territory is the only other have had no Hearings.

To obtain the above statistics on Medical Board hearings Austlii was used, as AHPRA Annual Reports do not contain information on hearings per profession and State. There is no transparency with the current process.

2. Cost Effectiveness of AHPRA

HR&CA concerns regarding the MBSA, their complaints process led us to explore how they were spending their budget. Perusal of their Annual Reports (1995- 2001) revealed that **over a 6 year period the MBSA expended more than $568,000 or 5% of their funds on conferences**.

We also noted that the money spent on investigations were far less in SA than their interstate counterparts.

I.e. Comparisons with other States, Victoria and WA in particular, who had only spent $125,000 (0.5%) and $76,000 (0.9%) respectively for the same 6 year period highlighted there was a problem. In particular 2000 - 01, the MBSA had spent $190,000 of the $1.7 million income or 10% on conferences.

HR&CA lodged a FOI request with the MBSA for 2000 - 01. The information we received, revealed the MBSA had spent around $50,000 hosting a 2 day convention for less than 90 people. Expenditure included 250 bottles of wine (up to $50.00 per bottle wholesale) for the opening dinner with less than 100 attendees.

Since AHPRA there has been no reporting of conference or catering expenditure. However the 2011-12 AHPRA Annual Report stated:

> *"ran the second national conference with state and territory boards of the Board and senior staff from AHPRA; ..."*

As reported to the Inquiry by Mr Fitzgerald AHPRA had over 1200 meetings of various parts of the scheme last financial year.

The Annual Report states, $10.966 million was spent on Board sitting fees, $2.862 million was spent on travel and accommodation. What were the other costs associated with the 1200 meetings?

The exclusion of conference or catering expenses from the Annual Report means that AHPRA is less transparent than before.

As an example of concerns regarding the cost effectiveness of AHPRA, part time nurses and midwives registration fees have increase by nearly 100% since AHPRA. ~~As well as these increases nurses are now required to have indemnity insurance for registration, this insurance provided by membership to the ANMF. Whilst we can see the benefits of insurance we feel this is an excessive cost burden on the nursing and midwifery profession on top of higher registration. We also feel the requirement to be a Union member is in contravention to the overarching principles of the COAG agreement, as the higher costs associated with registration will mean that those who work part time may decide the costs associated with registration mean that they will no longer work as nurses. Further the requirement for union membership would appear to be anti competitive.~~ (Note the above strike out section was removed on 15th March 2013.)

On the 27th of February 2013, we contacted AHPRA seeking clarification as to why registration fees had increased significantly, and were told by the NSW AHPRA officer, it was because of a significant increase of consumer complaints. She went on to say that part of the registration fees went to the State and Territories health complaints authorities. Checking the last AHPRA Annual Report, page 113, no expenditure was allocated to such authorities. This comment concerns us as AHPRA; the body that have a responsibility to investigate complaints and to appropriately respond to complainants are simultaneously 'scapegoating' complainants.

The Productivity Commission Report Impact of COAG Reforms released on 15 May 2012. Page 220 states:

> *The new Scheme is designed to improve the efficiency of the system of accreditation and registration, as well as the labour market for health professionals more generally. These benefits are derived from:*

- *Achieving economies of scale. Registration boards generally performed similar functions (for example, processing registrations, collecting data, maintaining registries and administering disciplinary procedures). Under a national system,* ***it is possible to derive cost savings from reducing the duplication of infrastructure and processes underlying the regulatory system (for example, it is easier to maintain one IT system than several dozen).***

Similarly, registration and accreditation of smaller professions in smaller jurisdictions is likely to have been below 'efficient scale'. To the extent that administrative effort and resources, including overhead costs, could be spread more efficiently, national arrangements offer the potential to ***reduce costs of regulatory oversight****. Additionally, as a single national purchaser, AHPRA may be able to negotiate substantial savings in the procurement of external legal services (compared to the multiple, lower volume arrangements under the previous system).*

The substantial increase in registration shows that no cost savings have been achieved through the National Registration Scheme.

3. The Ability Of The National Scheme To Protect The Victorian Public

Because there is now portability of health practitioners' registration through AHPRA the ease of movement of practitioners between States and Territories is unencumbered.
Therefore the lack of outcomes from voluntary notifications in SA compromises the safety across the whole nation, including Victoria.

