

Consult, cooperate, coordinate

Managing concerns and complaints about
accredited specialist medical training sites

Joint Forum

August 2024

Health Workforce Taskforce Secretariat
NSW Ministry of Health
1 Reserve Road
ST LEONARDS NSW 2065

[https://www.health.gov.au/committees-and-groups/
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The Health Workforce Taskforce acknowledges the traditional custodians of the lands across Australia. We acknowledge that we live and work on Aboriginal and Torres Strait Islander lands. We pay our respects to Elders past and present and to all Aboriginal and Torres Strait Islander people.

SHPN (WPTD) 240854
ISBN 978-1-76023-977-0

October 2024

Summary of proceedings

The Australian Medical Council (AMC), and the Health Workforce Taskforce (HWT) jointly convened the *Consult, cooperate and coordinate: Managing concerns and complaints about accredited specialist training sites forum* on Thursday 15 August 2024 at the Pullman Hyde Park in Sydney.

The forum was held to inform development of a framework to manage concerns and complaints about accredited specialist medical training sites, as identified in Recommendation 13 of the National Health Practitioner Ombudsman 2023 report [Processes for Progress – Part one: A roadmap for greater transparency and accountability in specialist medical training site accreditation](#).

The forum was attended by over 150 stakeholders including trainees and representatives from health departments, health services, specialist medical colleges, regulators, accreditation authorities, industrial organisations and professional associations. The list of attendees is at **Attachment A**.

A pre-reading pack was developed and sent to participants and is at **Attachment B**.

The forum was facilitated by Dr Jo Burnand, Acting Medical Director, Health Education and Training Institute (HETI), and the agenda is at **Attachment C**.

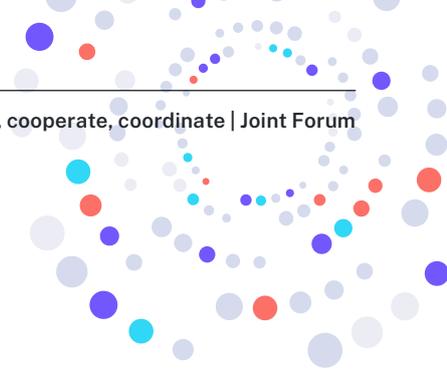
The forum was opened with a Welcome to Country, by Uncle Colin Locke, a proud Dharug man and Elder. Following the welcome, Dr Robyn Lawrence (Deputy Chair, HWT and Chief Executive, Department for Health and Wellbeing SA), Mr Philip Pigou (CEO, AMC), and Dr Sanjay Jeganathan (Chair, Council of Presidents of Medical Colleges (CPMC)) made opening remarks. The three speakers noted the importance of accreditation in facilitating high quality specialist medical training. The complex relationship between colleges, health departments and health services were noted. Particular issues that may be the subject of complaints and concerns were enumerated, including bullying, harassment, racism and discrimination, with all speakers emphasising that these behaviours are not acceptable in the context of specialist training.

The speakers also noted the importance of establishing clarity about how concerns and complaints at an accredited specialist medical training site should be assessed and managed, including clarity regarding each stakeholder's roles and responsibilities.

In the first session Dr Burnand interviewed Dr Hash Abdeen, a Medical Administration Trainee with the Royal Australasian College of Medical Administrators. Dr Abdeen provided a trainee perspective about College accreditation, noting that the environment is complex, can be difficult for trainees (and supervisors) to navigate, and that trainees generally do not have a full awareness of the accreditation process. The supervisor or director of training is often perceived as the main contact point that a trainee has with the College. Due to the complex environment, Dr Abdeen suggested that a trainee will look to take the route that they may be most comfortable with if they have a complaint or a concern to escalate, and that raising a concern through accreditation provides the trainee with some level of protection via anonymity. He noted that regardless of the route of escalation, it takes courage to make a complaint and that bullying, discrimination, harassment and racism greatly impacts training and patient care. Overall, trainees want to be listened to and have their concerns truly acknowledged, whilst ultimately being part of the solutions moving forward.

Following this interview, Ms Kristy Edser (Managing Partner – Sydney Office, Minter Ellison) and Mr Albert Khouri (Senior Associate, Minter Ellison) provided a presentation on key aspects of the Work Health and Safety laws in Australia. The presentation explored the work health and safety duties of colleges and health services, noting that both parties are concurrent duty holders and must:

- consult with each other.
- co-operate with one another in the discharge of their duties; and
- co-ordinate activities with each other and any others who have a duty in relation to the same matter (i.e. the health and safety of trainees).



Summary of proceedings (cont'd)

The following session involved a panel discussion facilitated by Dr Jo Burnand. Panel members, Dr Sanjay Hettige (Radiology Trainee and Chair, AMA Council of Doctors in Training), Professor Inam Haq (Executive General Manager, Education, Learning and Assessment, Royal Australasian College of Physicians), Mr Olly Jones (Interim CEO, Australasian College for Emergency Medicine), Dr Justine Harris (Chief Medical Workforce Advisor, NSW Ministry of Health), and Ms Kristy Edser (Minter Ellison) explored an evolving hypothetical situation of a trainee at risk identified during an accreditation site visit by a college accreditation team. The panel offered different stakeholder perspectives in responding to the situation presented including ensuring the trainee’s safety and addressing the underlying issues of

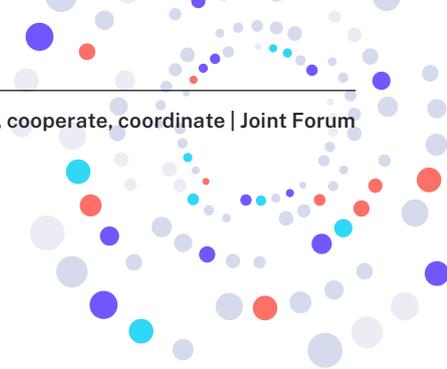
concern. The panel concluded that consultation, prioritisation and partnerships were important when developing processes around accreditation.

