

3 October 2024

Medical Board of Australia

By email: medboardconsultation@ahpra.gov.au

Public consultation regarding health checks for late career doctors

Thank you for the opportunity to provide a response to the public consultation on health checks for late career doctors.

Our submission is attached.

Please contact me or Ruanne Brell on the details below if you require any further information or clarification of matters raised in the submission.

Yours sincerely

[Redacted signature]

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Avant Submission to the public consultation – Health checks for late career doctors

Your details
Name: Georgie Haysom
Organisation (if applicable): Avant Mutual
Are you making a submission as? <ul style="list-style-type: none"><input checked="" type="checkbox"/> An organisation<input type="checkbox"/> An individual medical practitioner<input type="checkbox"/> Other registered health practitioner, please specify:<input type="checkbox"/> Consumer/patient<input type="checkbox"/> Other, please specify:<input type="checkbox"/> Prefer not to say
Do you give permission to publish your submission? <ul style="list-style-type: none"><input checked="" type="checkbox"/> Yes, with my name<input type="checkbox"/> Yes, without my name<input type="checkbox"/> No, do not publish my submission

General comments

Avant is a member-owned doctors' organisation and Australia's largest medical indemnity insurer, committed to supporting a sustainable health system that provides quality care to the Australian community. Avant provides professional indemnity insurance and legal advice and assistance to about 90,000 healthcare practitioners and students around Australia (more than half of Australia's doctors). Our members are from all medical specialities and career stages and from every state and territory in Australia.

We aim to promote quality, safety and professionalism in medical practice through advocacy, research and medico-legal education. We assist members in civil litigation, professional conduct matters, coronial matters and a range of other matters. Our Medico-legal Advisory Service provides support and advice to members and insured medical practices when they encounter medico-legal issues. Specifically, we also provide advice, information, education and support to members about impairment, medico-legal risks related to a practitioner's age, and health and retirement.

It is with this background that we provide our submission.

Avant supports a responsive, risk-based approach to regulation of medical practitioners, which requires regulators to take the least intrusive course of action that will protect the public from the risk of harm. We consider the proposed option 3 – regular health checks for registered doctors over 70 years of age – is the appropriate and proportionate response to the risks identified in the Consultation Regulation Impact Statement (CRIS).

In doing so, our key points include:

1. Avant supports the Board's proposed introduction of a health check for late career doctors given the data outlined in the Consultation Regulatory Impact Statement.
2. The specific nature and requirements of the health check should be flexible enough to be tailored to the late career doctor's individual circumstances so that the doctor performing the health check can appropriately exercise their clinical judgement.

3. If introduced, to manage this change, there needs to be detailed education and promotion of the new requirement for health checks, and this must be started well in advance of the requirement commencing.
4. Ongoing evaluation of the impact and effectiveness of the requirement must be undertaken and reported.

Feedback on the Consultation regulation impact statement

The Medical Board of Australia is consulting on three options to ensure late career doctors are able to keep providing safe care to their patients.

The details of the options for consideration are contained in the [consultation regulation impact statement](#).

1. Should all registered late career doctors (except those with non-practising registration) be required to have either a health check or fitness to practice assessment?

If not, on what evidence do you base your views?

We do not support the introduction of a requirement to undergo a fitness to practise assessment.

We support the Medical Board's proposal that all registered late career doctors (except those with non-practising registration) be required to undergo a health check. This should be required regardless of the area, specialty or scope of medical practice and whether they are practising full-time or part-time, as this is the most equitable option.

We support the introduction of a health check for its overall benefits for doctors' health and wellbeing, and because it reinforces the professional expectation that all doctors have their own GP.

The CRIS has not outlined any direct evidence that introducing health checks will lead to a significant decrease in notifications that require regulatory action, or an improvement in public safety. At present, improved outcomes appear to be a logical conclusion rather than evidence based. Therefore, it is important that the Medical Board has mechanisms in place to fairly evaluate the outcomes of this proposal if introduced. There needs to be measurement, critical analysis and transparency of data. There is an opportunity to evaluate the data with comparison to a control group over the first few years through the staggered introduction of when the checks will be mandatory. If the data does not demonstrate any improvement in outcomes, the Medical Board must be prepared to respond accordingly.

2. If a health check or fitness to practise assessment is introduced for late career doctors, should the check commence at 70 years of age or another age?

We agree that 70 years is an appropriate age to commence the requirement for late career doctors to undergo a health check.

The data in the CRIS demonstrates that late career doctors are significantly more likely to:

- be the subject of a notification. It is clear in the data that this increased risk is from 70 years of age (Figure 9 on page 23)

- have regulatory action taken when they are aged 70 or more and are the subject of a notification (Figure 10 on page 24).

