Identifying Risk: Right Touch Regulation

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The National Registration and Accreditation Scheme (Health Practitioner Regulation National Law 2009)

A single, national regulatory system for registered health professions

- 14 health profession boards
- Australian Health Practitioner Regulation Authority
Regulated Health Professions

Aboriginal and Torres Strait Islander Health Practice
Chinese medicine practice
Chiropractic
Dental practice
Medical
Medical radiation practice
Nursing and midwifery

Occupational Therapy
Optometry
Osteopathy
Pharmacy
Physiotherapy
Podiatry
Psychology
The National Scheme

- **Mobility**: registered physiotherapists are able to practise across Australia
- **Uniformity**: consistent national standards – registration and professional conduct
- **Efficiency**: streamlined, effective
- **Collaboration**: sharing, learning and understanding between professions
- **National online registers**: showing current conditions on practice (except health)
Right touch: when things go wrong

• Physiotherapists will be held to account against the Registration Standards and the Physiotherapy Code of Conduct

• Decisions made with reference to and guidance from the Regulatory Principles of the National Scheme
‘Let us have faith that right makes might, and in that faith, let us, to the end, dare to do our duty as we understand it’

Abraham Lincoln
Cooper Union Address, February 27, 1860
## Regulatory principles for the National Scheme

These principles are designed to shape thinking about regulatory decision-making in the National Scheme. They are endorsed by all the National Boards and the Agency Management Committee.

The principles will apply to different function areas in different ways. Collaborating with your colleagues, and discussing the differences with them, will add depth to your understanding of them.

| 1 | The 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. |
| 2 | 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. |
| 3 | While we balance all the objectives of the National Registration and Accreditation Scheme, our primary consideration is to protect the public. |
| 4 | 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. |
| 5 | In all areas of our work we:  
  - identify the risks that we are obliged to respond to  
  - assess the likelihood and possible consequences of the risks, and  
  - respond in ways that are proportionate and manage risks so we can adequately protect the public.  
  
  This does not only apply to the way in which we manage individual practitioners but in all of our regulatory decision-making, including in the development of standards, policies, codes and guidelines. |
| 6 | When we take action about practitioners, we use the minimum regulatory force to manage the risk posed by their practice, to protect the public. Our actions are designed to protect the public and not to punish practitioners.  
  
  While our actions are not intended to punish, we acknowledge that practitioners will sometimes feel that our actions are punitive. |
| 7 | Community confidence in health practitioner regulation is important. Our response to risk considers the need to uphold professional standards and maintain public confidence in the regulated health professions. |
| 8 | We work with our stakeholders, including the public and professional associations, to achieve good and protective outcomes. We do not represent the health professions or health practitioners. However, we will work with practitioners and their representatives to achieve outcomes that protect the public. |
Regulatory principles

- Protect the public
- Identify risk, assess consequences
  - Respond in ways that are proportionate and manage risk
- Minimum regulatory force
- Uphold professional standards
Notification

• Received by AHPRA
  – Verbally, writing
• Referred to NPBA
  -> Registration and Notification Committee
    • Two members of the NPBA
      – Chair appointed by the NPBA
    • Three community members (one NPBA member)
    • Four suitably qualified/experienced physiotherapist (non NPBA members)
Registration and Notification Committee

• Monthly meetings
  – 10 teleconference
  – 2 face to face

• Format
  – State by state
  – *Registrations and notifications*
  – Relevant AHPRA staff present
  – Decisions & actions circulated after the meeting
  – Forwarded to NPBA
Registration and Notification Committee

• Issue/s
  – Boundary violation, communication etc.,

• Background/history

• Recommendation/s
  – No further action (NFA)
  – Investigate
  – Other

• Reasons
  – Legislation
Registration and Notification Committee

• Discussion
  – Consider recommendations with reference to the regulatory principles
• Input from relevant AHPRA staff
• Decision
  – Not necessarily the same as recommendation
• AHPRA staff act on agreed recommendation immediately
Action by PBA: options

• Caution
• Accept an undertaking
• Impose conditions
  – Further education/training
  – Supervised practice
  – Restriction on practice
  – Manage practice in a specific way
  – Report on practice
  – Restrictions on employment of staff
• Refer to another entity
Immediate action

• Conduct, performance or health of practitioner poses a **serious** risk
• Can be held ‘immediately’
• Decision
  – Suspension/impose conditions
  – Accept undertaking
  – Accept surrender of registration
• Show cause process
Which professions were notifications made about?

Total notifications
10,047

Aboriginal and Torres Strait Islander health practitioner: 6
Chinese medicine practitioner: 26
Chiropractor: 111
Dental practitioner: 951
Medical practitioner: 5,585
Medical radiation practitioner: 28
Midwife: 110
Nurse: 1,900
Occupational therapist: 43
Optometrist: 66
Osteopath: 11
Pharmacist: 514
Physiotherapist: 134
Podiatrist: 54
Psychologist: 487
Not identified: 21
Total: 10,047
2013/14 AHPRA Annual Report

- Number of physiotherapists registered: 26,123
- Number of notifications: 134
  - % of registrant base: 0.3%
  - (cf. Dental: 4.1%, Medical 3.5%, Chiro 2.0%)
- Immediate Action cases: 5
Notifications

- Behaviour
- Billing
- Boundary violation
- Clinical care
- Communication
- Confidentiality
- Documentation
- Health impairment
- Informed consent
- Offence
‘No further action’

- Notification: clinical care
  - Inadequate examination
  - Inadequate treatment
  - No referral to radiology
  - No referral to doctor

- Investigation
  - Practitioners response
    - Detailed clinical notes
      - Followed best practice guidelines (no XR, referred to GP)

- Decision
  - NFA
‘Undertaking’

• Notification (work colleague): performance
  – Decline of professional standards

• Investigation
  – Health assessment
    • Impairment (diagnosis of ‘Adjustment Disorder’)

• Decision
  – Accept undertaking, practice with conditions
    • Attend psychologist approved by the PBA
    • Reports each three months etc.,
    • Costs the responsibility of the practitioner
    • 12 month review period
Immediate Action Committee

• Notification: performance/clinical care
  – Pneumothorax following ‘dry needling’ Tx
  – Poor/inadequate follow-up
• AHPRA -> Chair of RNC -> High risk-> IAC
• IAC
  – Imposed conditions
    • No dry needling until approved by PBA
    • Release patient information upon request
    • Practitioner to notify work colleagues of conditions
Immediate Action Committee

• Mandatory Notification 20/01/2011
  – ‘intra-vaginal’ assessment without consent
  – Police notified: practitioner charged with rape

• IAC 21/01/2011
  – Imposed conditions
    • No consultation or treatment of female patients
    • Practice under supervision of approved physio.
    • Advise AHPRA of proposed future employment
    • Education re informed consent

• 23/10/12 found guilty of rape
  – Referred to panel: registration cancelled
Identifying Risk: Right Touch Regulation
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- Protection of the public
  - Regulatory principles of the National scheme

- Physiotherapy
  - Minimal risk
  - Minimal regulatory force required

- https://www.ahpra.gov.au