Volume 9 May 2010

Health Review

Health Commissioners meet in Perth

During April 23-24 OHR hosted the Australian Health Complaints Commissioners Conference in Perth.

It has been some time since Perth hosted the biannual conference, which involves the heads of the Australian Council for Safety and Quality in Health Care, each State and Territory agency and the Commonwealth Aged Care Commissioner meeting in a nominated capital city to discuss common issues and challenges.

The first day of the conference included a series of presentations from representatives of the Australian Bureau of Statistics, the Australian Competition and Consumer Commission (ACCC) and the Australian Health Practitioner Regulation Agency. There was also a presentation from Professor David Studdert and Dr Marie Bismark of the University of Melbourne on medico-legal research they are doing related to open disclosure.

Prof. Studdert's and Dr Bismark's presentation looked at their research into complaints made to the Victorian Health Complaints Commission that involved informed consent. The research showed that the majority of informed consent complaints relate to surgeons, and usually involve a potential complication of a procedure not being explained to the patient.

The second day of the conference, which looked at more local issues, featured a presentation from Roger Watson of the Corruption and Crime Commission, who talked about the report recently tabled in the WA Parliament concerning the WA Health Department.

The second day also featured presentations from OHR's Dr Michael Lenney and Brain Charlie and Laura Elkin from the Health Consumers' Council. Dr Lenney talked about barriers to engaging Aboriginal people and communities in the health complaints process. Ms Elkin and Mr Charlie provided an insight into their work as Aboriginal Liaison Officers and discussed the experiences of people that have come to their agency for assistance. The second day of the conference finished with a series of presentations from each Commissioner.

While the various agencies share many common aims and functions, there is also some diversity. Some, like OHR, have the power to deal with complaints about disability services, while others like the Northern Territory and South Australian Commissions can deal with complaints about community services.

One exciting development that took place during the meeting was the decision by the Commissioners to form the Council of Australasian Health Complaint Entities. One of the main aims of the Council will be to ensure that federal agencies like the Department of Health and the ACCC have closer contact with the health complaints Commissioners to promote information-sharing and enable the commissions to have greater influence on common issues affecting consumers.

Regional Visit: Broome

OHR staff visited the town of Broome in early May as part of the Regional Awareness and Access Program, in collaboration with other state and commonwealth complaint agencies.

During the visit, OHR was in attendance for the North West Expo in Broome with staff from the State and Commonwealth Ombudsman offices. The agencies also provided complaint clinics for local people, which enabled complainants to speak to staff face-to-face .

OHR staff member Dr Michael Lenney, who took part in the regional visit, was invited to speak at the 4th Annual Rural Health Conference in Broome. The conference theme 'Sharing and Collaborating on indigenous health' is central to Dr Lenney's current work on engaging indigenous people and communities.

Welcome to our newsletter, The Health Review. Any feedback or suggestions are welcome and can be sent to: mail@healthreview.wa.gov.au

‘Living will’ legislation enacted

As of February 15, people in Western Australia were able to make legally binding ‘living wills’, and appoint others as medical guardians to carry out their wishes if they become incompetent.

While the legislation was passed in Parliament in June 2008, the Act was only proclaimed early this year to become law, due to delays in working out how the new Act could be put into practice.

WA Health Dept Chief Medical Officer Simon Towler said members of the public would be able to complete an advanced care directive form, in which they could instruct doctors how or whether to treat them if and when they became too ill or incapacitated to do so.

People would also be able to nominate someone else to make medical decisions and choices on their behalf if they become incompetent.

“This brings legal clarity around who is the substitute decision-maker whether you’ve got an approved guardian or not. It gives the power to approve a guardian and also now the ability to write legally binding advanced health directives,” Dr Towler said. “This is probably the most advanced legislation of this kind in Australia.”

Dr Towler said that the directives did not allow people to make general living wills about how they wished to be treated but instead were specific legal documents that detailed treatment or nontreatment in certain circumstances.

The documents have to be specific in their wording, because of the ineffectiveness of legislation in other parts of the world that allowed for wide interpretations.

“The real power of this is that if you fill one of these out, the doctor is required to follow it” said Dr Towler.

The advanced health directives have to be witnessed and signed by two people, including a health professional.

Dr Towler said people were advised to give copies to their relatives, GP and medical specialist.

Under previous legislation once someone becomes incompetent, no one could act on their behalf. The new laws detail a hierarchy of people who have enduring powers of guardianship.

“The enduring power of guardianship allows the individual, for the first time in WA, to appoint someone else to be your medical decision maker,” Dr Towler said.

For further information about advance health care directives, go to: www.tinyurl.com/yheknbt

National Registration for Health Professionals

Australia’s new national registration and accreditation scheme for medical professionals will begin on 1 July 2010.