After lunch, participants were allocated to tables to ensure a mix of college, health service, trainee and jurisdictional representatives. Each table was asked to respond to a number of prompt questions designed to facilitate discussion to inform development of a framework **Attachment D**. Participants were asked to consider barriers to achieving effective consultation, how these barriers can be overcome, how stakeholders can effectively cooperate with each other to support the accreditation process, and how grievances and complaints should be managed.

Outcomes from this session were collated and key themes were identified.

Consultation- tablework summary

Consultation – barriers	Consultation – possible enablers
<ul style="list-style-type: none"> • Lack of consultative mechanisms outside of accreditation • Unclear roles of individual (i.e. wearing college hat or health service hat?) when they are consulting with each other • Information held at hospital department level and not provided to DMS/executive where consultation with colleges could be facilitated • Multiple colleges with multiple specialty and sub-specialty mechanisms makes consultation by sites/health services difficult and time consuming • Some colleges accredit many sites – cannot consult with them all, particularly sites like GP clinics. Consultation at site level difficult. • Time and resource constraints, particularly for smaller colleges • Often meetings are arranged, and people do not attend because: they are too busy; the agenda is too general; there are no outcomes. Meetings need to be issue/action focussed • Lack of harmonisation of meetings and too many meetings. • Bi-national nature of colleges is an important factor and there is a need to also know Aotearoa NZ – legislation requirements • Role of Ahpra/MBA in complaints about behaviour is unclear 	<ul style="list-style-type: none"> • Agreed processes for how consultation takes place • Joint meetings, but level of these would have to be targeted as would subject matter for discussion – perhaps use CPMC as a mechanism? • Forums may be useful but may just be a “talkfest”. Also hard at forums to discuss all settings – this forum focussed on hospitals and GP training left out • Agreements/MOUs/training site agreements that set out those matters between colleges and sites which are currently just custom and practice. These could clarify roles, set out expectations, set out communication mechanisms, identify relevant officers for contact, resourcing of complaints management. • Clear understanding of what information about complaints can be shared • Clear understanding of legal obligations of all the parties • Data sharing



Summary of proceedings (cont'd)

Complaints and Concerns – tablework summary

Classifying complaints	
<ul style="list-style-type: none"> • Common risk ratings may assist • Clarity on who is empowered to investigate what and classify on that basis. • Framework needs to be clear on roles of other authorities – Ahpra, MBA, Police, other complaints handling bodies (anti-discrimination, human rights etc) • Urgent/not urgent • Complaints where other parties need to be informed, or should not be informed • Complaints related to systemic vs individual matters • Complaints that can be dealt with at site level vs those that require escalation • Acute incidents vs long standing matters • Subject matter – clinical performance/quality of training/behaviour 	
Investigation of complaints – barriers	Investigation of complaints – possible enablers
<ul style="list-style-type: none"> • Sharing of information/data is an issue. Unclear as to who can tell who, and in what circumstances • Sharing of information by colleges on training progress reports – makes it hard for sites to identify trainees in difficulty • Lack of clarity about what privacy laws allow. Parties cannot resolve problems they do not know about • Lack of transparency about outcomes of complaints. Trainees may not see action taken because of privacy reasons, so they think no action has been taken even if it has. Leads to lack of confidence • Colleges and sites cannot see what each party is doing in relation to complaints, or the complaints they have received • Resources – investigating complaints is time and resource consuming • Lack of college powers to investigate and lack of college control over workplaces to effect the changes required • Hard to manage complaints where only one trainee at the site • Difficulties where site and college disagree on how a complaint should handled 	<ul style="list-style-type: none"> • Clarity on what can and cannot be shared. Safe, legally sound ways to share information identified • Better overall data on complaints (non-identified) • Common understanding about a risk matrix to be used • Shared investigation protocol, which includes guidance on what can be disclosed, how to decide who investigates what aspect of a complaint, joint investigations where appropriate and safely managing the complainant

Summary of proceedings (cont'd)

Complaints and Concerns – tablework summary (Cont'd)

Risk of serious harm to trainees

- Often arises during accreditation – common protocol on what to do in these situations would assist
- Manage this situation separately, recognise that withdrawal of trainee may not be the only option or permanent option
- Clarity for all parties about what information can be shared with each other when there is an immediate risk of harm
- Training for accreditors in how to deal with a situation where trainee is at risk (trauma informed approach)

