



Information on notifications

20 January 2012

One of the ways in which the Board protects the community is by investigating notifications and, when necessary, subsequently managing medical practitioners when:

- they have been found to have engaged in unprofessional conduct or professional misconduct or
- they have been found to have engaged in unsatisfactory professional performance or
- when their health is impaired and their practice may place the public at risk.

The Board is 'notified' of an issue. The word 'notification' is deliberate and reflects that the Board is not a complaints resolution agency. It is a protective jurisdiction and its role is to protect the public by dealing with medical practitioners who may be putting the public at risk as a result of their conduct, professional performance or health.

The information below describes the process of dealing with a notification about registered medical practitioners under the Health Practitioner Regulation National Law Act (National Law) as in force in each state and territory.

Who can make a notification?

Anyone can make a notification to the Australian Health Practitioner Regulation Agency (AHPRA), which receives it on behalf of the Board. While registered health practitioners, employers and education providers may have mandatory reporting obligations imposed by the National Law, the majority of reports are voluntary.

Typically, notifications are made by patients or their families, other health practitioners, employers and representatives of statutory bodies.

The National Law provides protection from civil, criminal and administrative liability for persons who make a notification in good faith.

Grounds for voluntary notifications

Grounds for voluntary notifications about medical practitioners include that:

- the practitioner’s professional conduct is or may be of a lesser standard than that expected by the public or the practitioner’s professional peers
- the knowledge, skill or judgement possessed, or care exercised by the practitioner is or may be below the standard reasonably expected
- the practitioner is not, or may not be, a suitable person to hold registration
- the practitioner has, or may have, an impairment
- the practitioner has, or may have, contravened the National Law
- the practitioner has, or may have, contravened a condition of his or her registration or an undertaking given to the Board and/or
- the practitioner’s registration was, or may have been, obtained improperly.

Mandatory notifications

Information on mandatory notifications can be found in the Board’s “Guidelines for mandatory notifications” at <http://www.medicalboard.gov.au/Codes-Guidelines-Policies.aspx>.

Preliminary assessment

AHPRA and the Board take all notifications seriously.

After AHPRA receives a notification, the Board conducts a preliminary assessment to decide whether or not:

- the notification relates to a registered medical practitioner
- the notification relates to a matter that is grounds for notification and
- it is a notification that could also be made to a health complaints entity.

In deciding that a matter is grounds for a notification, the Board can consider a single notification or a number of notifications that suggest a pattern of conduct. The Board can also consider complaints made to a health complaints entity.

Relationship with the health complaints entity

The National Law requires the Board and the relevant health complaints entity in each state and territory to share complaints and notifications and to try to agree on how to deal with each complaint or notification. If the health complaints entity and the Board cannot agree, the most serious action proposed must be taken.

More information about the role of health complaints entities is available at <http://www.ahpra.gov.au/Notifications-and-Outcomes/Health-Complaints-Entities.aspx>

Board can decide to take no further action

The Board may decide to take no further action in relation to a notification if:

- the Board believes the notification is frivolous, vexatious, misconceived or lacking in substance or
- it is not practicable for the Board to investigate or deal with the notification, given the amount of time that has elapsed since the matter that is the subject of the notification occurred or
- the person to whom the notification relates has not been, or is no longer, registered and it is not in the public interest to investigate or deal with the notification or
- the subject matter of the notification has already been dealt with adequately by the Board or
- the subject matter of the notification is being dealt with, or has already been dealt with adequately by another entity.

The decision to take no further action can be made at any time during the assessment or investigation of a notification, but only after careful consideration of the issues raised.

A decision by the Board to take no further action in relation to a notification does not prevent the Board or a Tribunal (the independent authority in the courts system in each state and territory) taking the notification into consideration at a later time, as part of a pattern of conduct or practice by the medical practitioner.

Investigations

The Board may decide to investigate a registered medical practitioner if it believes that:

1. the practitioner has or may have an impairment or
2. the way the practitioner practises is or may be unsatisfactory or
3. the practitioner's conduct is or may be unsatisfactory.

The Board may also investigate to ensure that a practitioner is complying with conditions imposed on their registration or an undertaking they have given to the Board.

The investigation is conducted by an investigator appointed by the Board.

How the investigation is conducted depends on the facts of the case. It will usually involve the investigator seeking extra information to inform the Board's decision. This may include obtaining:

- further information from the notifier
- responses and explanations from the practitioner about whom the notification was made
- information from other practitioners involved in the care of the patient
- expert opinions
- police reports and/or

- data from other sources such as pharmacy records, Medicare Australia data and so on.

In almost every case, medical practitioners and students who are being investigated will know about the investigation. They are given notice of the investigation and information about what is being investigated. The only exception is when the Board believes that giving notice may seriously prejudice the investigation, or may place someone's health or safety at risk or may place someone at risk of harassment or intimidation.

After analysing the facts of the case, the investigator prepares a report for the Board's consideration.

Health assessment

The Board may require a medical practitioner to undergo a health assessment if it believes that the practitioner may have an impairment.

The health assessment is conducted by an experienced and appropriately-qualified, independent medical practitioner or psychologist.

The Board pays for the assessment and the assessor writes a report for the Board.

The practitioner who was assessed is given a copy of the report unless the Board believes it contains information that may be prejudicial to the practitioner's health or wellbeing, in which case it is given to a medical practitioner or psychologist nominated by the practitioner.

After receiving the report, the practitioner who was assessed must discuss the report, and ways of dealing with any adverse findings, with a person nominated by the Board. The person nominated to discuss the report will be a registered medical practitioner.

Performance assessment

The Board may require a medical practitioner to undergo a performance assessment if it believes that the way the practitioner practises the profession is or may be unsatisfactory.

Performance assessments are usually conducted by two (or more) independent medical practitioners who have the expertise to assess a practitioner in a particular field of practice.

A range of tools are used to assess the practitioner. Much of the assessment is usually conducted in the practitioner's place of practice and may include observation of consultations and/ or procedures, medical record reviews and case-based discussion. In some cases, the assessment may include simulation.

The Board pays for the assessment and the assessors write a report for the Board.

The practitioner who was assessed is given a copy of the report unless the Board believes it contains information that may be prejudicial to their health or wellbeing.

After receiving the report, the practitioner who was assessed must discuss the report, and ways of dealing with any adverse findings, with a person nominated by the Board. The person nominated to discuss the report will be a registered medical practitioner.

Actions the Board can take

The Board has the power to take a range of actions at any time after receiving a notification or after an investigation or a health or performance assessment.

These actions include:

- a decision to take no further action
- referral to another entity such as a health complaints entity or
- the Board can take immediate action if this is necessary to protect the health and safety of the public. More detail on this power is published in an information sheet at www.medicalboard.gov.au

If the Board believes that a practitioner's conduct or performance was unsatisfactory or his or her health was impaired, it can:

- caution the medical practitioner and/or
- accept an undertaking from them and/or
- impose conditions on the practitioner's registration.

Alternatively, the Board may decide to refer a matter to a:

1. Panel:

a. Health Panel or

b. Performance and Professional Standards Panel

or

2. Tribunal.

Note

The Medical Board of Australia has delegated all powers necessary to deal with individual practitioner's registration and notifications. References to "the Board" in this document mean "the delegated decision-maker".