

Change laws to exempt unwell doctors from mandatory reporting, say medico-legal experts

September 15 2014

In a report published in today's *Journal of Law and Medicine*, the authors say an exemption to mandatory reporting in Western Australian legislation provides a model for amending equivalent laws in others jurisdictions, which could pave the way for nationally consistent legislation.

The call to amend and harmonise mandatory reporting laws also has the backing of the Royal Australian College of General Practitioners and a 2011 Senate Committee inquiry.

"Doctors who are unwell need to feel they can attend their treating doctor without the stumbling block of mandatory reporting," says University of Sydney psychiatrist, Associate Professor Louise Nash, a co-author of the report.

"Current mandatory reporting requirements may be a deterrent for some doctors to seek medical care. However, without the mandatory reporting requirement, an ethical obligation remains to report a doctor who is considered a risk to public safety."

The authors point to findings from a recent national survey of doctors as an indicator of the barriers doctors experience in seeking treatment for their own [mental health issues](#).

According to the 2013 Beyond Blue survey of more than 12,000 doctors, the leading barriers to seeking help were:

- lack of confidentiality or privacy (reported by 52%)
- embarrassment (37%)
- impact on registration and right to practice (34%)
- preference to rely on self or not seek help (30%)
- lack of time (29%)
- concerns about career development or progress (27%).

Doctors in Australia have always had an ethical duty to report doctors whose practice puts patient at risk of harm; however the passing of state and territory laws between 2008-10 made mandatory reporting a legal requirement. These laws currently apply to 14 health practitioner groups, including medical practitioners.

"Mandatory reporting laws were introduced as a response to perceived failures in medical self-regulation," says Nick Goiran, a Western Australian MLC and co-author of the report.

"They were intended to protect the public from dangerous or poorly performing medical practitioners, following a string of notorious cases in the mid-2000s.

"Embedded in these laws is the legal obligation for registered health professionals to report 'notifiable conduct' to the Australian Health Practitioner Regulation Agency if, in the course of their practice they form a reasonable belief that another health practitioner has behaved in a way that constitutes notifiable conduct.

Western Australian law legislation does not oblige health practitioners to report what they consider as notifiable conduct or impairment when providing healthcare to another health practitioner.

In comparison to Western Australia, the authors suggest that mandatory reporting may actually increase risks to the public rather than decrease it because it can deter [doctors](#) from seeking help.

More information: Mandatory reporting of health professionals: the case for a Western Australian style exemption for all Australian practitioners, N. Goiran, M. Kay, L. Nash, G. Haysom; *Journal of Law and Medicine*: (2014) 22 JLM 209-220

Provided by University of Sydney

Citation: Change laws to exempt unwell doctors from mandatory reporting, say medico-legal experts (2014, September 15) retrieved 18 April 2024 from <https://medicalxpress.com/news/2014-09-laws-exempt-unwell-doctors-mandatory.html>

This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.