



Ahpra
& National
Boards



Review of mandatory notification guidelines

Consultation report

December 2019

Introduction

The 15 National Boards and the Australian Health Practitioner Regulation Agency (Ahpra) have completed a joint scheduled review of the *Guidelines for mandatory notifications* (the guidelines).

The National Law¹ sets out requirements for mandatory notifications in the National Scheme². The guidelines were first developed in 2010 to explain the mandatory notification requirements in the National Law. They aim to help practitioners, employers and education providers understand who must make a mandatory notification about a registered health practitioner or student and when they must be made. The guidelines were initially reviewed in 2013 and revised guidelines have been in place since 2014.

The review also addressed changes to the mandatory notification requirements made in amendments to the National Law passed early in 2019. These amendments established a new, higher risk threshold for treating practitioners, which further limited the circumstances for treating practitioners to make mandatory notifications.

The objective of the review was to ensure that the guidelines for mandatory notifications are as effective as possible and that they clearly explain the thresholds and requirements for making a mandatory notification, including the 2019 amendments.

This report describes the consultation process, and summarises the feedback received from the public consultation.

Development of revised guidelines

The National Boards considered the objectives and guiding principles of the National Law and the Regulatory principles for the National Scheme in deciding whether they should propose changes to the existing guidelines, adopting a risk-based approach to the review.

The review also addressed changes to the mandatory notification requirements made in amendments to the National Law passed early in 2019. The amendments modified the reporting obligations for treating practitioners, aiming to give patient-practitioners confidence to seek treatment for their health conditions, while preventing substantial risk of harm to the public. The amendments raise the threshold for treating practitioners (compared to other notifier types: non-treating practitioners, employers and education providers) to make a mandatory notification.

Consultation process

National Boards undertook preliminary consultation with key stakeholders in early 2019. The Commonwealth Office of Best Practice Regulation (OBPR) was also consulted during preliminary consultation in order to assess the potential for any significant regulatory impacts. The OBPR advised that a regulation impact statement was not required.

Public consultation on the guidelines was open from 11 September 2019 to 6 November 2019, to ensure public exposure to proposed changes, a requirement under the National Law.

The public consultation was announced in a media release, news items on each National Board's webpage, actively promoted on social media and directly advised via email to National Board and Ahpra shared and profession-specific stakeholders. The National Boards and Ahpra invited feedback from all practitioners, stakeholders and the community.

The media release explained how stakeholders could participate and included a link to the Ahpra public consultation webpage. The Ahpra webpage had a link to an online survey with the public consultation paper available for download. The option to provide written feedback via email was also available.

Focus groups were also held in conjunction with the public consultation and were held with indemnity insurers, treating practitioners and students in early October 2019. The focus groups allowed for National Boards and Ahpra to hear directly from practitioners, students and stakeholders to help in the development of clear and accessible guidelines about mandatory notifications.

Public consultation documents and submissions (except those made in confidence) are published under Ahpra's consultation webpage.

¹ Health Practitioner Regulation National Law, as in force of each state and territory (the National Law).

² National Registration and Accreditation Scheme (the National Scheme).

Overview of responses

There was a modest response to the public consultation process, with responses received from 86 stakeholders, 40 from individuals, 39 from organisations, and 7 jurisdictions (Commonwealth and state/territory health departments). The majority of individuals responded via the online survey. Most organisations responded by written feedback via email.

A range of different stakeholder groups provided feedback including professional associations and unions, education providers, Medical Colleges, indemnity insurers, regulators, ombudsman, an accreditation authority and health services provider, and individual practitioners. There were responses from three community members and one student.

The consultation feedback can be broadly classified into the following groups of responses:

1. positive comments about the revised guidelines
2. suggested improvements to the guidelines or specific aspects of them
3. comments which are outside the review of the guidelines e.g. legislation or policy issues for decision by the Council of Australian Governments (COAG) Health Council.

The themes arising from groups one and two are outlined below.

Summary of themes

Positive comments about the revised mandatory notification guidelines

The majority of responses provided positive comments about the guidelines and included:

1. they are clear, logical, easier to read and follow, and engaging (e.g. the question- answer format)
2. information is easier to find because of the structure of the guidelines by notifier type, the repeated content in each category addresses the distinct audiences and makes sections and information self-contained
3. they are comprehensive and should be retained as a whole (as opposed to moving content to the website)
4. the flowcharts and diagrams provided a simple, succinct, easy to follow, quick reference guide helpful to decision making
5. the risk charts were helpful in highlighting risk and mitigating factors to be considered in the decision-making process, and
6. the examples demonstrated how to use and apply the information in the guidelines, differentiating between when a mandatory notification would and wouldn't be required. The examples reinforced a notification is only required when there is a substantial risk of harm which is a high threshold.

