The Royal Australian & New Zealand College of Psychiatrists

Your Health in Mind

04 October 2024

Dr Anne Tonkin AO
Chair, Medical Board of Australia

By email to: medboardconsultation@ahpra.gov.au

Dear Dr Tonkin

Re: Public Consultation – Health checks for late career doctors

Thank you for consulting the Royal Australian and New Zealand College of Psychiatrists (RANZCP) about the Medical Board of Australia's proposal to introduce regular health checks for late career doctors (aged 70 and over) to support their health and wellbeing so they can make informed decisions about their health and practice and manage the related risk to patients.

The RANZCP supports that the most important consideration is the protection of the public and the public's confidence in the safety of registered doctors. The RANZCP further welcomes the Medical Board's recognition that any process that routinely screens older doctors in Australia needs to balance the responsibility to protect patients from harm from undetected poor performance, with the costs and benefits. It must be fair to all doctors, including those who have no performance concerns, and avoid unnecessary loss of workforce.

In developing its response to the consultation questions the RANZCP has consulted with its members, including the Committee for Professional Practice, Transition to Retirement Working Group, Committee for Continuing Professional Development, and Member Wellbeing Subcommittee Committee.

Should you wish to discuss any of the matters further, please contact Nicola Wright, Executive Manager, Policy, Practice, and Research at nicola.wright@ranzcp.org or on (03) 9236 9103.

Yours sincerely

EMoore

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Response to consultation questions

1. Should all registered late career doctors (except those with non-practising registration) be required to have either a health check or fitness to practice assessment? If not, on what evidence do you base your views?

The RANZCP supports that the most important consideration is the protection of the public and the public's confidence in the safety of registered doctors. Good health and wellbeing relate to fitness to practice and are essential for good practice across psychiatrists of all ages. The RANZCP advises that psychiatrists should be mindful of their own physical and mental health and exercise self-care accordingly, in line with its information on Self-care for psychiatrists.

Principle 9 of the RANZCP Code of Ethics also requires consideration for psychiatrists' own health:

> *Principle 9: Psychiatrists shall attend to their own health and wellbeing and that of their colleagues, trainees and students.*
>
> *9.1 Significant incapacity in psychiatrists may harm themselves, their patients and the profession. Psychiatrists who become aware of their own or a colleague's incapacity have a responsibility to initiate appropriate action with the interests of patients as paramount.*
>
> *9.2 Psychiatrists shall ensure that their physical and mental health allows them to responsibly and competently function. Psychiatrists shall inform relevant colleagues, their employer and the appropriate regulatory body when this is not the case. During any period of incapacity they should arrange substitute care for their patients.*

This aligns with the Medical Board of Australia's *Good medical practice: a code of conduct for doctors* in Australia that requires all doctors to have their own general practitioner (GP) to help them take care of their health and wellbeing throughout their working lives. Accordingly the RANZCP is supportive of all psychiatrists ensuring that they regularly engage with their GP or other health providers as appropriate to ensure that they remain fit for practice, whatever their age.

It is noted that the Medical Board's proposal for health checks for late career doctors (70 or over) is grounded in external research about the effect of age on doctors' competence, as well as the AHPRA's internal data showing increases in complaints about older doctors. The data provided demonstrate an increased rate of notifications from 2015 to 2023, with the most substantial increase from 2015 to 2019 for both doctors below age 70 and doctors aged 70 and older. This likely related to increased patient numbers as well as changes in reporting, such as the start of health ombudsmen offices in states, encouraging the public to consider making complaints to health regulators, as well as making notifications easier via electronic means. It is therefore necessary to consider other factors that could have influenced these data.

The RANZCP recognises that, in response to concerns about increased notifications of late career doctors, as well as in the interests of the doctors' own health, a health check for late career doctors may be beneficial in principle. This may however be viewed as potentially discriminatory, and place an unnecessary burden on doctors who are 70 or over who have no health concerns. Such mandatory health screenings would add an increased financial

burden to practice, that would make part time practice for many late career psychiatrists unsustainable, and may discourage older psychiatrists from contributing their valuable skills and experience to the profession, at a time where there is a critical shortage.

The RANZCP welcomes acknowledgement of these concerns within the Consultation Regulation Impact Statement which states that any process that routinely screens older doctors in Australia needs to balance the responsibility to protect patients from harm from undetected poor performance, with the costs and benefits. The RANZCP agrees that any scheme must be fair to all doctors, including those who have no performance concerns, and avoid unnecessary loss of workforce. Alternative considerations could include:

- Targeted assessments based on reasonable suspicion or poor health, such as evaluating doctors with multiple complaints or significant lapses in the standard of care (e.g. as part of a proactive complaints system).

- Mandatory health checks for all doctors regardless of age, given that the risk to the public of unwell doctors of any age is just as important.

2. If a health check or fitness to practise assessment is introduced for late career doctors, should the check commence at 70 years of age or another age?

In line with the response to question 1, the RANZCP would question whether an arbitrary cut-off age for a health check or fitness to practice assessment is appropriate. Should the checks proceed, age 70 is relatively young and consideration could be given to whether 75 (in line with fitness to drive assessments) may be more appropriate. In line with Good Medical Practice, all doctors should already be seeing their GP regularly – but 75 may be a more appropriate age to start any official health checks with formal reporting linked to registration.

In considering this question is it important to note the unique practising position of psychiatrists in that they may more frequently practice well into old age, while clinicians in other specialty areas cannot (for example, surgeons may retire from surgery much earlier than a practising GP or psychiatrist because of the physical dexterity required to be maintained).

