

Western Australia Regulatory & Litigation Risk Update



Reading time:
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Overall, the number of litigation cases continues to decline. However, on average, claims are taking longer to resolve.

Examples of litigation allegation

- Errors in diagnosis
- Failure to warn of material risks for treatment (or non-treatment)
- Failure to refer to a specialist for appropriate treatment or investigations
- Inadequate emergency care
- Surgical/procedural errors
- Prescription and medication errors
- Failure to follow up
- Failure of systems (eg communication/failure to review)

Trends in notifications

- Clinical Care
- Communication
- Medication
- Health Impairment
- Documentation

Data from AHPRA indicates that in 202/21:

- Increase in boundary notifications
- Increase in misappropriation of drug notifications
- Increase in self-reported notifications from practitioners experiencing mental health issues
- Increase in mandatory notifications

Referral to Tribunals

More serious matters are referred to Tribunals:

- Criminal/family violence offending
- Sexual boundary breaches
- Misappropriation/prescribing misuse and abuse
- Failure to comply with conditions
- Practising when registration has lapsed/not renewed
- Inappropriate comments on social media
- Providing treatments when not qualified

Risk factors - boundary violations

- Being personally or professionally isolated
- Having poor communications skills
- Lacking clarity of professional limits
- Lacking appropriate training and/or experience
- The changing nature and delivery of healthcare

AHPRA Social Media Guideline

- Make sure that any comments you make on social media are consistent with the codes, standards and guidelines of your profession and do not contradict or counter public health campaigns or messaging.
- If contradicts the best available scientific evidence may give legitimacy to false health-related information and breach professional responsibilities.
- Practitioners need to take care when commenting, sharing or 'liking' such content if not supported by best available scientific evidence.

AHPRA Position Statement on COVID-19 vaccination

Any promotion of anti-vaccination statements or health advice which contradicts the best available scientific evidence or seeks to actively undermine the national immunisation campaign (including via social media) is not supported ... and may be in breach of the Codes of Conduct and subject to investigation and possible regulatory action.

Health practitioners are reminded that it is an offence under the National Law to advertise a regulated health service (including via social media) in a way that is false, misleading or deceptive. Advertising that includes false, misleading or deceptive claims about Covid-19, including anti-vaccination material, may result in prosecution by AHPRA.

MIPS resources

Webinars

- Ethical and legal solutions to modern healthcare challenges
- Practising under adversity - claims, complaints & investigations
- MIPS panel: Common practice scenarios - what would you do?

Articles

- Practising under adversity - claims, complaints & investigations
- A solid defence
- Legal tips for junior practitioners
- Working under pressure and avoiding legal hazards

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