Anonymous complaints

- Need to remove barriers to the fear that prevents trainees making complaints in the first place
- Provide mechanisms where trainees can be engaged in a safe way even if they do not make a complaint
- Provide more information to trainees about what can be expected when complaints are confidential/anonymous
- Training for those receiving complaints about how to deal with confidential/anonymous complaints (what can and cannot be shared, what to tell the trainee, other mechanisms to support the trainee)
- Consideration of collecting data other than through identified complaints. (e.g. a complaints app, a common trainee survey). Allows for identification of “hot spots” or common themes across time at a site
- Shared resources to support trainees in distress

Complaints about supervisors

- Introduce 360-degree feedback for supervisors
- Determine whether colleges and sites can share information about supervisor complaints
- Is within college’s powers to investigate supervisor if complaint is about supervisory issues
- Development of college mechanisms to approve, monitor, and remove supervisors where needed

Prevention of issues leading to complaints

- Need to take a systems approach to improving behaviour and culture
- Systemic issues vs local issues need to be identified
- Sharing data to see what complaints are common across sites/colleges etc so can be addressed by targeted action. Data dashboards could identify common issues, hot spots and allow for cyclical continuous feedback
- Other models for improving culture and behaviour: Vanderbilt – coffee chat – peer to peer
- Compulsory training for supervisors, fellows, trainees on behaviour etc.
- Joint management plans to classify and manage risk when identified
- More education for all parties on WHS legal obligations
- Shared supervisor training/skills mix development – standard induction packages
- Better training in medicine overall on leadership, managing difficult conversations, culture – this is a gap
- Aligned codes of conduct between colleges, and between colleges and sites
- Change model where a trainee is dependant on a single person to sign off on aspects of training

Summary of proceedings (cont'd)

Cross cutting themes

- 1. Privacy:** Seen as a major barrier to sharing information and effectively managing complaints. Need to understand law better so appropriate information sharing can occur in a legally safe way.
- 2. Data sharing:** Need to collect better data – common data across sites and colleges. Identify hot spots, biggest issues, trends – to better target solutions.
- 3. Resourcing:** Smaller colleges do not have resources to develop all the necessary tools themselves, and even larger colleges may be financially challenged. Need to develop a range of shared resources: policies, procedures, training packages, communication, and mediators. Removing duplication between colleges, through common policies, procedures and training packages will help to ease this burden.
- 4. Role for an independent third party:** Some comments were received regarding whether an independent third party would be of use to resolve, or mediate disagreements between colleges and sites that arise from accreditation, noting existing roles of National Health Practitioner Ombudsman in receiving complaints about accreditation.

Suggestions to further improve the accreditation process

- Increased accreditation literacy – so all parties understand what accreditation is, its purpose, and how to conduct it independently
- Improve independence of decision making
- Build shared approaches across colleges to monitoring
- Sharing best practice amongst colleges
- Co-ordinate timing of accreditation to reduce burden on sites that face multiple accreditations
- Possibility of colleges undertaking “common accreditation” of some matters, building on the model being developed by some colleges e.g. a site could be accredited once for certain things, and this could be used for all colleges.
- A toolkit of responses that can be employed before withdrawal of accreditation
- Shared training/training resources for accreditation teams
- Trauma training for accreditation teams
- Role for CPMC/AMC in developing resources, being the independent arbiter, undertaking generic parts of accreditation
- Common conflict of interest policies and management for those involved
- Multi-disciplinary approaches

Next steps

The Australian Medical Council will develop a draft framework for further consultation with all stakeholders including trainees, and representatives from health departments, health services and colleges.

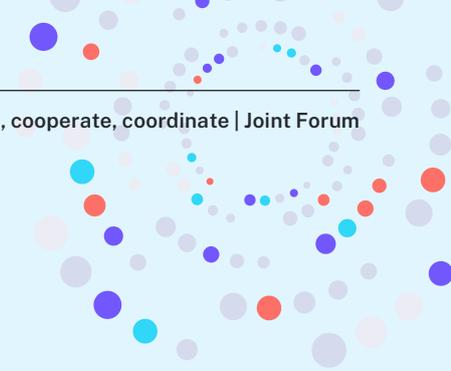
For any further queries regarding the event, or planned next steps, please contact the HWT Secretariat via HWTSecretariat@health.nsw.gov.au or the AMC project team via amc-nhpo-project@millerbluegroup.com.au.

Attachment A: Forum Attendee List

Attachment B: Forum Pre-reading pack

Attachment C: Forum Agenda

Attachment D: Forum table questions from afternoon session



1 Reserve Road
St Leonards NSW 2065

Office hours:
Monday to Friday
9.00am – 5.00pm

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SHPN (WPTD) 240854

Attachments



Joint Forum

Consult, cooperate, coordinate: Managing concerns and complaints about specialist medical training sites