3. Which of the following options do you agree will provide the best model?

- Option 1: Rely on existing guidance, including Good medical practice: a code of conduct for doctors in Australia (Status quo).
- Option 2: Require a detailed health assessment of the ‘fitness to practise’ of doctors aged 70 years and older every three years for doctors from the age of 70 and annually for doctors from the age of 80.
- Option 3: Require general health checks for late career doctors aged 70 years and older every three years for doctors from the age of 70 and annually for doctors from the age of 80.

The RANZCP acknowledges that Option 3 is the preferred option of the Medical Board. This option could be viewed as the most appropriate, given that doctors should already be seeing their GP regularly at this stage in life and this may prompt them to ensure that they do

maintain this contact. The costs associated with such health checks are also less prohibitive compared to a full fitness to practice assessment. However, consideration should be given to the increased burden that may be placed on GPs to deliver this option, combined with the potential conflicts of interest due to professional relationships and the intricate power dynamic. It is recognised that these dynamics may be similar to role that GPs have in assessing older drivers but, as this check would potentially have influence on another doctors' practice and right to work, this would require careful consideration. Option 3 would require the roles and responsibility of the GP in this dynamic to be outlined more so than is done in the supplementary materials, to support GPs in understanding their obligations. These matters should be discussed with the Royal Australian College of General Practitioners in advance of the implementation of any scheme.

The RANZCP would suggest that should any regulatory changes be made, that these be reviewed regularly to monitor and assess the impact. This could include monitoring the appropriate age at which to start the assessment, frequency, and any impact on both workforce numbers and notifications.

Which part of each model do you agree/not agree with and on what evidence do you base your views?

The RANZCP accepts that it is appropriate to consider alternatives to option 1 (the status quo), in a way that puts protection of patients as the primary objective.

Option 2 would require a detailed health assessment of the 'fitness to practice' of doctors, that would place an excessive burden on both psychiatrists and their GPs.

If either option 2 or option 3 are implemented, there needs to be consideration in advance as to whether or how many doctors might retire rather than undergo these mandatory health assessments, and the impact this would have on exacerbating shortages in the health-care workforce.

4. Should all registered late career doctors (except those with non-practising registration) have a cognitive function screening that establishes a baseline for ongoing cognitive assessment? If not, why not? On what evidence do you base your views?

It is important to note that individual variation is substantial in all doctors who age. There is no consensus or agreed guidelines that help medical authorities decide what level of age-related cognitive changes may put the public at risk. The Medical Board acknowledges this significant limitation:

It is difficult to relate the precise degree of neurocognitive loss to doctors' competence because the actual levels of cognitive impairment that preclude safe practice have not been determined. There are no agreed guidelines to help medical boards decide what level of cognitive impairment in a doctor may put the public at risk. [1, page 20].

Assessments that focus on normal cognitive ability performed by non-specialist clinicians may not be adequate to identify decline/early cognitive impairment for specialised/advanced clinicians. There is no successful general screening tool that can adequately be implemented by non-specialists to assess whether cognition would affect patient care.

None of the screening cognitive tests that are recommended in the consultation paper have been evaluated in order to determine what scores would determine the doctor's capacity to work in their specific area of practice which means they have limited scope to capture the range of abilities necessary for the work environment. Whilst a cognitive screen may have some have some benefit in identifying early concerns, these should not be solely relied upon, and consideration given to their limitations.

5. Should health checks/fitness to practice assessments be confidential between the late career doctor and their assessing/treating doctor/s and not shared with the Board?

It is acknowledged that a late career doctor would need to declare in their annual registration renewal that they have completed the appropriate health check/fitness to practice assessment and, as they do now, declare whether they have an impairment that may detrimentally affect their ability to practise medicine safely.

Confidentiality between the assessing doctor and the late career doctor is essential as it builds trust between the doctor and their GP. This could however present challenges in terms of how the GP or examining doctor understands their statutory obligation to report any doctor who they believe is not fit to practice, or what they should do if there are any health concerns that meet the threshold for concern. Consideration of sharing the declaration made in the doctors' annual registration renewal with the assessing doctor could assist in closing the loop and flagging a situation where the GP has concerns yet the doctor declares no issue.

6. Do you think the Medical Board of Australia should have a more active role in the health checks/fitness to practice assessments? If yes, what should that role be?

No response

7. The Board has developed a draft Registration standard: health checks for late career doctors that would support option three. Is the content and structure of the draft Registration standard: health checks for late career doctors helpful, clear, relevant, and workable?

The RANZCP acknowledges the draft standard that supports option 3. If option 3 is progressed, these resources would be useful to practitioners but should be reviewed in the context of responses to previous questions to ensure that all these matters are addressed.

8. Are the proposed supporting documents and resources (Appendix C-1 to C-5) clear and relevant?

The Medical Board of Australia has developed a draft Registration standard: health checks for late career doctors to support option 3 (the Medical Board's preferred approach).

In anticipation of implementing option 3, the Medical Board has prepared the following documents (in the consultation paper) that have been reviewed:

C-1 Pre-consultation questionnaire that late career doctors would complete before their health check

C-2 Health check examination guide – to be used by the examining/assessing/treating doctors during the health check

C-3 Guidance for screening of cognitive function in late career doctors

C-4 Health check confirmation certificate

C-5 Flowchart identifying the stages of the health check.

The RANZCP acknowledges these resources. If option 3 is progressed, these resources should be reviewed in the context of responses to previous questions to ensure that all these matters are addressed.