In summary HR&CA believe the inception of AHPRA has created a significant increase in costs to health practitioners, with less transparency and accountability, well as a loss of many past improvements in complaint processes achieved by consumers.

The public want a safer and more effective health care system. To achieve this consumers need to have an effective feedback mechanism into the healthcare system. There is no evidence that AHPRA have achieved this.

In closing we would like to share with you the following quote from The Australian Council for Safety and Quality in Health Care (Pre ACSQHC), Complaints Management Handbook for Health Care Services:

> *"Consumer complaints are, therefore, a unique source of information for health care services on how and why adverse events occur and how to prevent them.* ***As well as reducing future harm to patients, better management of complaints should restore trust and reduce the risk of litigation, through open communication and a commitment to learn from the problem and prevent its recurrence****."*

We welcome the opportunity to elaborate on our submission to the Parliamentary Inquiry.
Yours sincerely,

Pam Moore
Coordinator

Olympia Kourakis
Chairperson

Appendix A

Full email contact with NHPO, spacing has been changed to save space.

"***From:*** *Complaints [mailto:nhpombudsmanprivacy@nhpopc.com.au]*
Sent: *Thursday, 7 February 2013 9:06 AM* ***To:*** *Pam Moore* ***Subject:*** *RE: Wanting information*
Dear Ms Moore
Maybe you could provide a phone number and we can discuss your email in full
thanks
Ian Pollerd ***Senior Investigations Officer***

National Health Practitioner
Ombudsman & Privacy Commissioner

ADDRESS: Suite 2310, Level 23, 40 City Road, SOUTHBANK VIC 3006
PHONE: 03 9674 0420 or 03 9674 0421 FAX: 03 9674 7334 WEB: http://www.nhpopc.gov.au/
From: *Complaints [mailto:nhpombudsmanprivacy@nhpopc.com.au]* ***Sent:*** *Thursday, 7 February 2013 8:58 AM* ***To:*** *Pam Moore* ***Subject:*** *RE: Wanting information*
Dear Ms Moore
You have my phone number and you have my email address.
I find your email abusive, rude and insulting!
Ian Pollerd ***Senior Investigations Officer***

National Health Practitioner
Ombudsman & Privacy Commissioner

ADDRESS: Suite 2310, Level 23, 40 City Road, SOUTHBANK VIC 3006 PHONE: 03 9674 0420 or 03 9674 0421 FAX: 03 9674 7334 WEB: http://www.nhpopc.gov.au/
From: *Pam Moore [mailto:pammoore1@iprimus.com.au]* ***Sent:*** *Wednesday, 6 February 2013 6:03 PM*
To: *Complaints* ***Subject:*** *FW: Wanting information* ***Importance:*** *High*
Dear Mr Pollerd,
I am appalled at your practice. I first rang your office in mid January leaving my phone number and received no response. ***A week later I emailed you to find out when I could speak to someone****, the responses I received showed that there is no option for a person to speak to someone from the office.*
I note the first year of operations the office "commenced receiving enquiries and complaints on 1 October 2010." and that you went on leave on in the second week of October for 3 weeks. That year you received a salary of $66,035.00. There has been no Annual Report for 2011-12, which is probably in breach of the Commonwealth Ombudsman's Act.
I am from a consumer advocacy organisation and wanted to discuss your processes, in relation to a consumer I am assisting, possibly putting in a complaint to the NHPO. This person's partner died after poor care from registered health practitioners. I do not want this person to go through another terrible process if there is no chance of any action, and where she will not be treated courteously. From the communication to date, I strongly suspect it would be a waste of her time and would result in more grief for her.
The NHPO webpage states:
"Our values

- ***independence***
- ***fairness***
- ***impartiality***
- ***integrity***
- ***accessibility"***

If you can't even tell a person when your office is open it is not an accessible service*. I also question any of the other values stated above, if you cannot even communicate politely and respectfully with the public.*

People working to improve the safety & quality of health services

Yours sincerely

Pam Moore Centennial Medallist for Health Consumer Advocacy

From: *Complaints [mailto:nhpombudsmanprivacy@nhpopc.com.au]* ***Sent:*** *Wednesday, 6 February 2013 11:49 AM*
To: *Pam Moore* ***Subject:*** *RE: Wanting information*

Pam

I look after the 14 National Boards and work part time.