This data is largely consistent with Avant claims data.

3. Which of the following options do you agree will provide the best model? Which part of each model do you agree/not agree with and on what evidence do you base your views?

Option 1 Rely on existing guidance, including Good medical practice: a code of conduct for doctors in Australia (Status quo).

Option 2 Require a detailed health assessment of the 'fitness to practise' of doctors aged 70 years and older every three years for doctors from the age of 70 and annually for doctors from the age of 80.

These health assessments are undertaken by a specialist occupational and environmental physician and include an independent clinical assessment of the current and future capacity of the doctor to practise in their particular area of medicine.

Option 3 Require general health checks for late career doctors aged 70 years and older every three years for doctors from the age of 70 and annually for doctors from the age of 80.

The health check would be conducted by the late career doctor's regular GP, or other registered doctor when this is more appropriate, with some elements of the check able to be conducted by other health practitioners with relevant skills, e.g., hearing, vision, height, weight, blood pressure, etc.

We support option 3.

We agree with the Medical Board that it is appropriate that late career doctors have a health check to provide assurance that they are able to continue to provide safe care. The literature and data outlined in the CRIS provides support for the proposal and confirms that doctors in general often neglect their own health.

We support and regularly educate our members about the requirements of good medical practice outlined in section 11.2 of the Code of Conduct. A health check is an opportunity to flag potential issues that the doctor may not have recognised or acted on to date. It will assist with encouraging doctors to have their own general practitioner, as required in the Code of Conduct, and ideally see them regularly.

We support the Medical Board articulating that there will be a flexible approach to the health checks (page 38 of the CRIS) regarding who performs the health check and how, and the time of the health checks. We are pleased that the CRIS makes it clear that a doctor would not have to undergo a health check purely for registration purposes if they had already had a health assessment as part of their general health care (page 38 of the CRIS). We note the draft registration standard makes it clear that this would need to have taken place within the last 12 months.

4. Should all registered late career doctors (except those with non-practising registration) have a cognitive function screening that establishes a baseline for ongoing cognitive assessment?

If not, why not? On what evidence do you base your views?

We agree that the health check should include a screening assessment of cognitive function, informed by the description of this assessment in the CRIS (pages 39-40). However, the type of screening undertaken must be able to be tailored to the specific circumstances of each individual doctor undergoing the health check, including how well established the treating relationship is between the doctor performing the health check and the late career doctor undergoing the health check.

Further guidance on appropriate screening should be advised by the Medical Board in consultation with and with consensus from relevant organisations including specialty colleges and societies who represent GPs, occupational physicians, geriatricians, neurologists and psychiatrists.

See also comments below in question 8.4 regarding the cognitive assessment requirements.

5. Should health checks/fitness to practice assessments be confidential between the late career doctor and their assessing/treating doctor/s and not shared with the Board?

Note: A late career doctor would need to declare in their annual registration renewal that they have completed the appropriate health check/fitness to practice assessment and, as they do now, declare whether they have an impairment that may detrimentally affect their ability to practise medicine safely.

Yes.

6. Do you think the Board should have a more active role in the health checks/fitness to practice assessments?

If yes, what should that role be?

No. However, as well as the additional guidance provided, there should be more support for treating doctors (particularly GPs) who are completing these health checks. This could include a confidential service where GPs can discuss difficult cases with colleagues, without fear of being required to report or having to provide personal details. A similar service is provided by Ahpra regarding mandatory notifications, where practitioners can discuss their obligations in a confidential way. This could be extended to discussing issues arising from health checks.

Feedback on draft Registration standard: Health checks for late career doctors

This section asks for feedback on the Board's proposed registration standard: Health checks for late career doctors.

The Board has developed a draft Registration standard: health checks for late career doctors that would support option three. The draft registration standard is on page 68 of the CRIS.

7.1. Is the content and structure of the draft Registration standard: health checks for late career doctors helpful, clear, relevant, and workable?

Overall, we support the content and structure of the draft proposed registration standard.

7.2. Is there anything missing that needs to be added to the draft registration standard?

For clarity, some of the information in the CRIS could be added in to the draft registration standard. For example, the statement from the CRIS that those working in medical administration or doing medico legal work would also be required to undergo the health check, could be included, in either the section headed 'Does this apply to me?' or 'Are there exemptions to this standard?', or in the definition of 'practice'. Alternatively, this information should be provided in supporting guidance, such as the planned frequently asked questions mentioned, as these may be common questions.