Attendee List

Name	Organisation
Dr Hash Abdeen	AMA Council of Doctors in Training/Australian Medical Council
Dr Nathan Abraham	Australian Salaried Medical Officers' Federation
Associate Professor Stephen Adelstein	Medical Board of Australia
Associate Professor Katrina Anderson	Jurisdictional Representative, ACT
Dr David Andrews	Royal College of Pathologists of Australasia
Ms Briana Baass	Jurisdictional Representative, VIC
Mr Iain Bailey	Australian Salaried Medical Officers' Federation
Ms Victoria Baker-Smith	Royal Australian and New Zealand College of Ophthalmologists
Ms Natalie Bekis	Commonwealth
Ms Linda Belardi	Jurisdictional Representative, NSW
Dr Robert Bell	Jurisdictional Representative, TAS
Dr Haley Bennett	Australasian College of Dermatologists
Mr Scott Bennett	Jurisdictional Representative, VIC
Ms Desiree Blackett	Jurisdictional Representative, NSW
Dr William Blake	Australian Medical Association
Dr Claire Blizzard	Royal Australasian College of Medical Administrators
Mr Scott Boehm	Jurisdictional Representative, SA
Mr Mark Braybrook	Australian Health Practitioner Regulation Agency
Dr Geoff Brieger	Medical Council of NSW
Ms Isabel Broderick	Australian College of Rural and Remote Medicine
Dr Jeff Brown	Te Whatu Ora - Health New Zealand
Dr Jo Burnand	Forum Facilitator
Mr Mark Carmichael	Royal Australian and New Zealand College of Ophthalmologists
Mr Mike Carpenter	Australian Health Practitioner Regulation Agency
Mr Marco Chan	Health Workforce Taskforce
Dr Steevie Chan	Jurisdictional Representative, NSW

Dr Hwee Sin Chong	Jurisdictional Representative, QLD
Ms Jennifer Chowdhury	Australasian College of Dermatologists
Ms Stephanie Clota	Royal Australasian College of Surgeons
Ms Margaret Banks	Australian Commission on Safety and Quality in Health Care
Mr Andrew Conrad	Jurisdictional Representative, TAS
Mrs Jane Conway	Royal College of Pathologists of Australasia
Dr Georga Cooke	Jurisdictional Representative, QLD
Ms Marita Cowie	Australian College of Rural and Remote Medicine
Ms Helen Cox	Miller Blue Group
Ms Megan Crawford	Jurisdictional Representative, QLD
Dr Michael Cusack	Jurisdictional Representative, SA
Dr Sarah Dalton	Jurisdictional Representative, NSW
Ms Komal Daredia	A Better Culture
Ms Hannah Denney	Royal Australasian College of Physicians
Ms Melinda Donevski	Australian Medical Council
Mr Mike Dunne	Jurisdictional Representative, NSW
Ms Kristy Edser	Minter Ellison
Dr Wafa El-Adhami	Advancing Women in Healthcare Leadership
Dr Jillann Farmer	A Better Culture
Mr Steffen Faurby	Royal Australasian College of Physicians
Mr Nigel Fidgeon	Australian and New Zealand College of Anaesthetists
Associate Professor Kerin Fielding	Royal Australasian College of Surgeons
Mr Duane Findley	Royal Australian and New Zealand College of Radiologists
Ms Judy Finn	A Better Culture
Mr Robin Flynn	Health Workforce Taskforce
Mr Steven Fok	Jurisdictional Representative, VIC
Ms Deborah Frew	Miller Blue Group
Ms Genevieve Frisby	Jurisdictional Representative, VIC
Ms Amy Fulham	Commonwealth
Ms Belinda Gibb	Australian Medical Council
Dr Gillian Gibson	Royal Australian and New Zealand College of Obstetricians and Gynaecologists
Dr Stephen Gourley	Australasian College for Emergency Medicine
Dr Brendan Grabau	Royal Australian and New Zealand College of Radiologists
Ms Sally Gyzen	Royal Australasian College of Dental Surgeons
Associate Professor Daniel Halliday	Australian College of Rural and Remote Medicine
Professor Inam Haq	Royal Australasian College of Physicians

Ms Sarah Harper	Australian Health Practitioner Regulation Agency
Dr Justine Harris	Jurisdictional Representative, NSW
Ms Alice Henderson	National Health Practitioner Ombudsman
Dr Sanjay Hettige	AMA Council of Doctors in Training
Dr Belinda Hibble	Australasian College for Emergency Medicine
Dr Nicole Higgins	Royal Australian College of General Practitioners
Dr Kim Hill	Jurisdictional Representative, NSW
Ms Jen Holmes	Jurisdictional Representative, VIC
Mr Warwick Hough	Australian Medical Association
Ms Phuong Huynh	Health Workforce Taskforce
Dr Sarah Hyde	Royal Australasian College of Physicians
Associate Professor Sanjay Jeganathan	Council of Presidents of Medical Colleges
Dr Antony Ji	Australian Salaried Medical Officers' Federation
Dr Jodi Johnson-Glading	Jurisdictional Representative, ACT
Mr Olly Jones	Australasian College for Emergency Medicine
Professor Alison Jones	Australian Medical Council
Dr Viney Joshi	Jurisdictional Representative, TAS
Mrs Anna Kaider	Australasian College for Emergency Medicine
Ms Callie Kalimniou	Royal Australian and New Zealand College of Psychiatrists
Associate Professor Kudzai Kanhutu	Royal Australasian College of Physicians
Ms Ally Keane	Royal Australasian College of Surgeons
Ms Stephanie Kelly	Health Workforce Taskforce
Dr Santosh Khanal	Royal Australian and New Zealand College of Ophthalmologists
Mr Albert Khouri	Minter Ellison
Dr Tammy Kimpton	Australian Medical Council
Dr Brian Kirkby	Royal Australasian College of Surgeons
Dr David Ladyman	Jurisdictional Representative, TAS
Dr Robyn Lawrence	Health Workforce Taskforce
Dr Adriene Lee	Australasian College of Dermatologists
Associate Professor Trishe Leong	Royal College of Pathologists of Australasia
Ms Anna Lyubomirsky	Royal Australian and New Zealand College of Psychiatrists
Dr Linda MacPherson	Health Workforce Taskforce
Dr Sana Mahmud	Jurisdictional Representative, TAS
Professor Jennifer Martin	Royal Australasian College of Physicians
Mr Cris Massis	Royal Australasian College of Medical Administrators
Ms Stephanie May	Australian Indigenous Doctors' Association
Mr Taylor McBeath	Australasian College for Emergency Medicine