I advise you to put your complaint in an email or download a complaint form.

Ian Pollerd ***Senior Investigations Officer***

National Health Practitioner
Ombudsman & Privacy Commissioner

ADDRESS: Suite 2310, Level 23, 40 City Road, SOUTHBANK VIC 3006
PHONE: 03 9674 0420 or 03 9674 0421 FAX: 03 9674 7334 WEB: http://www.nhpopc.gov.au/

From: *Pam Moore [mailto:pammoore1@iprimus.com.au]* ***Sent:*** *Wednesday, 23 January 2013 10:47 PM*
To: *Complaints* ***Subject:*** *RE: Wanting information*

Dear Mr Pollerd,

I left a message last week, on Wednesday 16th January, leaving my phone number. I rang 03 9674 0420 & the message stated the office is open on a temporary basis & to leave a message. (I did wait home for the call to be returned, but the call was never returned.)

What I want to know is when can I ring to speak to someone re an AHPRA complaint. I have a busy schedule, but I want to phone at a convenient time to speak to someone when the office is open. Please advise.

Yours sincerely

Pam Moore

From: *Complaints [mailto:nhpombudsmanprivacy@nhpopc.com.au]* ***Sent:*** *Tuesday, 22 January 2013 11:36 AM* ***To:*** *Pam Moore* ***Subject:*** *RE: Wanting information*

I would advise you to leave a message on the phone or reply to this email with your query/complaint

thanks

Ian Pollerd ***Senior Investigations Officer***

National Health Practitioner
Ombudsman & Privacy Commissioner

ADDRESS: Suite 2310, Level 23, 40 City Road, SOUTHBANK VIC 3006
PHONE: 03 9674 0420 or 03 9674 0421 FAX: 03 9674 7334 WEB: http://www.nhpopc.gov.au/

From: *Pam Moore [mailto:pammoore1@iprimus.com.au]* ***Sent:*** *Tuesday, 22 January 2013 9:12 AM*
To: *nhpombudsmanprivacy@health.vic.gov.au* ***Subject:*** *Wanting information*

To whom it may concern,

I want to discuss a concern/complaint about AHPRA. I rang several times last week, recorded message only, then last Wednesday I left a message with my phone number – still no response. Could you please inform me when the office will be open so I can speak to someone.

Yours sincerely

Pam Moore"

People working to improve the safety & quality of health services

Appendix B

Recommendations of Inquiry into the Medical Board of South Australia

A) Interim Report of the Statutory Authorities Review Committee (43rd Report) (March 2006)

B) Final Report of the Statutory Authorities Review Committee (45th) (July 2007)

A) 5. RECOMMENDATIONS

8.2 The complaints procedure

Recommendation 4 The Medical Board of South Australia be stripped of its powers to investigate complaints and undertake disciplinary hearings in relation to medical practitioners, providers and medical students.

8.4 Drug affected medical practitioners

Recommendation 14 All medical practitioners and interns practising in a clinical environment be subject to random drug testing with zero tolerance.

8.5 Guilty doctors

Recommendation 15 The responsible body introduce a photo identification card system for medical practitioners and medical students, similar to that issued by the Office of Consumer and Business Affairs to licensed tradespersons, to include any current limitations of practice plus all guilty findings of the responsible body and Tribunal within the past ten years.

Recommendation 16 Findings and decisions in full of the responsible body and the Tribunal be published both on the website and in the Annual Report with full names, unless a suppression order is in place.

8.3 Communication and investigation timeframes

Recommendation 5 Certificates of Good Standing must not be issued to medical practitioners under current investigation. The certificate must clearly display all past guilty findings by the responsible body and the Tribunal.

Recommendation 6 The *Medical Practice Act 2004* be amended to require the responsible body for handling complaints in relation to medical practitioners to advise the medical practitioner and the complainant of its intended action within sixty days of receiving the response to a complaint.

Recommendation 7 For all complaints, a mediation conference, face-to-face, with all parties present, take place within sixty days of the response by the medical practitioner being received by the responsible body.

Recommendation 8 Statistics on complaint resolution timeframes be published, both in annual reports and on the website.

