

AMA submission to the public consultation on revised Regulatory principles for the National Scheme

Via email to: regulatorygovernance@ahpra.gov.au

This consultation by the Australian Health Practitioner Regulation Agency (Ahpra) is extremely important to ensure that the revised regulatory principles support good medical practice and do not have unfair or unintended consequences. It is important that Ahpra continues to adopt a consultative approach as it seeks to implement these and any future policy direction from health ministers.

The AMA looks forward to being able to comment on work related to the implementation of these directives, particularly the range of guidance and educational material aimed at communicating these changes to health professionals. We trust that we will be given the opportunity to have input into all this material as it becomes available.

The boundary between policy directions and the national law needs to be clearly elucidated and there needs to be clarity as to how conflicts will be addressed, particularly where they relate to: mandatory reporting; affording natural justice to practitioners; and ensuring that the public do not have unrealistic expectations about the healthcare system or the complaints process.

The AMA would also like assurances that Ahpra will put in place procedures to ensure that the implementation of Policy Direction 2019-1 (PD- 2019 1) does not lead to default processes that assume that all (or the majority) notifications have merit without considering the impact on the individual practitioners.

Whilst the AMA does not support the policy directions issued by the CoAG Health Council¹ we generally support the thrust of the public discussion document. However, we have the following specific areas of concern we would like to see given further consideration as part of the implementation of PD- 2019 1.

¹ <https://ama.com.au/submission/ama-submission-proposed-amendments-health-practitioner-regulation-national-law>

Preamble/principle	AMA Comment
<p>Preamble</p> <p>These regulatory principles underpin the work of the National Boards and Ahpra in regulating Australia's health practitioners, in the public interest. They shape our thinking about regulatory decision-making and have been designed to encourage a responsive, risk-based approach to regulation across all professions. The regulatory principles consider community expectations and reflect ministerial directions.</p>	<p>The AMA supports the retention of the existing reference to a risk-based approach.</p>
<p>1. The National Boards and Ahpra administer and comply with the Health Practitioner Regulation National Law, as in force in each state and territory. The scope of our work is defined by the National Law.</p>	<p>The AMA agrees to this editorial change</p>
<p>2. Public protection is our paramount objective in the National Registration and Accreditation Scheme. We act to support safe, professional practice and the safety and quality of health services provided by registered health practitioners.</p>	<p>The AMA acknowledges that these changes are consistent with PD-2019 1, although we strongly believe that this is best met through practice that accords with professional standards.</p>
<p>3. We protect the health and safety of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered.</p>	<p>The AMA agrees with the reordering of this principle from two to three.</p>
<p>When we are considering an application for registration, or when we become aware of concerns about a health practitioner, we protect the public by taking timely and necessary action under the National Law.</p>	<p>The AMA agrees that this principle can be removed as its key theme has been referenced elsewhere.</p>
<p>4. In all our work we:</p> <ul style="list-style-type: none"> • identify the risks that we need to respond to • assess the likelihood and possible consequences of the risks • respond in ways that are proportionate and manage risks so we can adequately protect the public, and • take timely and necessary action under the National Law. <p>This applies to all our regulatory decision-making, the development of standards,</p>	<p>The AMA supports this editorial change.</p>

<p>policies, codes and guidelines as well as the way we regulate individual practitioners.</p>	
<p>5. When we learn about concerns regarding practitioners, we apply the necessary regulatory response to manage the identified risk posed by their practice, to protect the public. Our responses consider the potential impact of their conduct on the public including vulnerable people in the community and Aboriginal and Torres Strait Islander Peoples.</p>	<p>The AMA acknowledges that the wording of this principle has been improved since the preliminary consultation.</p> <p>The AMA supports the inclusion of the new footnote, relating to vulnerable people and acknowledges that this reflects paragraph 2a of PD-2019 1.</p>
<p>6. The primary purpose of our regulatory response is to protect the public and improve the standard of practice of registered health practitioners. Our responses are designed to not punish practitioners. When deciding on regulatory responses we:</p> <ul style="list-style-type: none"> • give at least equal weight to the expectations of the public as well as professional peers • consider the importance of maintaining community confidence in regulated health professions, and • consider the need to effectively deter other practitioners from engaging in similar conduct. 	<p>The AMA acknowledges that the wording of this principle has been improved since the preliminary consultation.</p> <p>However, the AMA still does not support the wording of the revised principle as it will increase the belief by practitioners that the national scheme can be unrealistic and punitive.</p>
<p>7. We work with our stakeholders, including patient safety bodies, healthcare consumer bodies and professional associations, to protect the public. We do not represent the health professions, health practitioners or consumers. However, we work with practitioners and their representatives and consumers to achieve outcomes that protect the public.</p>	<p>In our view, these changes reflect the ministerial directions accurately</p>

Questions for consideration

- 1. Do the draft revised regulatory principles reflect the policy directions issued by CoAG Health Council? If not, how could the principles be improved?**

The revised regulatory principles accurately reflect the policy directions issued by the CoAG Health Council. The AMA has a range of issues with these policy directions as outlined in our submission [AMA Submission on proposed amendments to the Health Practitioner Regulation National Law](#).

- 2. Do the draft revised regulatory principles support Ahpra and the National Boards regulatory decisionmaking? If not, how could they be improved?**

See comments above.

- 3. Is the content of the draft revised regulatory principles helpful, clear and relevant?**

See comments above.

- 4. Is there any content that needs to be changed, added or deleted in the draft revised regulatory principles?**

The AMA believes health practitioners are likely to react negatively to the revised regulatory principles. The AMA particularly believes that the revised wording in principles 5 and 6 suggests a shift in regulatory practice. This is likely to cause health practitioners to believe that the balance has shifted further away from focusing on safe practice as judged by peers and that the national scheme will become more punitive.

- 5. Please add any other comments or suggestions for the draft revised regulatory principles.**

Communication with health practitioners.

The AMA is aware that some medical practitioners may react negatively to the implementation of PD 2019-1 and this may run counter to the messages communicated to the profession earlier in the year about the raised threshold for mandatory reporting to increase health practitioner certainty. The AMA supports the work that Ahpra has undertaken over the last few years to improve the language in their communications with health practitioners, in particular the attempts to try and defuse the ‘us versus them’ mentality that can arise when practitioners received correspondence from Ahpra. We believe that PD 2019-1 has the potential to undermine this work and recommends that Ahpra ensure that any communication developed as a result of implementation be balanced and tested before dissemination.

Expectations of the public in conduct matters

The AMA believes that it is important to have an appropriate evidence-based approach to determining the expectations of the public in conduct matters, especially as such matters can become controversial and sometimes divide community thinking.

The AMA supports the approach whereby Ahpra and National Boards will take into account sources of credible evidence that could genuinely be considered part of public expectations

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