



AMA (WA) MDA National Medical Students' Network

Medical Student Registration and Mandatory Reporting

FAQs

Overview:

In WA the Health Practitioner Regulation National Law (WA) Act 2010 ('the Act') governs and defines how the National Registration and Accreditation process will operate. With respect to Medical Students the Act prescribes that:

- You must now be registered with the Australian Health Practitioner Regulation Agency (AHPRA)
- Your Education Provider is to provide AHPRA with a list of all students enrolled as Medical Students
- There is an obligation to notify the National Board where:
 - (i) *The student is charged with an offence punishable by 12 months imprisonment or more; or*
 - (ii) *The student is convicted of or the subject of a finding of guilt for an offence punishable by imprisonment; or*
 - (iii) *The student's registration under the law of another country ... has been suspended or cancelled*
- Your education provider must report a registered student if they reasonably believe that the student has an impairment, that in the course of undertaking clinical training may place the public at substantial risk of harm.
- A health practitioner must notify AHPRA if during the course of practising their profession they form a reasonable belief that a student has an impairment that in the course of the student undertaking clinical training may place the public at substantial risk of harm.
- A voluntary notification can be made about a medical student by any entity to AHPRA on the grounds that (a) the student has been charged with an offence or has been convicted or found guilty of an offence, that is punishable by 12 months imprisonment or more; or (b) the student has, or may have, an impairment; or (c) that the student has, or may have, contravened a condition of the student's registration or an undertaking given by the student to a National Board.

FAQ

- **Is there a cost?**

No, there is no cost associated with Student Registration of the National Board.

- **What information is kept and is it made available on a public register?**

The register will record your name, date of birth, gender, mailing address, medical school's name, date of initial registration, date course started, expected date of course completion, date course completed or date student ceased to be enrolled, details of any conditions or undertakings, any other information the Board considers appropriate.

This information will not be made publically available.

- **Who is responsible for registering me as a student?**

Your Education Provider is responsible for providing a list of enrolled medical students and their particulars to the National Board. You will remain registered for the duration of your enrolment as a student.

- **What happens if I cease to be a medical student?**

Your Education Provider is responsible for notifying the National Board of any student who ceases to be enrolled. This notification must be given in writing to the Board within 60 days.

- **Why do Students need to be registered?**

The Medical Board of Australia and AHPRA state that registration is appropriate to protect the public by facilitating the early detection of impairment that could compromise patient safety; to encourage impaired students to receive treatment and to facilitate their return to study when it is safe to do so; to support the impaired student when they become registered medical practitioners; and to protect the public by dealing with students who have engaged in serious criminal activity.

- **Section 130 of The Act prescribes notification where a student is charged with an offence that is punishable by 12 months imprisonment or more – what would constitute such an offence?**

In this section the student must only have been CHARGED with an offence which attracts a 12mth+ prison term.

It should also be noted that the word “punishable” means in theory i.e. if the crime as set out in the criminal code provides for a term of imprisonment of over 12 months, then the matter would need to be declared as the section was intended to reflect the seriousness of the crime not the extent of any mitigating circumstances which might be relevant to the case.

FAQ continued

Pursuant to the Criminal Code of WA crimes which carry terms of imprisonment over 12 months include (but are not limited to):

- Trespass s70A
 - Threatening violence/ death s74/338B
 - Conduct intended to likely to racially harass s80A/ B
 - Gives false information to officials s170
 - Being involved with prostitution (keeps, manages, acts or assists in management, tenant, lessee, occupier of premises) s190
 - Obscene/Indecent acts in public s202/203
 - Killing of human being s268/Unlawful homicide s277/ murder s279
 - Acceleration of death s273
 - Manslaughter s280
 - Unlawful assault causing death s281
 - Aiding suicide s288
 - Killing unborn child s290
 - Grievous Bodily Harm s297
 - Common Assaults s313
 - Stalking s338E
 - Drug trafficking s557J
 - Possessing stupefying drug with intention of using it to commit offence s557D
 - Child sex offenders s557K
- **S130 of the Act also prescribed types of offences where the student is convicted of or the subject of a finding of guilt for an offence punishable by imprisonment – what would constitute such an offence?**

The important part of this section relates to a student having been CONVICTED of any offence which attracts a penalty of imprisonment. There are many hundreds of offences, some are outlined above.

- **The Act prescribes the mandatory reporting of registered medical students and the voluntary notification of medical students where the student has an impairment that may place the public at substantial harm in the course of undertaking clinical training:**

– What does impairment mean?

'Impairment' is defined under s5 of the National Law to mean the student 'has a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect the student's capacity to undertake clinical training:

- as part of the approved program of study in which the student is enrolled; or
- arranged by an education provider'.

– What does substantial harm mean?

The Medical Board of Australia's 'Guidelines for Mandatory Notifications' provide a definition of 'substantial harm' as having the ordinary meaning; that is, of 'considerable harm' such as a failure to correctly or appropriately diagnose or treat because of the impairment e.g. a practitioner (student) who has an illness which causes cognitive impairment so he or she cannot practise effectively would require a mandatory notification. However, a practitioner (student) who has a blood borne virus who practises appropriately and safely in light of his or her condition and complies with any registration standards or guidelines and professional standards and protocols would not trigger a notification. The context of the practitioner's (student's) work is also relevant. If an employer has put in place safeguards such as monitoring and supervision, this may reduce or prevent the risk of substantial harm.

The linkage of a student's impairment with the risk of substantial harm means that the threshold for mandatory notification of students under this section has been set quite high because students are not generally involved in patients' diagnosis or management. However, a student who was suffering from a psychosis may in some circumstances trigger a notification e.g. student with a belief that he or she could cure all patients with cancer – especially if the student was unwilling to seek appropriate treatment. Another example would be a student with a frontal lobe injury with associated disinhibition who may put patients at risk of substantial harm as a result of their behaviour associated with the brain injury.

• If I get into trouble where can I get assistance?

You are strongly encouraged to join both the AMA (WA) and MDA National so that if you do have any problems or want to workshop an issue then as a member of either organisation you can get that assistance. Importantly membership of both organisations is FREE. Membership will also ensure that you are kept informed of any latest developments.

Where to get help?

AMA (WA)

Membership@amawa.com.au

9273 3055

www.amawa.com.au

MDA National

Peaceofmind@mdanational.com.au

1800 011 255

www.mdanational.com.au

AHPRA

www.ahpra.gov.au

Medical Board of Australia

www.medicalboard.gov.au

Your Medical Student Associations

www.msand.org.au

www.wamss.org.au

www.amsa.org.au

The information in this article is intended as a guide only. We recommend you always contact your MDO or indemnity provider when you require specific advice in relation to your position or your insurance policy.

MDA National is the trading name of The Medical Defence Association of Western Australia (Incorporated) ARBN 055 801 771, incorporated in Western Australia.