

Seek advice before you speak!

Reading time:

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When Ahpra receives a notification about a practitioner, it must decide whether or not to investigate the allegations. Approximately two-thirds of all notifications do not proceed beyond an initial assessment. To assist in making prompt decisions, Ahpra is increasingly offering health practitioners the option of voluntarily taking part in a "case discussion". Case discussions may involve a practitioner discussing a notification about them with a clinical advisor appointed by Ahpra.

Ahpra generally uses case discussions to manage notifications that it judges to be of low risk to the public. The Ahpra [website](#) states that case discussions give the practitioner an opportunity "to discuss the concerns in a reflective and open way" and "to consider safety issues that arise from a notification", and that they allow Ahpra "to understand how any concerns are being, or could be, addressed".

What are some of the concerns with case discussions?

MIPS has seen a rise in the number of members who notify us about an Ahpra notification about them after they have engaged in a case discussion. MIPS strongly encourages any member who receives an Ahpra notification to first seek advice and information from MIPS before agreeing to participate in a case discussion.

Protracted regulatory processes are extremely stressful for practitioner and MIPS is supportive of efforts designed to improve the speed and efficiency of investigations. However, that should not come at the expense of members receiving advice at the earliest possible stage in the process.

Some members have reported feeling pressured into participating in these case discussions, thinking they were compulsory. This is not so. You have the right to seek advice and support from MIPS, in accordance with the terms and conditions of your MIPS Indemnity Insurance Policy, before agreeing to participate in a case discussion. We can advise you on the best strategy. This may be informed by the nature of any allegations against you and/or whether any medical records have been made available to you.

Many members believed that participating in the case discussion would shorten the time Ahpra takes to close the notification. However, this is not always the case. We have seen situations where Ahpra has identified new issues at a case discussion that results in the notification proceeding to an investigation. A transcript of the case discussion is then relied upon by Ahpra in its investigation.

MIPS is also concerned that, in some circumstances, Ahpra may not have fully disclosed to the practitioner the issues of concern that are raised by a notification. In addition, some members may not have access to medical records. This puts them at a disadvantage when relying on their recollection alone of circumstances surrounding a clinical encounter that might have given rise to a notification. The ability to effectively reflect on a clinical encounter requires sufficient detail and time in which to consider the relevant issues, and this can be challenging in a real-time discussion. By seeking advice from MIPS prior to engaging in a case discussion, we can advise you on whether you should request further information before participating in case discussions.

Finally, some members have told us that they have felt compelled to divulge confidential patient information by the telephone to Ahpra staff without the opportunity to establish the identity of the staff member or the legal basis upon which information is sought. We advise our members not to disclose confidential patient information over the phone without first establishing the identity of the individual and the basis upon which that information is sought, and to seek advice from MIPS.

Key takeaways:

1. Please notify MIPS as soon as possible if you receive a notification from Ahpra about a complaint about you.
2. Please seek advice and assistance from MIPS before participating in a case discussion with Ahpra.
3. MIPS will explain the benefits and risks of participating in a case discussion, based on the unique circumstances of your case.
4. If you require medicolegal advice, please contact MIPS on 1800 061 113.

Medical Indemnity Protection Society ABN 64 007 067 281 | AFSL 301912

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You should seek legal or other professional advice before relying on any content, and practise proper clinical decision making with regard to the individual circumstances.

Information is only current at the date initially published.

If in doubt, contact our claims and 24-hour medico-legal advice and support team on 1300 698 573.

You should consider the appropriateness of the information and read the [Member Handbook Combined PDS and FSG](#) before making a decision on whether to join MIPS.