Recommendation 9 In the Complaints section of the website, the text be altered and a link to the HCSCC website be provided. As a result of the SA Ombudsman, a SA Parliamentary Inquiry into the MBSA, new MBSA staff, media involvement and court judgements the

Recommendation 10 The responsible body develop policies and standards which incorporate key elements of the Australian Standard on Complaints handling, AS 4269-1995. These policies and standards to be made available on the website.

Recommendation 11 The responsible body to appraise itself of high profile cases and decide if an investigation is warranted.

Recommendation 12 After completion of an inquest, if a Coroner has any concerns regarding the conduct of a medical practitioner, the responsible body must be advised and an investigation commence.

Recommendation 13 Section 51(1)(b) of the *Medical Practice Act 2004* be amended to read:

(b) a representative body or person; or

8.1 Defining the complaint

Recommendation 1 The Board publish the meaning of “vexatious” and “frivolous” both on the website and in annual reports, including examples of such complaints without identifying the complainant or the medical practitioner.

Recommendation 2 The definition of “unprofessional conduct” be published on the website and in annual reports.

Recommendation 3 The *Medical Practice Act 2004* be changed to include a secondary, lesser charge of ‘Unsatisfactory professional conduct’.

B) Final Report

5. RECOMMENDATIONS

Recommendation 1 The on-line registration database search of medical practitioners be altered to show, if a medical practitioner has current conditions or limitations, that conditions or limitations exist on their registration and the reason why.

Recommendation 2 The on-line registration database search of medical practitioners be altered to show, if a medical practitioner has had their registration currently suspended or cancelled, that the registration has been suspended or cancelled.

Recommendation 3 Guilty findings and decisions in full of the Board and the Tribunal be published both on the website and in the Annual Report with full names, unless a suppression order is in place.

Recommendation 4 The Board voluntarily implement an on-line medical practitioner profile, similar to that utilised in Massachusetts, to enable more comprehensive details of medical practitioners to be viewed.

Recommendation 5 The *Medical Practice Act 2004* be altered to include a clause requiring a medical practitioner profile able to be viewed in electronic format.

Recommendation 6 As part of the registration process at defined timeframes, a criminal record check be undertaken by all medical students and registered medical practitioners, either through the provision of a National Police Certificate or consent to a criminal record check through the Crimtrac Agency. These timeframes to be upon initial registration as a medical student (and every three years thereafter) and upon initial registration as a medical practitioner (and every three years thereafter).

Recommendation 7 The Board develop a form on which medical practitioners must declare that they have read and understood the code, and will abide by it – upon every instance of initial registration and renewal of registration.

Recommendation 8 Medical practitioners who have lodged a section 80 notification to be advised by the Board within sixty days of its intended action.

Recommendation 9 A synopsis of civil claims lodged and settled under section 80 of the Act be made publicly available on the website in full (without identifying the practitioner or the plaintiff) and a sample of such claims be printed in Annual Reports (again without identifying the practitioner or the plaintiff).

Recommendation 10 The *Medical Practice Act 2004* be amended to require the Board to advise the medical practitioner and the complainant of its intended action within sixty days of receiving the response to a complaint.

Recommendation 11 The *Medical Practice Act 2004* be amended to include a clause limiting section 47 authorities to six months.

Recommendation 12 The *Medical Practice Act 2004* be amended to become aligned with section 27 of the *Health and Community Services Complaints Act 2004,* however applications for extensions of time to be considered by the District Court.

Recommendation 13 The Board place definitions of the terms “medical unfitness” and “fitness” on the website in order that medical practitioners, medical students and health consumers are able to view them.

Recommendation 14 The Board to appraise itself of high profile cases and decide if an investigation is warranted.

Recommendation 15 The Board have the power to randomly drug test any medical practitioner and medical student who has responsibility for patient care.

Recommendation 16 The Board and the AMA (SA) collaborate to consider the establishment of a pilot doctor’s health program, similar to that established in Victoria and independent of the Board.

Recommendation 17 The Minister for Health consider an alternative model of registration and complaints, for one registration authority for all regulated health professionals, similar to that operating in Queensland and the Northern Territory, to undertake the common legislated elements as listed in Table 20.

Recommendation 18 The Board adopt as provision in its Financial Report, as a minimum, the valuation of its property as set by Valuer-General of South Australia.

