



RACP Foundation Research Awards

FINAL REPORT

Project / Program Title	Mandatory notification: serving the interests of Australian patients and doctors?
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Administering Institution	University of Melbourne
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PROJECT SUMMARY

Since 2010, health practitioners in Australia have had a legal obligation to notify the Australian Health Practitioner Regulation Agency (AHPRA) if they have a reasonable belief that another health practitioner has practiced while intoxicated, engaged in sexual misconduct, significantly departed from professional standards, or placed the public at risk of substantial harm because of an impairment. The law has been the subject of vigorous debate, but – to date – little evidence about how it is working in practice.

This research took place in two stages. First, we reviewed over 800 mandatory reports to AHPRA. We then interviewed a range of health practitioners and medico-legal advisors who had experience with applying the mandatory reporting law in practice.

We found wide variation in mandatory reporting rates — for example, a nearly fivefold difference across states and territories, and a two-and-a-half times higher rate of notifications for men than for women. Even though mandatory reporting applies to all fourteen registered health professions, nearly 90 percent of notifications involved nurses and doctors as notifiers, respondents or both. Most reports occur within a profession rather than across professions.

Mandatory reports by treating practitioners are extremely rare. The typical report by a treating practitioner is about substance misuse or mental illness, is made by a doctor who is not the patient's regular care provider, and identifies an impediment to safely managing the risk posed by the practitioner-patient within the confines of the treating relationship such as a lack of honesty or insight.

Interviewees identified several benefits of mandatory reporting: it provides treating practitioners with a "lever" to influence behavior, offers protections to those who make reports, and underscores the duty to protect the public from harm. However, many viewed it as a blunt instrument that did not sufficiently take account of the realities of clinical practice.

Based on the findings from this study, we offer three recommendations for improving the operation of Australia's mandatory reporting regime. First, greater efforts should be made to educate practitioners about the scope of their duty under the law.

Second, health practitioners should be assured of access to confidential treatment (i.e. no need to report) if they voluntarily participate in an agreed treatment plan and take necessary steps to protect patients from harm. Finally, regulators, practitioner health programs, educators, insurers, and professional bodies should work together to ensure that mandatory reports result in a fair, sensitive, and timely response.

PROJECT AIMS / OBJECTIVES

My objective were:

- 1) To describe the frequency and characteristics of mandatory reports about the health, competence and conduct of registered health practitioners in Australia.
- 2) To explore the views and experiences of health sector professionals in Australia regarding a new national law requiring treating practitioners to report impaired health practitioners whose impairments came to their attention in the course of providing treatment.

SIGNIFICANCE AND OUTCOMES

This study was the first empirical analysis of new laws in Australia requiring mandatory reporting of health practitioners with certain health, conduct, or performance concerns. Our findings add valuable evidence to a debate that - to date - has largely been based on ideology and anecdote.

Our study findings have been carefully considered by a wide of stakeholders including the Medical Board, AHPRA, indemnity insurers (such as Avant), medical schools, and doctors' health services. Our study has also influenced national policy debates on mandatory reporting: for example, both the Snowball review and the COAG report on the National Registration and Accreditation Scheme made reference to our findings.

Internationally, our findings have relevance for other countries who are considering the introduction of a mandatory reporting duty.

PUBLICATIONS / PRESENTATIONS

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Brashler, R., Finestone, H. M., Nevison, C., Marshall, S. C., Deng, G., Bismark, M., & Mukherjee, D. (2016). Time to Make a Call? The Ethics of Mandatory Reporting. *PM & R: the journal of injury, function, and rehabilitation*, 8(1), 69.

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Hagan, K. Health Practitioners Face Tougher Scrutiny. Sydney Morning Herald. 11 September 2014.

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