AMA Victoria's submission to the Royal Australasian College of Surgeons' Issues Paper on discrimination, bullying and sexual harassment

20 July 2015

The Australian Medical Association (Victoria)

AMA Victoria welcomes the opportunity to provide input into RACS' Issues Paper on discrimination, bullying and sexual harassment.

Organisational Culture – Problems persist despite the legal, policy and standards framework

Do surgeons know where the line is, and still cross it?

AMA Victoria seeks to clarify what RACS has referred to as "the line". For this Issues Paper to be effective in bringing about wide spread change, it is paramount to have clear wording and messaging. Discrimination, bullying and harassment does not occur within the medical profession because of a murky line, or that bullying is an ambiguous term. The law is clear. Contracts are clear. AMA Victoria's EBA is clear. Discrimination, bullying and sexual harassment is unacceptable behaviour and those who break the law must be reprimanded.

It is incumbent on Health Services to make their employees aware of the relevant laws, workplace policies, community expectations, and codes of conduct (such as AMA Victoria's Code of Ethics). Ignorance is not an excuse. The onus lies with the individual. However, greater promotion of acceptable behaviour and a zero tolerance approach is integral to bringing about change.

In March 2015, AMA Victoria undertook a survey of our doctors in training. This survey included questions on bullying and harassment. While this survey is just a small sample of the medical profession, the anecdotal themes that came to light are relevant to this Issues Paper. Responses detailing unacceptable behaviour included:

- "Consultants snapping or losing it during surgery. Yelling at trainees during surgery in operating theatres. Not a conducive environment for teaching."
- "A refusal by senior staff to address issues related to equity of access within training once those issues have been raised. E.g. I was advised to quit and find another job if I wanted more (any) access to theatre time."
- "Told by a consultant that I wasn't allowed to go to the toilet and had to ask permission in front of a whole room of people to do so."

It is suggested that some doctors are unaware of accepted behaviour, are unaware that their own behaviour is unacceptable, or that they are choosing to disregard appropriate and acceptable behaviour and instead actively discriminate, bully and harass.

Are surgeons aware of the relevant professional and educational standards? If so, why do some ignore them?

AMA Victoria is not a Health Service and thus cannot effectively comment on surgeons' knowledge of the relevant professional or educational standards.

One conclusion on why current standards are ignored could be that of inertia:

individuals will continue to behave in a certain way unless told otherwise. Furthermore, the behaviour of leaders will influence the next generation.

Why do doctors ignore the line?

This question has already been addressed.

The reasons why some doctors discriminate, bully and harass are varied, and may include:

- It is 'accepted' workplace behaviour and becomes the norm.
- It may not be clear all employees what is acceptable, especially if employers do not reprimand perpetrators.
- Stressful working conditions can play a part. However, this is not an excuse.

What more needs to be done to increase awareness of the law and standards? What needs to be done to ensure compliance with them?

It is recommended that doctors (including Fellows) undertake specific training that details the law, acceptable (and required) workplace behaviour, codes of conduct, and also the negative impact that discrimination, bullying and harassment can have on an individual. Education will lead to change.

It is recommended that such training is a part of CME/MOPS requirements. This training should be mandatory for all doctors.

Employers are responsible for the behaviour of their employees and should play a role in assisting RACS with the above training. Employers will (or at least should) know what behaviour is occurring, and what needs to stopped.

Compliance needs to be a focus of both the College and the hospital. Compliance should include regular monitoring by the College and mandatory refresher courses for doctors.

Underreporting and an employer's failure to reprimand and bring about change are two significant barriers to stopping discrimination, bullying and harassment. This needs to change. Hospitals are responsible for workplace issues and there needs to be appropriate complaint mechanisms.

If a complaint is made, an investigation needs to occur. Once a finding is made the College must take appropriate action based on the finding. Protocols will need to be developed to ensure the transfer of this information can take place.

Organisational Culture – Are we teaching the right skills?

AMA Victoria's DiT survey (previously referenced) found that 27% of respondents experienced bullying and 9.4% experienced sexual harassment in their workplace in the preceding three months (November/December 2014 – March 2015). 36% said they were unable to raise issues of concern without recrimination.

Within College training programs, 10.2% of respondents said they had experienced bullying and 3% said they had experienced sexual harassment. 17.8% said they were unable to raise issues of concern.

It is clear from these statistics that acceptable behavioural training must be added to the syllabus.

In addition, any doctor taking on supervision and teaching responsibilities needs to be taught how to teach. In most other professions, a minimum Certificate IV in Training and Assessment is required before you can teach others. Doctors should be subjected to similar requirements before assuming supervision responsibilities.

How can the link between patient safety and behaviour be made clearer?

We suggest undertaking a qualitative study, and ask those who have been bullied how they think patient care is affected.

Do you have comments on the following?