From July 1, new legislation will come into effect and chiropractors, dental care practitioners, medical practitioners, nurses and midwives, optometrists, osteopaths, pharmacists, physiotherapists, podiatrists and psychologists will be nationally regulated.

The formation of the national boards came about after the Council of Australian Governments signed an Intergovernmental Agreement on the Australian health work force in March 2008.

The national scheme will not only be responsible for the registration of health professionals, but will also maintain the function of developing guidelines on key professional standards.

Each profession will be regulated by a national board, which will be supported in setting standards and policies by the Australian Health Practitioner Regulation Agency (AHPRA).

The changes are taking place to simplify Australia’s professional regulatory system and increase consumer protection. The scheme will also replace more than 85 boards with one national scheme and 10 National Boards.

For health professionals, the changes mean that there will be one national fee, one set of registration and professional standards and one registration process for each profession across Australia.

The creation of the scheme also relies on legislative changes going through the various State and Territory Parliaments.

The Western Australian Parliament is yet to approve the necessary changes to State Legislation, however while the legislation is pending there are agreements in place for AHPRA to be appointed as a contractor for its services.

At the Health Complaints Commissioner’s meeting in Perth in April, AHPRA’s senior legal adviser Ms Dominique Saunders advised the commissioners that there was an in-principle agreement to develop a Memorandum of Understanding between AHPRA and the various commissions to establish a process for the management of health complaints involving registered practitioners.

The MOU between AHPRA and the Commissioners will be tailored to reflect the various Acts in each State and Territory. For more information, visit the AHPRA web site at www.ahpra.gov.au.

OHR case studies

In each edition of *The Health Review*, we like to bring our readers case studies of issues we have dealt with that show the kinds if issues that people bring to us and how we work with them. In this issue, we will look at two different cases: One where If you would like further information about compensation, please read the OHR fact sheet here.

Case study one - injury sustained in hospital

An elderly lady was being treated for an infection in a private hospital in Perth. The lady had some mobility problems and was placed in a unit designed to cater for recovering elderly patients.

During her stay in the hospital, the lady fell in the en suite bathroom of her room. She was not able to get up off the floor, but managed to press an assistance button on the wall. The lady claimed that no one came to her aid, but another patient in the room who heard the lady calling was able to get some help from the ward staff.

The lady was disappointed that no one responded to her initial call for assistance, and she felt that she wasn't properly examined following her fall. She later checked in to another hospital, where following an x-ray it was discovered that she had suffered a minor fracture to a bone in her lower leg.

The lady spent 15 days in the second hospital, although the fracture did not require surgery. The lady wrote a letter of complaint to her local Member of Parliament, who referred her to OHR. The lady was upset that she had not been able to get quick assistance after her fall, and she also felt that she had not been properly examined, leaving the fracture undetected. Having the fracture treated also involved further costs, including 'out-of-pocket' expenses, and a longer stay in hospital.

OHR staff members met with the lady in a pre-conciliation meeting where she said that she was seeking to have the out-of-pocket expenses incurred paid for by the hospital where she had suffered the fall. She also suggested that she be reimbursed for ongoing physiotherapy sessions and any future expenses.

OHR is not able to negotiate compensation for consumers and the lady was informed of this, however she was offered further assistance for any other issues related to the complaint that she wanted to pursue after she made a claim for compensation.

The lady eventually negotiated with the hospital, with the support of a patient advocate from the Health Consumers' Council. The hospital offered a good-will payment to the lady, which she accepted. She then withdrew her complaint with OHR against the hospital.

Case study two - wound management

A man was admitted to a private hospital in Perth for a routine operation on his groin. During his recovery at the hospital, the man developed a golden staph infection (golden staph is a common bacteria that lives on the skin of many people – it sometimes enters the blood stream through surgical incisions and wounds, causing an infection on the skin or other parts of the body).

The man's infected wound required further hospitalisation, and he returned to hospital to have the infection treated. During this treatment, the man claimed that the dressing on the wound was not changed often enough, causing fluid to build up and leak. The man claimed that the fluid loss was so great that his bedding became saturated.

The man was concerned about the level of infection control in the hospital, fearing that his infection may have been due to a lack of proper procedure. The man was also concerned about ongoing infection control during his treatment, as he was allowed to shower without water proofing bandages, despite it being known that he had a staph infection and the wound leaked onto the floor in his room.

The man also raised some issues about the nursing care he received, claiming that the nurse who changed his dressing was rough, ripping off his bandage, although he had stitches.

A new type of drain was used for the man's wound, with which some of the nursing staff were unfamiliar. During a changing of the drain, a large number of nurses were present and the man felt embarrassed considering he was exposed from the waist down.

When the man brought his complaint to OHR, to achieve a resolution he asked for a meeting with the Director of Nursing, where he was seeking an explanation for the issues he had raised with OHR, and documentary evidence that the hospital had changed their procedure in response to his complaint.