Ms Maureen McCarty	Commonwealth
Ms Richelle McCausland	National Health Practitioner Ombudsman
Professor Geoff McColl	Australian Medical Council
Ms Sharon McGowan	Royal Australian and New Zealand College of Psychiatrists
Ms Olivia McLean	College of Intensive Care Medicine of Australia and New Zealand
Dr Roderick McRae	Australian Salaried Medical Officers' Federation
Professor Imogen Mitchell	Jurisdictional Representative, ACT
Dr Elizabeth Moore	Royal Australian and New Zealand College of Psychiatrists
Dr Vanessa Moran	Royal Australian College of General Practitioners
Dr Tom Morrison	Australian Salaried Medical Officers' Federation
Associate Professor Priya Nair	College of Intensive Care Medicine of Australia and New Zealand
Dr Thembi Ncube	Jurisdictional Representative, ACT
Dr Karen Nicholls	Royal Australian College of General Practitioners
Ms Isabella Noblet	College of Intensive Care Medicine of Australia and New Zealand
Dr Bec Nogajski	Jurisdictional Representative, NSW
Ms Madeleine Novak	Australian Medical Council
Dr Susan O'Dwyer	Medical Board of Australia
Dr Joseph Occhino	Jurisdictional Representative, QLD
Associate Professor Daniel Owens	Royal College of Pathologists of Australasia
Ms Deborah Paltridge	Royal Australasian College of Surgeons
Mr Brendan Peek	Royal Australasian College of Dental Surgeons
Ms Tracy Pemberton	Miller Blue Group
Mr Philip Pigou	Australian Medical Council
Dr Keith Potent	AMA Council of Doctors in Training
Ms Bettina Poxleitner	Royal Australian and New Zealand College of Obstetricians and Gynaecologists
Dr Jenny Proimos	Advancing Women in Healthcare Leadership
Associate Professor Michael Rasmussen	Royal Australian and New Zealand College of Obstetricians and Gynaecologists
Ms Hannah Rillstone	Health Workforce Taskforce
Dr Antony Sara	Australian Salaried Medical Officers' Federation
Ms Isabelle Schroeder	Australasian College of Sport and Exercise Physicians
Ms Maite Serra	Australasian College of Dermatologists
Ms Juliana Simon	Australian Medical Council

Professor John Slavotinek	Royal Australian and New Zealand College of Radiologists
Professor David Story	Australian and New Zealand College of Anaesthetists
Ms Mary-Janes Streeton	Australian College of Rural and Remote Medicine
Mrs Shayne Sutton	Royal Australian College of General Practitioners
Dr Simon Towler	Jurisdictional Representative, WA
Mrs Georgina van de Water	Royal Australian College of General Practitioners
Dr Helen Van Gessel	Jurisdictional Representative, WA
Dr Curtis Walker	Medical Council of New Zealand
Ms Sharne Westblade	Australian and New Zealand College of Anaesthetists
Ms Kirsty White	Australian Medical Council
Mr Stephen White	Royal Australian and New Zealand College of Obstetricians and Gynaecologists
Dr Fiona Wilkes	Australian Salaried Medical Officers' Federation
Associate Professor Andrew Wilson	Jurisdictional Representative, VIC
Dr Mark Young	Australian and New Zealand College of Anaesthetists
Mr Peter Young	Health Workforce Taskforce
Ms Amy Young	Royal Australian and New Zealand College of Radiologists

Consult, cooperate, coordinate: Managing concerns and complaints about accredited specialist medical training sites

Background reading

Pullman Sydney Hyde Park, 36 College Street, Sydney
Thursday 15 August 2024

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Background

Thank you for registering for this important forum, which is co-hosted by the Australian Medical Council (AMC), and the Health Workforce Taskforce (HWT) which is made up of Australian State, Territory and Commonwealth health department representatives.

The forum is part of the work being undertaken by the AMC and specialist medical colleges to implement the recommendations of the National Health Practitioner Ombudsman (NHPO) in her report: *Processes for progress, Part one: A roadmap for greater transparency and accountability in specialist medical training site accreditation, October 2023*.

Recommendation 13 of that report is as follows:

The AMC should work with colleges and other relevant stakeholders to develop a framework for managing concerns about accredited specialist medical training sites.

- (a) The framework should clarify how concerns related to bullying, harassment, racism and discrimination at an accredited specialist medical training site should be assessed and managed based on agreed and articulated roles and responsibilities.*
- (b) The framework should also clarify how concerns about health practitioner performance or misconduct at an accredited specialist medical training site should be assessed and managed, including relevant referral and escalation pathways.*
- (c) Once developed, the framework should be made publicly available and implemented with appropriate staff training.*

The aim of the forum is to explore how colleges and health services can work together to develop a framework for dealing with concerns and complaints, as recommended by the NHPO. The forum aims to include the trainee voice in developing the framework.