Recommendation 19 The Board contact the Public Sector Workforce Division of the Department of the Premier and Cabinet to determine their Crown exempt status in relation to workers compensation.

Recommendation 20 The MBSA engage an independent consulting firm to review all of its processes to ensure that it is operating in a customer-friendly and efficient manner in line with best practice service standards.

Recommendation 21 The Board consider as a priority the development of a secure on-line renewal system for medical students plus medical practitioners and specialists holding full registration.

Recommendation 22 The *Medical Practice Act 2004* be amended to include a secondary, lesser charge of 'Unsatisfactory professional conduct'.

Recommendation 23 Certificates of Good Standing must not be issued to medical practitioners under current investigation or subject to disciplinary action or those being monitored by the Doctors' Health Committee. The certificate must clearly display all past guilty findings by the Board and the Tribunal.

Recommendation 24 Where a complainant requests a mediation conference and the Board deems it a reasonable request, a face-to-face conference with all parties present shall take place within sixty days of the response by the medical practitioner being received by the Board.

Recommendation 25 Statistics on complaint resolution timeframes be published, both in annual reports and on the website.

Recommendation 26 The Board develop standard processes to form an appropriate judgement regarding what should be considered acceptable standards for specialised practices considered at the fringes of "standard" practice. This may take the form of a referral to the relevant Royal College for advice, or to a standing panel of pre-selected experts.

Recommendation 27 In the Complaints section of the website, a link to the Health and Community Services Complaints Commissioner website be provided and the text amended to reflect the Commissioner's own website.

Recommendation 28 The Board develop policies and standards which incorporate key elements of the Australian Standard on Customer satisfaction-Guidelines for complaints handling in organizations AS ISO 10002-2006. These policies and standards to be made available on the website.

Recommendation 29 Section 51(1)(c) of the *Medical Practice Act 2004* be amended to read:

(c) a representative body or person; or

Recommendation 30 After completion of an inquest, if a Coroner has any concerns regarding the conduct of a medical practitioner, the Board must be advised and an investigation commence.

Recommendation 31 The Board publish the meaning of "vexatious" and "frivolous" both on the website and in annual reports, including examples of such complaints without identifying the complainant or the medical practitioner.

Recommendation 32 The definition of "unprofessional conduct" be published on the website and in annual reports.

Recommendation 33 In the initial letter to the medical practitioner and the complainant, a copy of the complaints process flowchart and a brochure detailing the investigation process, estimated timeframes and hearing process.

Recommendation 34 That the principles of fairness and natural justice be applied to all medical practitioners against whom a complaint has been lodged.

Recommendation 35 The procedures for hearings before the MBSA be distributed to both complainants and medical practitioners against whom a complaint has been made. Such procedures are also to be published on the MBSA website.

Recommendation 36 When the initial notification letter detailing the complaint is sent to the medical practitioner, enclosed must also be procedures for hearings. These procedures are to be published on the MBSA website.

Recommendation 37 The Board report back to the Committee in twelve months time as from the date of the tabling of this Report in Parliament. This report shall include the progress of the Board, implementation of recommendations, and the provision of data on improvements to the complaints management process.

APPENDIX J – RECOMMENDATION FROM THE HON N

XENOPHON MLC RE RANDOM DRUG TESTING

Doctors practising in a clincal setting can literally make life or death decisions for their patients. Impaired functioning caused by drugs or alcohol can have catastrophic consequences for patients. The patients infected by Dr Rabone and the coroner's findings with respect to Dr Mauro are recent cases in point.

The Committee's recommendation that there be random drug tests on medical practitioners is welcome. However, the effectiveness of such a move will be largely dependent on the number and frequency of tests conducted. If those

medical practitioners who have a substance abuse problem are aware that the liklihood of being tested in any 12 month period is remote then it is less likely that there will be a change in such behaviour.

Random drug testing of all medical practitioners on a twice yearly basis would be much likelier to provide a deterrence to those practitioners engaged in substance use that can impair their professional conduct.

Advances in drug testing technology and techniques mean that such testing does not have to be invasive or expensive. Information obtained from a company undertaking drug use detection by sweat analysis indicates that the cost of such testing and analysis is currently in the order of $55 per test. (Presumably the cost of mass testing would be much lower). Such testing detects cannabis used up to 24 hours earlier, and amphetamines, cocaine and opiates used up to 7 days previously.