We propose that part of the review of the registration standard should include a review of notification and other data sets included in the CRIS to demonstrate the impact, if any, of the introduction of health checks, including evaluation of outcomes (as mentioned in question 1).

7.3. Do you have any other comments on the draft registration standard?

The draft registration standard refers to what will need to be declared at registration renewal, and we agree with the proposed wording of the question (outlined in page 53 of the CRIS). Given the proposed staged introduction of the requirement, this wording would need to make that clear during the transition period, and be accompanied by thorough education and instructions.

The draft registration standard also refers to the potential for compliance to be audited and we agree with the approach regarding compliance and auditing outlined on page 53.

Draft supporting documents and resources

This section asks for feedback on the draft documents and resources developed to support Option three - the health check model.

8. The Board has developed draft supporting documents and resources (page 72 of the CRIS). The materials are:

C-1 Pre-consultation questionnaire that late career doctors would complete before their health check

- C-2 Health check examination guide – to be used by the examining/assessing/treating doctors during the health check
- C-3 Guidance for screening of cognitive function in late career doctors
- C-4 Health check confirmation certificate
- C-5 Flowchart identifying the stages of the health check.
The materials are on page 72 of the CRIS.

8.1. Are the proposed supporting documents and resources (Appendix C-1 to C-5) clear and relevant?

Overall the supporting documents and resources are clear and relevant.

8.2. What changes would improve them?

In addition to the comments in specific sections, we also suggest that the guidance documents address how the health check and its outcomes interact with medical practitioners' mandatory notification obligations. This guidance should be clear and simple, and tailored to the context of health checks. We suggest it include several examples or scenarios to help support those practitioners conducting the health checks. This guidance should be in addition to the jointly published [Guidelines: Mandatory notifications about registered health practitioners](#).

The health checks may also give rise to questions and concerns about how treating doctors performing the check should manage follow up care. We anticipate that there will be instances where late career doctors will treat the health check as a test that they need to 'pass'. Once they have the certificate it may be difficult for the treating doctor to follow them up particularly if they have not seen the late career doctor as a patient previously. The late career doctor needs to be motivated to ensure they engage with their follow up care. There needs to be a clear process to follow, escalation points and support for the doctors performing the health check, as they may have concerns about what level of follow up is required and expected.

This could be an issue for all health issues but particularly for cognitive assessments, and potentially intersect also with the point above regarding mandatory notification requirements. Practitioners would benefit from further guidance from the Board on this issue.

8.3. Is the information required in the medical history (C-1) appropriate?

Overall, yes.

We recommend that the sentence "It remains the property of the late career doctor and their assessing/treating doctor/s" be removed, as this potentially causes confusion regarding ownership of medical records. We suggest it be amended to read something along the lines of "It should be stored in the late career doctor's patient medical records held by the assessing/treating doctor. A copy of it can be provided to the late career doctor on request for their own personal health records."

8.4. Are the proposed examinations and tools listed in the examination guide (C-2) appropriate?

In general, the proposed examination and tools listed in C-2 are appropriate, subject to the comments below.

Based on member feedback, there may be some opposition to the apparent prescriptive nature of the proposed examination guide, as the medical practitioner performing the health check may feel that there is no scope for them to exercise their own clinical judgement about the appropriate questions to ask and assessments to undertake. It may be necessary to further explain the reasons for the various aspects included in additional guidance material.

We note the “genito-urinary” section of the examination template includes a physical examination of the late career doctor’s genitals. It is unclear why this would be a mandated compulsory part of the general health check. If a genital examination was not otherwise clinically indicated based on the patient’s presentation, including this might lead to greater reluctance by doctors to comply and therefore disengage with the health check as a whole. It may also leave the treating doctor at risk of a complaint regarding an unnecessary intimate examination, which in turn will require the Medical Board to be able to explain why such an examination is required.

There has also been some concern expressed about the effectiveness and cost associated with the cognitive screening tools outlined for use in C-3. It is also not clear whether the information in C-3 is intended to convey that medical practitioners performing the health assessment must use the tools listed. This should be made abundantly clear. See also comments above in question 4 relating to cognitive assessments.

8.5. Are there other resources needed to support the health checks?

It is mentioned there will be frequently asked questions as part of the resources and we support this as a useful way to help medical practitioners understand their respective obligations. We recommend there be FAQs for practitioners undergoing the health check and for those performing the health check as the treating doctor. There should be a process to update these regularly to ensure they are as current and responsive as possible.

It is important that the introduction of any new requirement along these lines is supported by clear and comprehensive education. Education and promotion should also commence well in advance of the registration period.