The Director of Nursing and other staff members from the hospital met with the man and OHR staff at a conciliation meeting. During the meeting, the hospital staff apologised to the man for any lack of care and attention during his treatment.

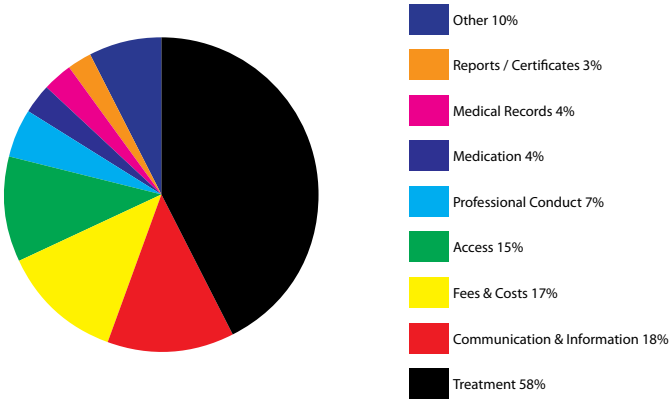
The hospital also undertook to provide the man with written information about their changes to procedures, including the training of staff in relation to wound management. The hospital provided the man with this information following the meeting, together with a written apology.

Complaints Report, 1st Quarter 2010

In the January quarter the Office received 639 new enquiries. 472 of those contacts were within our jurisdiction, while the others were referred to other agencies or organisations.

The figure of 472 relevant enquiries represents an increase of 15% from the 412 'within jurisdiction' enquiries we received in the previous quarter. Most of the enquiries (nearly 85%) were made by telephone.

The issue type most commonly enquired about in this quarter related to 'treatment', followed by 'communication and information', then 'fees and costs'.



Above: Complaint Issues, January - March 2010

Between January and March 2010 we closed 490 enquiries and complaints across the office. The assessment team closed 468 of those enquiries and complaints.

Prison complaints

There were 96 prison health service enquiries made during the quarter, and 101 enquiries were closed. 18 prison complaints were dealt with through conciliation, which is three more than in the previous quarter. In five cases no level of agreement was reached, however either complete or partial agreement was reached in 13 cases that were conciliated.

Complaints management team

A total of 22 complaints were closed by the Complaints Management Team (CMT) during the quarter, which was ten fewer than the previous period. Either partial or complete agreement was reached in 28.6 per cent of conciliated cases. Three of the cases conciliated involved a conciliation meeting, and eleven were conciliated through written correspondence.

Specific organisations receiving complaints

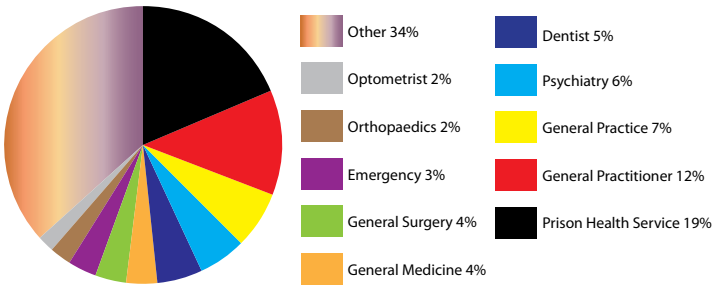
Public hospitals and prisons were the most commonly complained-about organisations during the quarter, which continues the trend from previous periods. The table below indicates various organisations and the number of complaints lodged regarding them during the quarter:

Hakea Prison	25
Fremantle Prison	21
Casuarina Prison	18
Acacia Prison	17
Sir Charles Gairdner Hospital	17
Albany Regional Prison	13
Royal Perth Hospital	10
Bunbury Regional Prison	9
Dental Health Services	6
Joondalup Health Campus	6

Above: Complaints regarding organisations.

Complaints by specialty

The most common provider specialty complained about for the quarter was the Prison Health Service, which attracted 19 per cent of all complaints made (see graph below).



Complaints by provider type January - March 2010

Complaints by provider type

The type of provider complained about most was public hospitals. This was followed by medical practitioners and then prison health services. Dental services, private hospitals and optometrists were also represented in the incoming complaints.

As always, these statistics need to be taken into context: Public hospitals and general practitioners conduct the greatest number of services by far, so it is to be expected that they attract the greatest number of complaints. We have also traditionally received a high proportion of prison health service complaints.

Government of **Western Australia**
Office of Health Review

The **Office of Health Review** is an independent State Government agency established to deal with complaints about health and disability services.

Our mission: Creating strategic partnerships to facilitate safety and quality in the health and disability sectors through complaints resolution.

For more information about the office, please visit our web site at: **www.healthreview.wa.gov.au**

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