

Submission

No 34

INQUIRY INTO THE OPERATION OF THE HEALTH CARE COMPLAINTS ACT 1993

Organisation: North Coast Area Health Service
Name: Mr Chris Crawford
Position: Chief Executive
Telephone: 6620 2100
Date Received: 23/10/2009

20 October 2009

Hon Helen Westwood AM MLC
Chair
Committee on the Health Care Complaints Commission
Parliament of NSW
Macquarie Street
Sydney NSW 2000

Attention: Ms Mel Keenan
Committee Manager

Dear Ms Westwood

I write in response to your letter dated 2 October 2009 in regard to the Inquiry into the operation of the Health Care Complaints Act 1993. I note in the covering letter it states "the Committee is keen to stimulate public discussion on the issues, as part of its oversight mandate under the Health Care Complaints Commission Act 1993".

The North Coast Area Health Service (NCAHS) has been particularly interested in actively viewing the Discussion Paper and the submissions made by other Area Health Services (AHS).

NCAHS believes the review / analysis of the Health Care Complaints Act 1993, with particular reference to the appropriateness of the assessment and investigative powers of the Health Care Complaints Commission (HCCC), including the effectiveness of the information – sharing with the AHSs is of utmost importance when dealing with the complex issues associated with the investigation of our Staff.

It is with this in mind that NCAHS would like to take this opportunity to comment on some of the "Issues" raised in the Discussion Paper.

NCAHS supports the approaches outlined in the following Issues:

Issue 4: The following amendments are made to the Health Care Complaints Act 1993:

- That s3A(4) give full recognition to public health organisations as the primary legal entities responsible for their own management and control of clinical issues;
- That s25 and 25 A require the Commission to directly inform a public health organisation of a complaint made against it; and
- That s43 require a public health organisation to make any submissions in response a Commission's recommendations or comments directly to the Commission.

Issue 26: That in, dealing with complainants throughout, and at the conclusion of, the complaint process, the Commission adopt the principles outlined in NSW Health's Open Disclosure Directive (PD2007_040).

Issue 27: That, where an Area Health Service has referred a complaint to the HCCC, the Commission keep the Area Health Service (AHS) informed of the progress of that complaint on a monthly basis.

Issue 28: That the HCCC Act 1993 be amended to provide that where a person is named as an individual respondent to a complaint, and that person is employed by, or contracted to work for an AHS, that AHS be notified by the Commission that the complaint has been made.

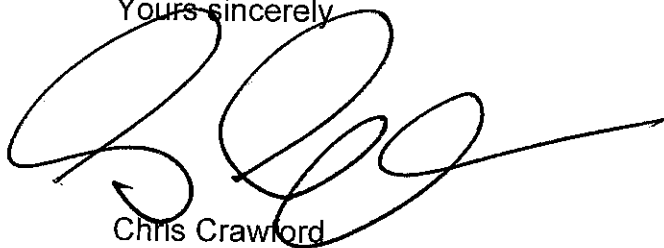
Issue 29: That, on requesting a response from an AHS to an individual complaint against a practitioner employed by, or contracted to work for, that AHS, the HCCC specifically request from the AHS information on any other complaints or practice- based concerns in respect of that practitioner.

I also have attached a letter written by NCAHS to the Commissioner HCCC, Mr Kieran Pehm on 27 April 2009 outlining situations that NCAHS had identified. These are not dissimilar to the Issues outlined above, which outline approaches that NCAHS supports.

Thank you for the opportunity to respond to the Discussion Paper arising from the "Inquiry into the operation of the Health Care Complaints Act 1993".

Should any further information be required please do not hesitate in contacting Dr David Hutton, Executive Director Clinical Governance on telephone 66207550 or Mrs Joy Hathaway, NCAHS Consumer Relations Manager on telephone 02 6620 7491.

Yours sincerely

A large, stylized handwritten signature in black ink, appearing to read 'Chris Crawford'.

Chris Crawford
Chief Executive

27 April 2009

Mr Kieran Pehm
Commissioner
Health Care Complaints Commission
Locked Mail 18
STRAWBERRY HILLS NSW 2012

Attention: Katja Beitat

COPY

Dear Mr Pehm

This letter is in preparation for your visit to the North Coast Area Health Service (NCAHS). NCAHS has become aware of a number of instances where the Commission is assessing or investigating a clinician for matters arising from their work for NCAHS, either as an employee or as a visiting practitioner, where NCAHS has not been notified of that assessment or investigation. Examples are:

- A complaint can be made against a Clinician concerning the provision of service. The Clinician is named as the provider. The Clinician is employed by NCAHS and was providing that service at that time as an employee of NCAHS. The Clinician provides information on request to the Health Care Complaints Commission (HCCC). The NCAHS is unaware of the complaint or the provision of information to HCCC.

When the investigation is complete, NCAHS in some cases will receive documentation saying the level of care provided is below accepted standards. In one case this was some 2 years after the incident before NCAHS were notified. The Clinician continued to be employed with support from the NCAHS.

- NCAHS was made aware by a Surgeon that a complaint was made against him last year. Three Representatives from the NSW Medical Board (2 Surgeons and a Facilitator) advised they would be entering the Operating Theatre and also observing the Surgeon in his consulting rooms. The Surgeon himself was bewildered as to why he was subject of a review and enquired whether NCAHS had specific information. NCAHS was not aware of any actual issue in respect to performance of this Surgeon.

In these circumstances (where there may be negligence, unsatisfactory professional conduct or worse), NCAHS is not able to:

- Exercise its duty of care to these employees and visiting practitioners, such as to arrange support (e.g. through the Employee Assistance Program) or to arrange access to medical records and other relevant document (necessary for procedural fairness); and/or

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- Exercise its duty of care to protect other employees and visiting practitioners against risks to health or safety; and/or
- Exercise its duty of care regarding the provision of adequate standards of patient care and services to the public (that is, taking reasonable precautions against foreseeable risk of harm).

If any further information is required please do not hesitate in contacting Dr David Hutton Executive Director Clinical Governance on telephone 66207550.

Yours sincerely

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Chris Crawford
Chief Executive