- **Refocus training to prevent discrimination, bullying and sexual harassment by emphasising patient safety as well as compliance.**
- **Review current professional development and traineeship education about discrimination, bullying and sexual harassment.**
- **Undertake site visits or surveys to confirm staff awareness of reporting requirements.**

Our earlier responses have covered points 1 and 2. Appropriate behaviour must be covered in training courses.

A robust complaints system is the responsibility of the employer. There would be merit, however, in the Colleges and the AMA undertaking site visits to reinforce accepted behaviour and talk to individuals about any issues to do with the complaints process etc.

To reiterate, there must be a zero tolerance approach to discrimination, bullying and harassment. Those who do not comply must be reprimanded.

The culture of surgery – Gender Inequality

Victims of discrimination, bullying and sexual harassment must never be made to feel like they have caused or deserved such behaviour.

Discrimination, bullying and sexual harassment is not always gender specific. AMA Victoria's Workplace Relations Unit has assisted a number of members in bullying matters that have occurred between doctors of the same sex. However, we accept that more female doctors have been exposed to inappropriate and unacceptable behaviour by their male colleagues.

Feedback received through our DiT survey showed that gender discrimination and

bullying is particularly prevalent when it comes to accommodating family commitments. Several responses detailed discrimination related to pregnancy and returning to work following parental leave. There is an overwhelming perception that having parental responsibilities will negatively impact your medical career. This must change.

Improved training options that recognise and support family commitments is needed. Training options that allow part-time and interrupted training without negative consequences should be a priority. Trainees who take parental leave or prefer to work part-time in order to meet their family commitments should not be penalised for doing so.

Do you have comments on the following?

- **Identify and eliminate potential barriers for females entering and staying in the profession.**
- **Bring in targets or quotas for women in surgery or leadership positions (similar to that used by the Australian Stock Exchange for voluntary/compulsory quotas of the percentage of women at partnership levels) and provide training and mentoring to help female surgeons reach these positions.**
- **Make gender equity a strategic priority, championed by the College in partnership with other medical colleges and the medical profession.**
- **Develop a voluntary Code of Practice (or memorandum of understanding) with key institutions, including targets and key performance indicators aimed at promoting gender equity, linked to a public reporting cycle. For example, annual publishing of Health Service profiles, reporting on the percentage of women in leadership positions; number of employees working flexibly; number of complaints made based on gender; number of other discrimination complaints; number of sexual harassment complaints lodged internally and externally; and the outcome of these complaints.**

AMA Victoria supports most of these points.

The culture of surgery – The boy's club

What is it about the culture of surgery that contributes to discrimination, bullying and sexual harassment?

As detailed in the previous parts of this submission, a culture of bad behaviour will continue unless steps are taken to change and modify the cultural norms. It can be argued that the bad behaviour is perpetuated because the bullying surgeons – who are now senior leaders – were discriminated, bullied and/or sexually harassed by the senior leaders who trained them in the past. The senior leaders of today are repeating this behaviour, cementing such behaviour as acceptable and normal.

Change management and education are needed to address and alter this type of behaviour.

There is a perception that surgery (surgeons and RACS) has not evolved fast enough to keep up with:

- Community standards;
- A new generation's expectations;
- Emerging trends toward post graduate / mature trainees who have greater life experience;
- More than 50% of medical graduates are female; and
- A highly competitive training environment that is creating increased potential for tension.

AMA Victoria's DiT survey included the following comments:

- "There is an unacceptable culture within the surgical field that is discriminatory towards women and overtly sexist. This includes subtle jokes and comments such as the suggestion that women should bake for their surgical consultants to get accepted onto a training program."
- "I am told that I must be a perfect princess all the time if I ever expect to progress my career".

In situations where there are clear power structures, incidences of bullying and harassment can be high, while the reporting of concerns can be low. Bullying can be sustained where there is a substantial power imbalance between supervisors and trainees. The imbalance arises because of:

- Highly competitive training programs;
- Typically one-year employment contracts requiring a constant search for job security,
- A reliance on (potentially subjective) assessment; and
- A need to gain references.

The combination of these factors has led to trainees blaming themselves for attracting bullying in the belief they are underperforming (rather than blaming the perpetrator). Alternatively, many do not lodge complaints as they do not want to "rock the boat".

Do you have comments on the following?

- **More training/CPD for College Fellows, potentially compulsory training for supervisors, in providing constructive feedback to trainees and communicating about difficult issues.**

- **Review and provide clear information about the roles and responsibilities of surgical trainees and supervisors, particularly about discrimination, bullying and sexual harassment.**
- **Make an unequivocal statement of commitment from health sector leaders about equity and inclusion.**
- **In partnership with employers, other medical colleges and health sector leaders, implement a unified strategy to address sexual harassment or make structural change to the profession and integrate the relevant KPIs in the performance plans of senior health sector leaders and managers.**

AMA Victoria supports these points.

