

Update on the notifier confidentiality safeguards review

27 May 2021

Improvements made to notifier confidentiality safeguards

All improvements recommended in the National Health Practitioner Ombudsman's (NHPO) *Review of confidentiality safeguards for people making notifications about health practitioners* have now been implemented or are underway.

These include:

- updating relevant policies to reflect that possible confidentiality safeguards for the notifier will be considered when assessing each new notification
- publishing an updated privacy policy and collection statement to clarify how personal information will be used and disclosed, and
- providing new guidance to staff about how to safeguard confidentiality, including in relation to redacting a notifier's information and sharing a notifier's information with the relevant practitioner.

Work is also underway to introduce automated prompts to remind staff of a notifier's confidential status, with this work scheduled to be completed by June 2022. We are waiting on further advice from Health Ministers on introducing amendments to the National Law* that would make it an offence to harm, threaten, intimidate or harass a notifier.

As part of this work, we also recognised the importance of procedural fairness for practitioners. Following consultation with professional associations and professional indemnity providers, we have published a new guide for staff to help them manage complaints which may have insufficient detail to allow practitioners to respond meaningfully. We have also published a vexatious notifications framework and introduced new training for staff in how to identify and manage vexatious complaints.

It's important that both the community and practitioners have trust and confidence in our notifications process. People need to feel safe to raise a concern, and practitioners need to trust that they will be treated fairly when a concern is raised about them. This is fundamental to a healthy and trusted regulatory system and how we help keep the public safe.

Recommendation	Response	Completed
Consideration of confidentiality safeguards for notifiers		
1. Ahpra consider possible confidentiality safeguards for a notifier when assessing each new notification, it receives. This could include assessing whether it is necessary to	<p>We have made several adjustments to improve the process.</p> <p>We will:</p> <ul style="list-style-type: none"> • continue the practice of not naming a notifier when the notifier withholds consent to do so 	<p>Policy change published and in use.</p> <p>Completed: 30 June 2020.</p>

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National Boards

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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.

disclose the notifier's identity to the practitioner.	<ul style="list-style-type: none"> • assess every notification on a case-by case basis to determine whether the release of the notifier's name (and/or category of notifier) is necessary to enable a response • allow a practitioner to ask us to review our decision to withhold a notifier's name. 	
Improvements to the administrative management of confidential and anonymous notifications		
2. Ahpra review its Privacy policy and Collection statement in relation to notifications to ensure these documents are up-to-date and contain comprehensive information regarding the use and disclosure of personal information, particularly in cases of confidential and anonymous notifications	<p>We have:</p> <ul style="list-style-type: none"> • amended our Collection statement and Privacy policy about consent to make it clear that the name of the patient will be disclosed when the concern relates to care provided to a patient, and • consulted with the Professions Reference Group and Community Reference Group about any guidance or policy changes relevant to the release of a notifier's name 	<p>New Privacy policy and Collection statement published and in use.</p> <p>Completed: May 2021.</p>
<p>3. Ahpra strengthen guidance for its staff regarding confidentiality safeguards for notifiers. Topics should include:</p> <ul style="list-style-type: none"> • what information should be redacted from a confidential notification to protect a notifier's identity • when Ahpra may be compelled to disclose identifying information about a notifier • when a practitioner will not be provided with notice of the receipt of a notification, or the commencement of an investigation, due to a reasonable belief about a risk to health and safety, or a risk of intimidation or harassment. 	<p>New resources have been developed to support and provide guidance to staff and clarify:</p> <ul style="list-style-type: none"> • how and when to redact a notifier's information • when we may be compelled to release information about the notifier to a practitioner, and • the circumstances under which to withhold from notifying a practitioner of an incoming notification about them, and how this is to be documented on our database. 	<p>New guidance published and in use.</p> <p>Completed: 30 June 2020</p>
4. Ahpra improve how confidential and anonymous notifications are recorded in its electronic case management system (Pivotal).	Changes made to Ahpra's database to address the consent requirements for notifier's information to remain confidential or anonymous.	System updates released in September 2019.

	All notifications staff have received guidance on the changes.	
5. Where possible, Ahpra automate processes for managing confidential and anonymous notifications, including by introducing system-enabled prompts to remind staff of a notifier's confidential status when working on the file.	Work to automate reminders when dealing with a confidential notification will be prioritised alongside other system changes as part of a schedule of proposed system enhancements and an ambitious digital enhancement plan. This plan is expected to be completed by June 2022.	In process, to be completed by 30 June 2022.
Improvements to communication about privacy and confidentiality for notifiers		
6. Ahpra review all existing communications in relation to notifications and make necessary amendments to ensure consistency in messaging about a notifier's privacy. This messaging should be clear and prominent, and should include: <ul style="list-style-type: none"> • clarity about the meaning of personal information using consistent terminology • pathways for people to make confidential or anonymous notifications and an explanation of how these notifications will be dealt with • guidance about what information notifiers should include in a notification, particularly anonymous notifications • warnings about circumstances in which Ahpra may be compelled to disclose identifying information about a notifier. 	All relevant communications have been reviewed to ensure consistency and transparency in our messaging to notifiers. This review included consideration of the information and pathways available to notifiers through our online notification portal, as well as all online guidance and fact sheets that relate to the notifications process.	Completed: 30 June 2020
7. Ahpra require staff to have a verbal discussion with all notifiers (where possible) about how their personal information will be used and disclosed during the notifications process.	In September 2019, new guidance and training was implemented to ensure all notifications staff have the skills to structure conversations about consent, with knowledge of what information must be provided to the notifier.	Initial guidance published and in use by September 2019. Review and update of guidance completed by 30 June 2020.

Consequences for practitioners who harm, threaten, intimidate, harass or coerce notifiers		
8. Ahpra develop guidance for its staff regarding how to deal with information which suggests a practitioner has sought to harm, threaten, intimidate, harass or coerce a notifier.	New guidance for staff on how to identify and flag potential harassment or intimidation of notifiers by a practitioner. Consulted with the Professions Reference Group, Community Reference Group and professional indemnity providers before making changes to current processes.	New guidance published and in use. Completed: 30 June 2020
9. Ahpra seek amendment to the Health Practitioner Regulation National Law to make it an offence for a registered health practitioner to harm, threaten, intimidate, harass or coerce a notifier.	Awaiting further advice on potential amendments	Awaiting further advice on potential amendments
Managing the risk of vexatious notifications		
10. Ahpra develop and publish a framework for identifying and dealing with vexatious notifications.	We published a new guide for staff following consultation with the Professions Reference Group, Community Reference Group and professional indemnity providers.	Updated assessment manual published and in use. Completed: February 2021.

For more information

Read our [media release](#).

Read the [NHPO's statement](#).