

Health Insights

You have received a notification – what now?

The practice of pharmacy is highly regulated and modern society is becoming increasingly litigious. With that in mind, pharmacists should anticipate that they may be contacted by a statutory authority or investigator at some stage during their careers. In 2017-18, 1.9% of pharmacists in Australia were the subject of notification to AHPRA¹. Common statutory authorities and investigators that pharmacists may be required to respond to include the Australian Health Practitioner Regulation Agency, Health Care Complaints Commission, Pharmacy Council, Office of the Health Ombudsman, State-based poisons regulation units, the Office of the Australian Information Commission, Medicare, Coroners Courts and police.

Notifications or complaints to regulators can arise for any number of reasons, including dispensing and labelling errors, non-compliance with drugs and poisons legislation, illness which may impede a pharmacist's ability to practice, inappropriate or criminal conduct, medication misadventure and privacy breach.

How to respond

It is important to keep perspective because in the vast majority of cases, no regulatory action is taken. If action is taken, it is very rare that suspension or cancellation of registration would be in contemplation. Such action is generally reserved for the most serious cases of 'professional misconduct'² and/or when there is a serious risk to public health and safety.

Some notices may be relatively straight forward and require minimal time and effort to prepare the necessary response, such as a request for a patient's dispensing history or the name and registration details of a pharmacist.

In other cases, there may be multiple issues that require a considered response, and many documents may need to be produced.

Although it is natural to want to cooperate with an investigation in a timely way, participation in informal interviews or discussions is usually ill-advised. This is because statements made during these initial, informal discussions are never 'off the record' which can lead to unintended consequences. Best practice includes:

- notifying PDL or your professional indemnity insurer and
- obtaining legal advice.

¹ <https://www.ahpra.gov.au/annualreport/2018/notifications.html>

² See section 5, Health Practitioner Regulation National Law

Prevention is best

Appropriate management of a disgruntled patient may influence whether they lodge a formal complaint. It is important to be timely, courteous and respectful when responding to patient queries or concerns as this may make it less likely that the matter will escalate.

If a patient contacts you directly, be compassionate and professional. Elicit information from them if you feel confident to do so, but do not comment on your own involvement or that of your staff or colleagues.

If it is clear that an error has occurred, apologise and if possible, correct it.

Document it

It is important to complete an incident report or note on the patient's file as soon as a complaint comes to your attention. It can sometimes be many months before a notification from a regulator is received and so the documentation of an incident or near miss will assist your recall of the event at a later date and demonstrate that you have fulfilled your professional obligations under the 'Pharmacy Board of Australia's Code of Conduct. Documentation in the pharmacy's communication book may also assist colleagues to deal with the patient in the future.

Do not ignore it

The manner in which a notice from a statutory authority or registration board is managed in the early stages may impact on its progress and outcome. It is important to contact PDL or your professional indemnity insurer and/or lawyer for advice, assistance and support as soon as possible. Do not wait until just before a written response to the complaint/notification is due. Although extensions can be granted, this is not always possible. It can take time to prepare a considered response that is objective and addresses the issues of concern in a way that does not inadvertently increase your potential disciplinary exposure.

Professional indemnity insurance

Under the National Law, pharmacists must have professional indemnity insurance which includes cover for civil liabilities.³

Some insurance policies, such as that arranged through PDL, also cover the cost of legal advice associated with responding to an inquiry by a statutory authority. You should review your professional indemnity insurance arrangements to ensure that they meet your insurance needs. Cover for inquiries is recommended.

Aside from the assistance that may be available under your insurance policy, it is important to promptly notify your insurer of circumstances that may lead to claims under the policy, because a failure to do so in a timely way may impact upon policy coverage.

³ Pharmacy Board of Australia 'Registration Standard: Professional Indemnity Insurance Arrangements' (1 July 2016)

Obtain support if necessary

In a recent AHPRA survey, 90% of health practitioners reported that their experience after receiving a notification was 'very stressful'. AHPRA has produced [videos of practitioners discussing their experiences](#).

The Pharmacists' Support Service also offers a confidential telephone support service by pharmacists who have additional training to provide counselling for pharmacists (or their family, friends or work colleagues who are concerned). The Pharmacists' Support Service can be contacted on 1300 244 910 between 8:00am and 11:00pm 365 days per year.

Keep your contact details up to date

Last but not least, you should always ensure that contact details with AHPRA are up to date. Under section 131(b) of the National Law, registered health practitioners must inform AHPRA within 30 days of any changes to their principal place of practice, correspondence address and name. Failure to do so is not an offence but may constitute behaviour for which health, conduct or performance action may be taken. Out of date contact details may also delay notification of complaints to you, which will delay their finalisation.

View the ['My Experience with an AHPRA Notification'](#) Practice Alert issued to PDL members in October 2018.

This article was written by Scott Ames, Principal and Heather Nieuwenhoven, Solicitor. Please contact Scott if you have any questions or if you would like further information.

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