The following summation from ”Narcotics Abuse Detection By Sweat Analysis with The Biosens Instrument”, by Per Månsson, Ph.D, Ann-Charlotte Hellgren Ph.D indicates:

 Objective: To meet the need for a reliable, quick and non-invasive method for detecting narcotics abuse.

 The BIOSENS system is a product which was developed between Biosensor Applications in collaboration with Maria Addiction Center (the largest addiction Center in Stockholm).

 Screening for narcotics abuse has traditionally been done by analysing urine, saliva or blood samples and today approximately 380 000 such tests are performed annually in Sweden alone.

 The screening method most commonly used today is based on analysis of urine samples using an immunoassay technique. The analysis of a urine strip test result requires a subjective determination of colour changes which can be difficult to interpret. *This method is an affront on personal integrity, time consuming, costly and can only be administered under certain settings.*

 The BIOSENS system can determine whether a person is under the influence of a narcotic by analysing sweat residue collected from the surface of the skin. Biosensor’s method builds on the recently commercialized biosensor instrument which was originally developed for traditional vapour and trace detection of narcotics and explosives for applications within correctional facilities, customs and law enforcement.

 It has been well documented through international research and publications that narcotics that have been ingested either intravenously, orally, nasally or through inhalation are initially found in the blood and transported to the surface of the skin primarily by the sweat mechanism.

 This transport occurs within the time frame of 1-2 hours after ingestion and the vast majority of narcotic that is “sweated out” has not been metabolized. By wiping the skin surface it is possible to collect the narcotic in question and thereafter analyse the samples collected.

 BIOSENS can be used to perform sweat analysis. The instrument can presently detect nanogram quantities of Cocaine, Opiates, Amphetamines, Ecstasy and an assortment of explosives such as TNT, PETN, RDX, and NG.

 The BIOSENS system provides for high sensitivity and selectivity with very low nuisance or false alarms.

 The method is quick, reliable, sensitive and cost effective. For the person undergoing investigation, the gathering of the sample is considerably less of an affront on personal integrity than the sampling requirements of urine or saliva based tests which is of considerable importance in situations such as roadside testing, workplace testing and so forth.

Materials and Methods:

 The Sweat sampling method is based on wiping the individual’s epidermis with a small sampling pad (BIOSENS filter) which can be immediately analysed by the BIOSENS apparatus.

 According to the collection protocol, the sample is obtained by wiping the inside of both elbows.

 Tests have shown that this collection site provides reproducible results and are easily accessed without infringing on the subject’s personal integrity and at the same time constitute a low risk of being accidentally contaminated from narcotics in the person’s environment.

 The collected sample is thereafter introduced into the analysis system. The entire procedure including sample collection and analysis takes only 1-2 minutes.

 This quick process should be contrasted with saliva or urine based testing with urine strips which can take 10-20 minutes. Furthermore, given the short time required for the sweat based detection process, it is very easy to validate a positive result with a second sample. Results:

 Biosensor together with Maria Addiction Center have conducted a study on approximately 300 patients sampled from the emergency room, addiction and outpatient wards. An optimized sampling protocol has been developed. All patients have been subjected to sweat sampling in parallel with urine strip screening in order to be able to compare results from both methods. The narcotics that have been sought are amphetamines, ecstasy, cocaine and opiates.

 Results from a series of 85 tested subjects with the final optimized sampling protocol show an excellent correlation between the results from urine strips and sweat analysis with the BIOSENS. The urine strips indicated 38 positive results while the sweat samples gave 36 positives from the same patients. In addition the BIOSENS detected narcotics in an additional 3 patients where the urine strips gave no response.

 A separate and detailed analysis of 17 patients under the influence of narcotics at time of sampling incorporated verification of our sweat samples and the urine samples screening results by Karolinska University Hospital-Huddinge. Several of the individuals were under the influence of more than one narcotic. BIOSENS sweat method was shown to produce the equivalent number of false negative results as the urine strips, i.e. 5%. Whereas there were no false positives for the BIOSENS results (0%), the urine strips were shown to produce 20% false positives. **This study indicated that the sweat analysis results were more reliable than those of the urine strips from the same patient group.**