

7 February 2023

Mr Martin Fletcher
CEO
The Australian Health Practitioner Regulation Authority
Level 7, 111 Bourke Street
Melbourne VIC 300
Via email: AhpraConsultation@ahpra.gov.au

Dear Mr Fletcher,

Re: ASO Response: Ahpra draft data strategy public consultation

Thank you for the opportunity to respond to Australian Health Practitioners Regulatory Authority's (Ahpra) public consultation on a Draft Data Strategy that will guide how it uses the data it collects and holds.

The Australian Society of Ophthalmologists Ltd (ASO) is Australia's peak medico-political body representing ophthalmologists and their patients. A key function of the ASO is to promote access to high quality eye care for all Australians.

It is vital that both patients and medical practitioners can trust the role Ahpra and the Medical Boards plays in ensuring public safety. Therefore, it is central to Ahpra's role to deliver a robust medical complaints system that adheres to a strict criterion. According to testimony by Samantha Gavel — previous National Health Practitioner Ombudsman and Privacy Commissioner — Ahpra and the Medical Board can be assessed on their decision making based on whether they *“acted consistently with applicable legislation, have complied with relevant policies and procedures and have taken relevant considerations into account. In particular, whether Ahpra has gathered sufficient information during its investigation to inform the board's decision making and whether the board's decision is reasonable based on the information gathered by AHPRA”* (2).

The assessment process for dealing with complaints against medical practitioners is not without flaws and it has previously been shown that AHPRA's notification and investigation process is vulnerable to misuse by individuals. Most importantly, it has been proven that the toll on individual's receiving complaints against them is very high (1).

Ahpra's draft data strategy proposes that additional information be shared on its national register to better inform stakeholders. This includes end dates of suspensions, conditions or undertakings, registration history, regulatory action history, and further practitioner and/or consumer generated information about a registered health practitioner — for example, consumer feedback.

For AHPRA to risk publishing unproven testimony, which evidence has shown may be vexatious and also highly damaging to individuals professionally and psychologically, would be to tear down confidence in Ahpra's role to the detriment of the credibility of the system and people it aims to protect (1).

Likewise displaying regulatory action history, that has since been deemed no longer relevant due to conditions being met, may be easily misinterpreted by members of the public and cause further undue damage to the reputation and creditability of a medical practitioner.

It is the ASO's position that any disciplinary data published publicly on the National Register should only be the outcome of the above-mentioned investigative criteria and appropriate judicial processes. Displaying unproven complaints or testimonials may deny individuals their right for fair and natural justice and leave Ahpra open to litigation.

In relation to Ahpra's proposals for data sharing, it is critical that appropriate scrutiny be applied to determine whether such requests for data are in the interests of public safety. Therefore, AHPRA must establish criteria for evaluating requests for access to shared data. To ensure transparency any information sharing which is requested and provided to third parties should made available on a public registry, medical practitioners have a right to be informed of who is receiving their data and why.

If you have any questions regarding this submission, please do not hesitate to contact me.

Sincerely,



Mr Kerry Gallagher

CEO

Australian Society of Ophthalmologists

1. Commonwealth of Australia, Senate Standing Committees on Community Affairs, 2016, Medical Complaints process in Australia Senate Inquiry, Chapter 2.
2. Ms Samantha Gavel, National Health Practitioner Ombudsman and Privacy Commissioner, Committee Hansard, 1 November 2016, p. 2.