Many concerns and complaints that arise in accredited training sites relate to matters relevant to colleges' and health services' duties under work health and safety (WHS) laws, including matters such as bullying, harassment, discrimination and racism at training sites, as well as other physical and psychosocial risks.

Matters related to professional conduct, health or performance can also arise at training sites. These may be notifiable matters under the Health Practitioner Regulation National Law for which referral to Ahpra and the relevant National Board (or State co-regulator) is appropriate. Sometimes mandatory notification is required. There are well articulated frameworks for dealing with such matters that have been developed by Ahpra and the National Boards, as well as health services. This work will not be replicated at the forum.

However, some concerns about professional conduct also relate to work health and safety matters. It is envisaged that the framework will be broad enough to also deal with these kinds of complaints and concerns.

The objectives of the forum

Health services and colleges both owe duties to trainee doctors under WHS laws. As part of these, health services and colleges have an obligation to consult, cooperate and coordinate activities (see below). This provides a basis for moving forward in developing the framework recommended by the NHPO. The aim of the forum is for colleges, health services and trainees to:

- gain a greater understanding of their duties, and of the position of each stakeholder;
- identify current obstacles to dealing effectively with complaints and concerns; and
- identify elements of a framework that will, as far as practicable, remove those obstacles and open a path for effective resolution of matters.

Principles for the forum

All participants at the forum are asked to respectfully work together in meeting the forum’s objectives. This will involve:

- discussing concerns and identifying opposing points of view in a respectful way;
- recognising that all parties’ concerns are valid; and
- respecting that all parties are attending the forum in good faith to identify a way forward.

Work Health and Safety (WHS) laws in Australia

Important notes:

In this reading material, the term “health services” has been used to refer to the legal entities that administer training sites, posts, and facilities that are part of accredited training networks and programs. This is for convenience only. It is recognised that there are a variety of accredited entities, including public and private hospitals, other public and private health services, GP clinics, community health services, Aboriginal and/or Torres Strait Islander health services, and non-health organisations that employ/engage trainees. The term “health service” includes all these entities, even though they will differ in size, governance structure and services provided.

This reading material is intended for general information. It is based on advice but does not constitute legal advice, and forum participants are advised not to rely on this document in substitution for legal advice. The circumstances of every training site and situation will be different. This background is intended only for the purposes of providing a basis for the development of a framework.

The information below is based on Australian work health and safety laws. It is recognised that many colleges are bi-national and may wish to have consistent processes that apply across Australia and Aotearoa New Zealand. The AMC will work separately with bi-national colleges, Manatū Hauora | Ministry of Health New Zealand, Te Whatu Ora | Health New Zealand and Te Kaunihera Rata O Aotearoa | Medical Council of New Zealand to consider the applicability of any framework to accredited sites in Aotearoa New Zealand.

Introduction

There has been much discussion about the respective roles of colleges and health services in relation to matters that arise in accredited training locations, in particular, the question of whether colleges have WHS duties in respect of such matters, and the extent of those duties. The following provides some guidance for the purposes of the forum.

Colleges have duties under WHS laws

WHS laws ¹ set out duties that apply to “persons conducting a business or undertaking (PCBUs)”, workers, officers, and other persons.

The forum will explore the concept of colleges as PCBUs, because of their role in conducting a business or undertaking which involves facilitating the provision of specialist medical training programs which lead to specialist medical registration pursuant to the Health Practitioner Regulation National Law. This includes the colleges’ role in: accepting applicants into the training program; designing the program’s curriculum and assessment mechanisms; accrediting health services on an ongoing basis to provide workplace-based training pursuant to the colleges’ accreditation standards; and in some cases, setting requirements for the supervisors of trainees engaged in workplace-based training.

The forum will explore the position of trainees being “other persons” (to be distinguished from “workers”) in relation to colleges, under WHS laws, and that colleges therefore have relevant duties in respect of trainees under WHS laws.

The main duties of colleges include:

- **the primary duty of care:** the overarching duty on a PCBU to ensure, so far as is reasonably practicable, the health and safety of **other persons** is not put at risk from work carried out as part of the conduct of the PCBU’s business or undertaking;
- a duty to **manage psychosocial risks** and implement control measures; and
- a duty to **consult, cooperate and coordinate** activities with all other persons who have a duty in relation to the same matter.

Given the complex and varied interplay between colleges, trainees enrolled in specialist medical programs, the senior medical officers supervising those trainees, the staff/college fellows administering the training program at the health service, and the accredited health service itself, the extent of the colleges’ WHS duties will very much depend on the facts applicable in each scenario and may differ from one college to another.

Relevant factors may include:

- the circumstances of the particular trainee placement (such as the application process for entry into the specialist medical program, the college’s involvement in recruitment/placement processes in the health services); and

¹ WHS laws includes the relevant work health and safety laws and regulations in place in each of the jurisdictions. WHS laws in each State/Territory except for Victoria are based on a national ‘model’ law, and vary slightly in each jurisdiction. Victorian ‘OHS’ laws are very similar to the model WHS laws. The general concept of WHS duties, and the likely scope and extent of those duties, is effectively the same under each State/Territory’s legislation.