The culture of surgery – Problems are worse in procedural specialties

The current training system is very rigid and does not accommodate alternative options. More flexible training programs are required to allow trainees to undertake the program in ways that allow them to balance their personal responsibilities with their professional lives.

Increasing numbers of graduates competing for limited training positions has led to junior doctors accepting the unacceptable. It is a common-held view that if you make a complaint you will lose your position and/or be blacklisted from the training program. Removing these perceptions and creating a system that is transparent and based on open and clear KPIs will assist in breaking down the current barriers, which prohibit doctors from making complaints.

Medicine is a stressful and highly demanding job. Health Services and Colleges must ensure that their employees and members are appropriately supported throughout their career. We commend the College for the new support program that has been launched.

Bystanders are silent

As Lt. General David Morrison said “the standard you walk past is the standard you accept”. AMA Victoria supports this statement.

The medical profession must take a zero tolerance approach. Colleagues must be encouraged and supported to “call out” inappropriate behaviour; this will lead to greater realisation and acceptance of what is expected. Bystanders will speak up if they’re not afraid of facing negative consequences themselves. As stated earlier, a supportive environment that does not block complaints will empower doctors to stand up for the rights of their colleagues.

Complaints – Under Reporting

AMA Victoria’s DiT survey found that 31% of respondents were not aware of their employer’s reporting/complaint process. Responses included:

- "Poor bullying response: I have attempted to alert senior staff to the presence of bullying in my team (not directed at myself)."
- "There was no clear pathway for managing my concerns and I had to present to the head of department, which was highly intimidating. These concerns were downplayed, despite reports from multiple individuals, and inadequately addressed both in terms of supporting the victim and managing the perpetrator - each received a single phone call only."

Reporting issues, no matter how serious, is often seen as a career-limiting move or as weak because doctors should be able to just "suck it up". This acceptance (and the barriers in place) must end.

There must be a safe, confidential avenue in which doctors can talk about their experiences without fear of repercussion. The process involved in the reporting of issues or concerns needs to be thorough and considerate of those involved.

Ultimately, doctors who are subjected to any form of discrimination, bullying or harassment need to feel safe in order to report their concerns; they need to feel that they will be believed, supported and that they won't be victimised.

Reporting procedures in Health Services and in Colleges must:

- Allow the person subjected to the behaviour to have a voice;
- Be non-judgemental;
- Be professional with proper documentation;
- Be supportive of both parties;
- Be confidential;
- Protect the privacy of those involved; and
- Take a proportional response.

In order to effect cultural change and take a zero tolerance approach, all incidents, even those deemed minor, should be reported. Inappropriate behaviours should be identified and modified early, before they escalate and cause severe distress.

Do you have comments on the following?

- **Centralise knowledge of complaints about discrimination, bullying and sexual harassment so they can be monitored, effectively managed individually and analysed collectively, to make sure the general issues they raise are addressed.**

- **In partnership with employers, assess the effectiveness of current data-collection methods in identifying these issues and collate data across institutions.**
- **Undertake site visits and talk to Health Service staff when data analysis identifies potential systemic issues.**
- **Host annual or regular roundtables for relevant stakeholders to identify and share best-practice models or initiatives that have been successful in addressing discrimination, bullying and sexual harassment.**

AMA Victoria encourages the establishment of Health Service and College self-reporting standards on incidents, complaints, training and compliance programs. Those entities that do not self-report should be questioned, while those that are performing well will be encouraged to do better. Those aiming to improve will have access to data and be able to learn from others about what systems work.

Complaints – Fear of reprisal

Fear of reprisal is a key issue preventing doctors from lodging a complaint. In AMA Victoria's survey, 36.1% of respondents said there they are unable to raise issues of concern without recrimination within their workplace. Within the College programs, 17.8% of respondents said they are unable to raise issues of concern without recrimination. Barriers to reporting included direct recrimination from supervisors (receiving bad reports or having access to training and experience blocked), as well as threats from Health Services' HR departments that "trouble-makers" won't be offered contracts in the following year.

The increasing competition to get into training programs is also a deterrent to raising concerns.

Do you have comments on the following?

- **Conduct group interviews during 'quality assurance visits' where surgical trainees are placed.**
- **Investigate and address the issue in partnership with Health Services, health sector employers and other experts.**
- **Increase independent oversight in the College's complaints process, for concerns about discrimination, bullying and sexual harassment.**

AMA Victoria has received anecdotal feedback that RACS' Health Service accreditation visits have been effective. In these cases, Registrars have felt comfortable speaking up about bullying that is occurring in their unit. In some circumstances, this has enabled an otherwise hesitant Health Services to manage the performance/behaviour of particular Consultants. (We say hesitant because on the occasions where the Consultant in question has a bad reputation, the Health Service has avoided managing the complaints. Yet, when confronted with the risk of

having accreditation withdrawn, the Health Service has then had incentive to intervene).