Australian Health Practitioner Regulation Agency:
Public consultation on draft Data Strategy

The Australian Society of Plastic Surgeons (ASPS) would like to thank you for the opportunity to provide feedback on the Ahpra Draft Strategy.

ASPS is the peak body for the plastic and reconstructive surgical community in Australia. We represent over 500 Australian surgeons. All ASPS members are FRACS qualified by the Australian Plastic and Reconstructive Surgery Training Board, as administered by the Royal Australasian College of Surgeons.

Questions for consideration

1. Does the draft Data strategy cover the right issues?
2. Do you think that anything should be added or removed from the draft Data strategy?

The public consultation document includes the draft Data strategy, i.e. statements of intent, domains and objectives. The statements of intent and domains appear to cover the 'right issues', but without further detail around the objectives and how this strategy will be operationalised (i.e. the implementation plan), it is difficult to provide more supportive feedback. For example:

- Regulatory efficiency and effectiveness is valued, however, 'easily accessible data about practitioners' can be positive in some instances, but focus area 1 highlights the possible negative outcomes.
- "Data is suitably governed …", how is 'suitably' determined and by whom?
- What 'value-add data' does Ahpra intend to provide to practitioners to assist with safe practice'? Are there examples?
- When Ahpra are enabling the expanded use of data by providing it to organisations who can demonstrate value-add public benefits, what data is being referred to? Who is data already provided to? How will this be expanded? Who will decide what data and to whom, is of public benefit?

A more specific Data strategy would also have dates for intended implementation years (usually 3-5 years) and a stated mechanism for evaluation. Also, data storage and security is only loosely referred to.

Focus area 1: The public register

3. Do you agree with adding more information to the public register?

- **If yes, what additional information do you think should be included?**
- **If no, please share your reasons.**

There are advantages and disadvantages to adding additional information to the public register. ASPS is supportive of including information that benefits the public and causes no detriment to practitioners specifically collected from practitioners for this purpose with their consent, such as Aboriginal and Torres Strait Islander identity to facilitate the provision of culturally safe care.

However, as the register is a credible source of information for the public, any data included must be verified and the cost associated may outweigh the benefit to users (refer to the response to Question 6, who should be able to add information).

Some of the examples of additional information listed in the consultation document (e.g. the provision of telehealth services) are more appropriate to be administered by the practitioner or their business. The last bullet point, i.e. the inclusion of 'consumer generated feedback about a registered health practitioner', is perplexing considering the recent decision to continue to ban on patient testimonials in advertising of regulated health services.

Adding too much additional unverified information could dilute the importance of the information to achieve its main purpose, which is to advise on who is appropriately qualified and met requirements to practice.

4. Do you agree with adding health practitioner's disciplinary history to the public register?

- **If yes, how much detail should be included?**
- **If no, please share your reasons.**

Yes and No.

While in principle, ASPS agrees with transparency of a practitioner's disciplinary history, the paper does not provide a proposal in relation to the type of history and the level of detail. Many cases are highly nuanced and a 'blanket proposal' of publishing all disciplinary history is likely to unnecessarily punish practitioners who have been subject to a condition, accepted an undertaking or had their registration temporarily suspended as a result of a situation that is not representative of their career performance or usual conduct. The appropriate scope of inclusion will be difficult to define.

If disciplinary history is added, sufficient detail should be provided about the nature of the issue, the context and the condition imposed to ensure the information can be interpreted accurately. It would seem that including the disciplinary history of a practitioner who repeatedly behaves in a way that constitutes unsatisfactory performance or unprofessional conduct would derive the most benefit for potential patients, as opposed to the history of an isolated incident which has been resolved. The facility for practitioners to submit an application to remove specific disciplinary history would need to be provided and actioned within a timely manner.