- the input, influence and control a college has on the environment in which trainees perform their work (for example, any input into the selection and qualification of supervisors, directors of training and other similar positions).

In general, colleges will be required to do what is “reasonably practicable” to eliminate or minimise WHS risks. Some of the relevant factors in determining what is reasonably practicable may include:

- the circumstances in which specific safety risks arise (i.e. is it a physical risk to safety from equipment or environment failures, or a risk to psychological health from work-related stressors or inappropriate workplace behaviour);
- what the colleges knew or ought to have known about the risks that were present in the workplace, the likelihood of their occurrence, the harm that might result from the risk;
- the means available to the colleges to eliminate or mitigate the risk;
- whether the cost of minimising or eliminating the risk is grossly disproportionate to the risk; and
- the extent to which the risk is being minimised or eliminated by other duty holders (see below).

Neither of the above lists are exhaustive.

Colleges and health services are concurrent duty holders under WHS Laws

Health services also owe a duty to trainees under WHS laws. Where a health service employs trainees, the duty will be owed to the trainee as a “worker” within the meaning of WHS laws. Otherwise, the duty will be as the person with management or control of a workplace, or owed to the trainees as “other persons”.

The WHS laws recognise that in any scenario there may be more than one party who owes a WHS duty. These parties are referred to as “concurrent duty holders”. The forum will explore the position of colleges and health services as concurrent duty holders.

Concurrent duty holders have a separate and specific duty under WHS laws to:

- consult with each other;
- cooperate with one another in the discharge of their duties; and
- coordinate activities with each other and any others who have a duty in relation to the same matter (i.e. the health and safety of trainees).

Consult, cooperate and coordinate activities

Safe Work Australia (the peak regulator for WHS in Australia) has published a [Code of Practice](#) explaining the obligations to consult, cooperate and coordinate activities. This or a similar code of practice has been adopted by WHS regulators in most states and territories.

The Code of Practice states that concurrent duty holders must consult, cooperate and coordinate activities to the extent that this is reasonably practicable. What is reasonably practicable will depend on an objective consideration of the circumstances.

Consultation, cooperation and coordination of activities should commence when duty holders become aware that they are or will be involved in the relevant work. Cooperation and coordination with other duty holders should be an ongoing process throughout the time in which they are involved in the same work and share the same duty.

The objective of consultation is to ensure duty holders have a shared understanding of what the risks are, who is affected and how risks will be controlled.

Cooperation may involve implementing agreed arrangements reached during consultation. It also means that a duty holder should not obstruct another duty holder who wishes to consult with them. Duty holders should also respond to reasonable requests from other duty holders to assist them in meeting their duty.

Coordinating activities requires duty holders to work together so each person can meet their duty of care effectively.

A way forward with a framework

It is considered that the duties to consult, cooperate and coordinate activities provide a sound basis for a framework for resolving concerns and complaints that arise regarding accredited sites, posts, programs and networks. Forum participants will be invited to apply these principles in considering the main elements of such a framework.

Joint Forum

Consult, cooperate, coordinate:

Managing concerns and complaints about accredited specialist medical training sites

Pullman Sydney Hyde Park, 36 College Street, Sydney

Thursday 15 August 2024

10.00 am – 4.00 pm

Facilitator: Dr Jo Burnand

Program

9.30 am	<p>Registration</p> <p>Tea and coffee on arrival</p>
10.00 am	<p>Welcome to Country</p> <p>Uncle Colin Locke</p>
10.10 am	<p>Introductory remarks</p> <p>Dr Robyn Lawrence, Deputy Chair, Health Workforce Taskforce (HWT); Chief Executive, Department for Health and Wellbeing, SA</p> <p>Mr Philip Pigou, CEO, Australian Medical Council (AMC)</p> <p>Dr Sanjay Jeganathan, Chair, Council of Presidents of Medical Colleges (CPMC)</p>
10.20 am	<p>The trainee perspective</p> <p>Interview: Dr Hashim Abdeen, Medical Administration Trainee</p>
10.35 am	<p>Work Health and Safety</p> <p>Presentation: Ms Kristy Edser, Managing Partner, Minter Ellison</p>
11.15 am	Morning Tea Break
11.30 am	<p>Exploring challenges and perspectives through a hypothetical</p> <p><i>Facilitated panel discussion with audience reflections</i></p> <p>Dr Sanjay Hettige, Radiology Trainee; Chair, AMA Council of Doctors in Training</p> <p>Professor Inam Haq, Executive General Manager, Education, Learning and Assessment, Royal Australasian College of Physicians (RACP)</p> <p>Mr Olly Jones, Interim CEO, Australasian College for Emergency Medicine (ACEM)</p> <p>Dr Justine Harris, Chief Medical Workforce Advisor, NSW Ministry of Health</p> <p>Ms Kristy Edser, Managing Partner, Minter Ellison</p>
1.00 pm – 1.45 pm	Lunch Break
1.45 pm	<p>Developing a framework</p> <p>Outline of the task: Dr Linda MacPherson, on behalf of HWT; Ms Deborah Frew on behalf of the AMC</p> <p>Workshop session 1: Consultation, cooperation, coordination</p> <p>How do we do it? What should it cover? What is the result?</p>
2.40 pm	Short break
2.50 pm	<p>Developing a framework (cont'd)</p> <p>Workshop session 2: Concerns and complaints</p> <p>Assessment and classification, managing risks of immediate harm, referral, notification, investigations</p>
3.50 pm	<p>Next steps and closing remarks</p> <p>Mr Philip Pigou, CEO, AMC</p>



Joint Forum

Consult, cooperate, coordinate: Managing concerns and complaints about specialist medical training sites

Table Questions

SESSION ONE: CONSULT, COOPERATE, COORDINATE TO ELIMINATE / MINIMISE HARM

PART A – Consultation

“Consultation is to ensure duty holders have a shared understanding of what the risks are, who is affected and how the risks will be controlled.”

