The Queensland Health Ombudsman – six months down the track

Six months have passed since the creation of the Queensland Health Ombudsman on 1 July 2014 and the resulting significant changes to the management of health service complaints in Queensland. As noted in our July 2014 update, the Health Ombudsman has been given a big task and wide ranging powers to tackle it. So, are the early signs positive?

The Ombudsman’s most recent quarterly report (released in January 2015) reveals that:

a. Approximately 85% of complaints are dealt with within seven days. (This is an improvement from the previous quarter, where the rate was 75% and 61% at the start of August 2014.);
b. The top two complaints continue to be professional performance and communication – followed closely by professional conduct; and
c. Over 70% of the matters where parties participated in conciliation were resolved.

An interesting aspect of the new regime is the Ombudsman’s power to issue interim prohibition orders against ‘health practitioners’ falling outside the traditional definition of that term. The Ombudsman may do this where he considers that the health practitioner’s health, conduct or performance means they pose a serious risk, and immediate action is necessary to protect public health and safety. This power has been exercised on four occasions in this recent quarter.

a. Two orders were issued against massage therapists. The therapists were banned from “providing any health service that involves physical contact with a client/patient”.
b. A third prohibition order was issued against a cosmetic therapist from New
South Wales who was found to have contravened Poisons and Therapeutic Goods legislation by administering certain injections without the authorisation or supervision of a registered medical practitioner. Orders were made for strict supervision.

c. The fourth prohibition order was made against an aboriginal health worker who was prohibited from practicing as an Aboriginal health worker and “providing or participating in the provision of any health service.”

Under the Health Ombudsman Act 2013 (Qld) a health practitioner includes anyone providing something that purports to be a service for maintaining, improving, restoring or managing people’s wellbeing. This clearly includes massage and cosmetic therapists. It remains to be seen whether the Ombudsman will have cause to take action against weight loss therapists, life coaches or yoga instructors?

It also remains to be seen how well Queensland’s new health complaints regime will succeed in its stated paramount objective of protecting the public. The Ombudsman’s report does however suggest at least some steps in the right direction.

Article by partner Robert Samut and solicitor Amelia Jenner.

Authors

Robert Samut
Phone: +61 7 3231 6326
Email: robert.samut@bnlaw.com.au