AUSTRALIAN AND NEW ZEALAND
COLLEGE OF ANAESTHETISTS
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Advancing anaesthesia, improving patient care

PRESIDENT
Professor
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Professor Ron Paterson
Chaperone Review
c/- National Health Practitioner Ombudsman and Privacy Commissioner
GPO Box No 2630, Melbourne
AUSTRALIA

By email: ChaperoneReview@nhpopc.gov.au

Dear Professor Paterson

Re: Independent review of chaperones to protect patients

Thank you for the opportunity to provide comment on the independent review of chaperones to protect patients, commissioned by AHPRA and the Medical Board of Australia.

The Australian and New Zealand College of Anaesthetists (ANZCA), which includes the Faculty of Pain Medicine, is one of Australasia's largest specialist medical colleges. ANZCA is responsible for the training, examination and specialist accreditation of anaesthetists and pain medicine specialists, and for the standards of clinical practice in Australia and New Zealand. It is the professional organisation for approximately 5,000 specialist anaesthetists (Fellows) and 2,000 trainee anaesthetists.

ANZCA's mission is 'to serve the community by fostering safety and high quality patient care in anaesthesia, perioperative medicine and pain medicine.' The medical specialty of anaesthesia is critical for providing safe, effective anaesthesia and perioperative care for patients and ANZCA is committed to the highest standards of medical practice. ANZCA is involved in anaesthesia mortality reviews, collecting patient outcome data, publishing information relevant to the safe practice of anaesthesia, preparing evidence based guidelines and improving communication about quality and safety in anaesthesia, perioperative medicine and pain medicine. Its Faculty of Pain Medicine is the first multidisciplinary medical academy in the world to be devoted to education, training and standards in pain medicine.

Responses to consultation questions

Do you think chaperone conditions are an effective measure to protect patients, and why?
The Medical Board's chaperone protocol appears to be a fairly robust code that should ensure safe care of patients if its requirements are adhered to. However it is crucial that adherence to conditions is both mandated and monitored in a scrupulous manner by AHPRA.

In what circumstances do you think that chaperone conditions are not appropriate, and why?
There will be times when return to practice, even with the presence of a chaperone, may be considered either impractical (e.g. due to the need for psychiatric consultations or gynaecologic examinations), or unlikely to be of lasting benefit (as in the case of repeat offenders). A return to more limited scope of practice that does not expose patients to risk may therefore be a more appropriate course in these situations.

Can you suggest an alternative regulatory measure to protect patients while allegations of sexual misconduct are being investigated?
ANZCA strongly supports measures to protect victims. Consideration also needs to be given to the rights of the individual medical professionals affected. We therefore suggest that regulatory measures to protect patients while allegations of sexual misconduct are being investigated, should be applied on a case-by-case basis. The measures taken should consider factors such as the nature of the allegations, the strength of the allegations, and whether complaints are recurrent or from multiple sources.

A tiered approach may be appropriate, for example:

Tier 1
Suspected/alleged offender, where the allegation is not yet proven
There is no dispute that measures are needed to protect patients during investigation. However there have been cases of vexatious allegations. In the absence of evidence of prior abuse, harsh chaperone conditions may not be appropriate and may impact disproportionately on the medical professional concerned. However in these circumstances a limitation on practice (or scope of practice) could be considered as an interim measure to ensure patient safety until investigations have been completed.

Tier 2
Proven offender
In the case of a proven offence, the application of strict chaperone conditions (in both private and public institutions) and monitoring of compliance by AHPRA would be appropriate.

Tier 3
Repeat/multiple offender
In situations where it is unlikely that chaperone conditions will be effective, consideration should be given to imposing severe restrictions on practice, or suspending the individual's registration subject to completion of remediation processes. Once again, if restrictions or conditions are imposed, the regulator will need to monitor adherence closely.

Do you have any general comments for the Review to consider?
The chaperone protocol states that "in general, a requirement to practise with a chaperone is applicable only to practitioners who are engaged in private practice". In this respect, it would appear that there is a potential failure of protection for patients being managed outside the setting of private rooms, for example in outpatients and pre-operative assessment areas.

Management of a physician's practice in this situation would be very complex but we suggest that any regulatory measures should apply to all areas of medical practice. We also consider that medico-legal cases are best handled by specific conditions applying to the individual practitioner.

Thank you again for the opportunity to provide feedback on the independent review of chaperones to protect patients. If you would like to discuss this submission further, please contact Virginia Lintott (Acting General Manager, Policy) at [redacted] in the first instance.

Yours sincerely

Professor David A Scott
President