1. What are the barriers or challenges to achieving effective consultation? (hold the above statement in mind). Consider the list below.
 - *Ideas/prompts*
 - Time and resource constraints
 - Large number of sites/colleges/sub-specialties
 - Lack of established consultation mechanisms

2. How might **jurisdictions and colleges** overcome/accommodate these barriers and consult with each other meaningfully? Review the list of ideas/prompts below. Are there any that particularly resonate? Any that should be added? Any that you disagree with? Discuss your rationale.
 - *Ideas/prompts*
 - Regular meetings between colleges and jurisdictions to identify and explore issues
 - Sharing of complaint data between colleges and jurisdictions
 - Focussed joint college/jurisdiction working groups on particular issues

3. How might **colleges and sites** overcome/accommodate these barriers and consult with each other meaningfully? Review the ideas/prompts below. Are there any that particularly resonate? Any that should be added? Any that you disagree with? Discuss your rationale.
 - *Ideas/prompts*
 - Consultation between sites and colleges pre accreditation visits (consider what issues should be covered in consultation)
 - Consultation between sites and colleges post accreditation visits (consider what issues should be covered in consultation)

PART B – Cooperation and Coordination

“Cooperation involves implementing agreed arrangements reached during consultation. Coordinating activities requires duty holders to work together so each person can meet their duty of care effectively.”

4. How could **colleges, jurisdictions and sites** cooperate and coordinate activities, bearing in mind their roles as employer and education provider? Discuss the list of prompts and ideas on the sheet provided. Which ones resonate the most? Any that you don't agree with? Any other ideas you would like to suggest?

Ideas/prompts for cooperation and coordination

- Forums such as this one
- Cooperation moving forward in developing this framework
- Action plans arising from any focussed working groups
- Developing shared frameworks/approaches on workplace health and safety risks, dealing with concerns/grievances and investigating complaints (consulting on these with sites and jurisdictions. Consider who would coordinate this)
- Improvements to communication protocol to enhance communication
- Is any practical coordination "on the ground" possible? Between colleges? Between sites? Between colleges and sites? (for example, shared training programs)

PART C – Minimisation of Harm

5. Other than dealing with concerns/grievances and complaints, what can each party do to minimise harm?

Ideas/prompts

- Support mechanisms by both parties for trainees (trainees in distress, trainees in difficulty)
- Support mechanisms by both parties for supervisors
- Consider how you might coordinate the above to avoid duplication and reduce the burden on each party
- What can parties do to make sure supervisors are appropriate for the role? (consider training, assessing, supervisor agreements)

SESSION TWO: MANAGING CONCERNS/GRIEVANCES AND COMPLAINTS

Dealing with immediate risks of serious harm. Consider the following questions in the context of an emergent issue during a site accreditation visit.

1. What actions should be taken when a serious and immediate risk to a trainee is identified? Are there any mechanisms that could be developed to assist sites and colleges?
2. Who should be informed? (Discuss *how* this might occur – are there any mechanisms that could assist sites and colleges?)

Assessing and classifying complaints

3. Consider approaches to assessing and classifying complaints both by sites and colleges (including confidential and anonymous complaints).

Prompts

- Urgent, not urgent
- High risk, low risk
- Within college powers to investigate, not within college powers to investigate
- For referral to other parties (Ahpra/co-regulators, WHS authorities, police)

Dealing with anonymous, confidential complaints - managing expectations about what action can be taken if concerns/grievances and complaints are confidential or anonymous.

4. What information/advice should trainees be provided in circumstances where they are not wishing to make a formal complaint, or are wishing to make a complaint but not have their identity revealed? What information should trainees be provided about making anonymous complaints?

Investigation of complaints by colleges about hospital/site employed supervisors.

5. What actions is it reasonable for a college to take in investigating a complaint made about a supervisor who is a college fellow and also employed by a site (Consider employment powers, ability of college to require documents or interview witnesses, available resources to ensure procedural fairness).
6. What matters might a college be able to reasonably investigate? (Prompt – supervisor behaviour with a view to whether the person should continue to be a college appointed supervisor. Consider the potential reach of the college code of conduct, position description of supervisors, compliance with mandated supervisor training – are any of these potential levers?)

Investigation of complaints about college appointed supervisors by sites/employers.

7. Where a site (the employer) is undertaking an investigation of a college appointed or endorsed supervisor, what information should be shared with the college?
8. What should be shared with the (complainant) trainee?

In your discussion, focus not on the legal obligations (we will leave that to the lawyers!) but instead think about what you think is *appropriate* to share.