

Managing the impaired practitioner – the regulators perspective

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Key issues

- Defining impairment
- Complementarity and tension between supporting impaired practitioners and protecting the public from diminished performance and safety
- Primacy of public protection for the regulator
- Importance of clarity on separation of these functions
- Risk assessment and management – the key strategy

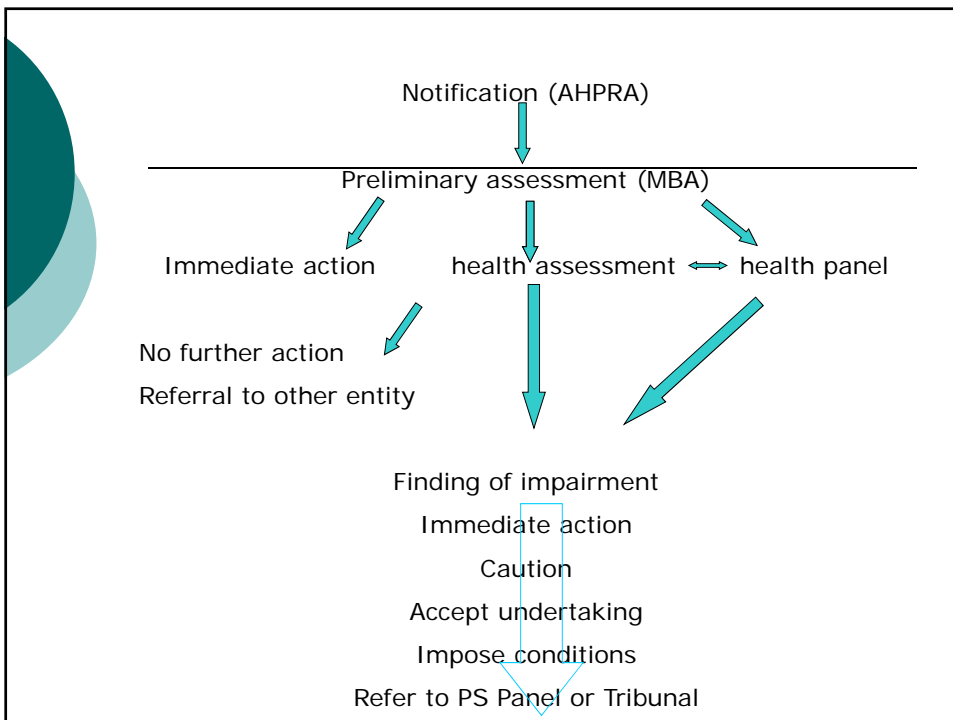
impairment, in relation to a person, means the person – has a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect—

(a) for a registered health practitioner or an applicant for registration in a health profession, **the person’s capacity to practise the profession**; or

(b) for a student, the student’s capacity to undertake clinical training—

(i) as part of the approved program of study in which the student is enrolled; or

(ii) arranged by an education provider





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The MBA approach

- Action is based on assessing and managing the risk posed to the public by impaired practitioners
- Risk assessment and management applied in a fair, transparent and consistent manner based on best available evidence
- Working with impaired practitioners in ways that are respectful and non-punitive, aiming to enable practitioners to remain working provided they can do so safely



Strengths

- Protection of the public from gross impairment
 - when the system is aware of it
- Support and remediation for practitioners with mild to moderate levels of impairment when engaged
- Use of conditions on registration to protect the public
- Common underlying philosophy, if not operational mechanisms



Consulting for consistency

- January 2012: *Information on the management of impaired practitioners and students*
- September 5 Workshop
- MBA draft statement on underlying philosophy, values and principles in the management of impaired practitioners
- Initial consultation with internal stakeholders, including state and territory Boards, AHPRA and the Medical Council of New South Wales.



Challenges

- Differences between jurisdictions in how the support/regulatory boundary is managed- the Board's role in doctors health programs
- Development and implementation of a common risk management framework for all states and territories. Guidelines.



Challenges


- Regulatory health assessments
- Practitioner rights to privacy vs public need for assurance – treating doctor reports
- Mandatory reporting by treating practitioners

Guidelines for mandatory notifications


Section 140 (c)

Notifiable conduct in relation to a health practitioner means that the practitioner has –

Placed the public at risk of substantial harm in the practitioner’s practice of the profession because the practitioner has an impairment.



Decision guide – notifying impairment in relation to a practitioner



As a practitioner during the course of practising your health profession, or as an employer, you reasonably believe that a practitioner has placed the public at risk of harm

YES

Is the risk of harm to the public substantial? **YES** → Did the risk of substantial harm to the public arise in the practitioner’s practice of the health profession? **YES** → Is the risk because the practitioner has an impairment? **YES** → You must notify the National Agency

NO

No notification is required

NOTE: Voluntary notifications can be made.

Challenges

- Transportability
- Public accountability – the common sense test Vs objective assessment of risk to the public
- Identification and engagement with practitioners with low level impairment



Before the National Regulation and Accreditation Scheme...



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