There have been instances in which a cosmetic surgeon has had disciplinary action taken on multiple occasions, prior to eventually having their registration cancelled. With the benefit of hindsight, knowledge of previous action would be of benefit to potential patients. It is expected though, that if the practitioner is considered to still be at risk to the public, the condition(s) imposed would still be active therefore on the register. Maybe the policy and process related to how Ahpra manages practitioners which demonstrate a pattern of conduct is the key issue, as opposed to whether or not such action is published on the register?

In relation to the case study provided in the consultation paper and public expectation of relevant disciplinary history, the Ahpra site should make it clear that this information is not included but can be requested. The link from the public register to adverse outcomes from tribunal and court decisions, implemented after the 2018 COAG consultation on this same issue, appears to strike a reasonable balance in this regard.

In keeping with privacy legislation, details of health conditions and impairment should **never** be published.

5. How long should a health practitioner's disciplinary history be published on the public register?

This question assumes that the answer to question 4 was 'Yes'.

If a practitioner's disciplinary action is to be published, it should only remain on the register if the history provides useful information to inform users of the register and/or to protect the public. This would need to considered on a case-by-case basis and could possibly only be determined at a set period of time after the condition has expired.

If the practitioner has complied, met conditions and the restriction no longer applies, and there are no further notifications and/or investigations on a similar matter during the subsequent period, it should be removed.

6. Who should be able to add additional information to the public register?

Ideally Ahpra staff members, after the information has been verified as accurate. The resource constraints of the regulator are acknowledged and therefore this may not be viable.

The integrity of the data included on the public register is paramount. While it may be beneficial for patients to check the register and view other information at the same time, such information could be included, and generally is, on a practitioner's website. Patients would then apply their own judgement as to accuracy of the information. Information subject to frequent change would be better placed on sites administered by the practitioner or their business.

7. Are there other ways to enhance the effectiveness and value of the public register for the public and/or practitioners?

A more comprehensive consultation paper would assist in answering this question. It would be helpful to understand more about the approaches of other jurisdictions, the information provided on those registers, perceived value by various stakeholders and the advantages and disadvantages to both practitioners and the public of various options.

Focus area 2:

8. Our National Law enables us to share data with some other organisations in certain situations. Do you have any suggestions about how Ahpra could share data with and/or receive data from other organisations to benefit the public, practitioners and/or our regulatory work?

The is a particularly broad question and difficult to answer without additional detail about requests from other organisations to share data, more detail of proposed data sharing, purpose and intended outcomes.

Data sharing that improves regulatory efficiency and effectiveness and public safety, while respecting rights to privacy is valued.

Focus area 3:

Do you have any suggestions about how Ahpra should approach using advanced analytics and machine learning technologies?

The high level principles of using advanced analytics improve efficiency and accuracy and consistency in decision making is supported, as is continued reliance on human judgement for complex regulatory decisions. Using machine technologies to expedite administrative processes could ensure that precious human resources are better utilised.

New technologies to proactively audit practitioners' compliance with advertising guidelines, rather than the regulator waiting for complaints to be lodged could be useful.

Using new technologies to identify risk factors for non-compliance with restrictions and identify predictive risk factors that lead to notifications such as major life events, relies on the additional collection and/or data sharing of personal information/variables and may be one step too far. Assessing the effectiveness of interventions and restrictions, and likely compliance may ignore the intricacies of individual cases and therefore be of limited value.

Other

10. Please describe anything else AHPRA should consider in developing the Data strategy.

The document is titled 'Public consultation on a draft Data strategy', though the consultation is actually on the draft Data strategy and three focus areas or issues which arise in the implementation of the data strategy.

The high level principles in the Data strategy appear to be sound (p.7), however, without in-house expertise on the usual scope of a data strategy it is difficult to comment.

In terms of the focus areas, it is expected that many more issues will be raised during implementation of the strategy. In future papers regarding such issues, it would be helpful for Ahpra to approach the content in a similar manner as previous consultations, i.e. state the issue, provide background information, possible options and an evaluation of the risks and benefits of each. This would allow responders to have a clearer understanding of any actions proposed and the opportunity to provide more informed views on the matters at hand.

End
27 January 2023