Suggested improvements to the guidelines or specific aspects

While the majority of the responses were positive, and strongly supported the revised guidelines, some provided suggestions to address the following:

1. content was vague and incomplete requiring more explanation, long, complex, and repetitive
2. flowcharts and diagrams were not helpful
3. risk factor consideration ratings were subjective, and it was uncertain how they will be interpreted
4. the examples were stereotyped, repetitive, and lacked explanation, and
5. there should be one guideline with a separate section for students to aid usability, reduce confusion, possibility of overlooking of separate guidelines, and be informative for students who will one day be registered health practitioners.

Responses suggested the following improvements, which have been adopted and incorporated in the final draft.

Structure

6. Highlighting of content and including more internal and external hyperlinks to improve emphasis and directing of readers to key information.
7. Revised headings and content layout to improve structure and readability.

Content

8. Clearer definition of key terms and the grounds for a mandatory notification, consistency in use of terminology, and revision of executive summary content.
9. Revision of content about vexatious notifications, voluntary notifications, confidential notifiers, the notifications process, protection for notifiers, exceptions from making a mandatory notification, and jurisdictional differences.
10. Clarifying how mandatory and voluntary notification requirements apply to registered students undertaking clinical training.
11. Amendments to flowcharts to clarify intoxication considerations and when a voluntary notification might be necessary.
12. Amendments to risk consideration charts including more relevant risk ratings, additional risk factors, and further explanation to assist interpretation and use of risk charts.

Messaging

13. Further messaging to reduce the fear some practitioners have of a mandatory notification as a result of seeking help for their health.
14. Acknowledging that deciding whether to make a mandatory notification can be difficult and providing guidance about who may provide advice to assist decision-making.

Other suggestions

After considering the feedback and different views in relation to having one guideline with a separate section for students, or separate guidelines for students, National Boards decided to implement separate guidelines for registered health practitioners and registered students. National Boards decided this because of the limited circumstances in which a mandatory notification can be made about students (impairment only) and that the feedback from most students and education providers supported separate guidelines for students. To minimize concerns that the separate guidelines could be overlooked, clear signposting of the guidelines for registered health practitioners and students via links on the mandatory notification website hub will be provided and the guidelines internally refer to the separate guidelines and provide links to each guideline.

National Boards noted some feedback that the guidelines were repetitive. Each guideline has been structured in sections according to the notifier type, (that is treating practitioner, non-treating practitioner, and employer in the guidelines for registered health practitioners and practitioner and education provider in the guidelines for registered students). It is intended that each section stands alone for each notifier type. While this involves some repetition for those reading the entire guidelines, the document is not expected to be read in this way. The PDF and online versions will include links redirecting users to relevant content.

Most of the feedback on the guidelines was supportive of the guidelines being reviewed every five years, but some suggested earlier review. National Boards decided the guidelines will be reviewed regularly, generally every five years, or earlier in response to any issues which arise or new evidence which emerges to ensure the guidelines continue to be relevant and workable.

Conclusion

The National Boards consider that the revised guidelines clearly set out who must make a mandatory notification about a registered health practitioner or student, when they must be made, and that the overall usability of the guidelines has improved. They achieve a balance between encouraging practitioners to feel confident that they can seek treatment for health conditions while continuing to ensure high levels of public protection. This addresses the amendments to the National Law that introduce a higher threshold for making a mandatory notification for a treating practitioner in relation to impairment, intoxication and departure from accepted professional standards.

Next steps

National Boards and Ahpra identified that some of the feedback at public consultation (such as more examples, case studies, explanation of specific terms, messaging about the changes to the guidelines and support available for practitioners) may be more appropriately addressed as separate resources rather than in the guidelines themselves. This would allow for the resources to be updated more regularly, taking into account post implementation monitoring, and profession-specific material where needed and ensure that the guidelines do not increase in length.

National Boards and Ahpra have developed an awareness campaign to be launched in conjunction with the publication of the revised guidelines. This will include a mandatory notification hub, new web content, frequently asked questions (FAQ), case studies, videos and a HTML version of the guidelines. Separate resources developed to address these areas of feedback will sit in the mandatory notification hub.

National Boards and Ahpra sincerely thank stakeholders for their feedback about the revised guidelines in the National Scheme.