Inquest into the death of Katie Lee Howman

Ms Howman died on 21 December 2013 at her home from a self-administered dose of Fentanyl, most likely misappropriated from her workplace at the Toowoomba Base Hospital. The coroner investigated Ms Howman's opioid dependency on prescribed medication.

The Brisbane Coroner delivered her findings of inquest on 27 July 2015.

The Queensland Government responds to recommendations directed to government agencies at inquests by informing the community if a recommendation will be implemented or the reason why a recommendation is not supported.

The departments named in this response will provide implementation updates until the recommendation is delivered. Further information relating the implementation of recommendations can be obtained from the responsible minister named in the response.

Recommendation 1

If there is in fact an impediment to release of such information to the Australian Health Practitioner Regulation Authority (AHPRA), it is recommended this issue should be urgently investigated, reviewed and legislatively changed if required. AHPRA should then regularly monitor the pharmaceutical benefits scheme records, especially where a condition has been imposed to attend upon only one doctor or not to obtain prescriptions for a particular medication.

Response and action: the recommendation is implemented.

Responsible agency: Queensland Health.

On 10 May 2016 the Minister for Health and Minister for Ambulance Services responded:

AHPRA entered into an agreement with the Department of Human Services (DHS) to expedite AHPRA requests for information from Medicare where a genuine and imminent risk to the public exists (the public interest test). AHPRA is able to obtain information about a member's Pharmaceutical Benefits Scheme (PBS) history and practitioner billing records.

AHPRA also developed a drug and alcohol screening protocol which introduces mandatory hair testing for drugs on the AHPRA schedule. This testing will identify any use of substances which are not prescribed by the treating practitioner.

It is acknowledged that monitoring of practitioner's sourcing of substances other than through PBS is not possible. This includes substances obtained through private prescriptions, doctors' bags and hospital supplies.

Recommendation 2

There be statutory change to enable real time access to relevant prescription and doctor attendance history. It is noted the New Zealand model forwards information of concern out to the treating doctor rather than relying on the doctor contacting the information service. No doubt there would be ways to accommodate privacy issues while still safeguarding patients from harm and the abuse of a publically funded resource. These matters should be urgently investigated and considered by government.

Response and action: the recommendation is implemented.

Responsible agency: Queensland Health.

On 10 May 2016 the Minister for Health and Minister for Ambulance Services responded:

The Department of Health is considering this recommendation. An update will be provided in mid-2016.

On 12 September 2016 the Minister for Health and Minister for Ambulance Services responded:

The Department of Health implemented the coroner's recommendation when it investigated and considered real-time reporting.

The department provides a prescription drug monitoring system, 24 hour/seven day a week telephone enquiry service for medical practitioners; however the information is not updated in real time.

Queensland Health supports real-time reporting and has proposed to the Commonwealth Government that the Commonwealth lead a process to develop a fully costed nationwide project to allow uniform development of such a system across all states and territories. Appropriate changes to *Health (Drugs & Poisons) Regulation 1996* will need to be made to enable real-time reporting as there is currently no timely reporting mechanism to meet compliance requirements. In the meantime, Queensland Health is investigating the enhancement of the medical practitioner telephone enquiry service and increasing the frequency of dispensed prescriptions from community pharmacies.

Recommendation 3

The Australian Health Practitioner Regulation Authority (AHPRA) should also routinely seek doctor attendance and prescription history of health practitioners under supervision. If there are legislative restrictions impeding their ease of timely access to information, these should be reviewed.

Response and action: the recommendation is implemented.

Responsible agency: Queensland Health.

On 10 May 2016 the Minister for Health and Minister for Ambulance Services responded:

AHPRA entered into an agreement with the Department of Human Services (DHS) to expedite AHPRA requests for information from Medicare where a genuine and imminent risk to the public exists (the public interest test). AHPRA is able to obtain information about a member's Pharmaceutical Benefits Scheme (PBS) history and practitioner billing records.

AHPRA requires practitioners, subject relevant restrictions, to undertake treatment and only take prescribed or approved medication by the treating practitioner. AHPRA sources information from Medicare to exclude attendance with other practitioners.

Recommendation 4

It is recommended that Dr Phillipson's advice be considered. He suggested a more limited requirement to report to Australian Health Practitioner Regulation Authority (AHPRA) would meet both the public safety requirement for AHPRA while providing the most therapeutic environment

for the health practitioner to receive treatment. He suggested a treating doctor report to AHPRA the following:

- that the person was being treated
- was compliant with treatment
- when it is possible the person might be able to gradually return to work given their condition.

He also recommended expanding and continuing education around the issue by AHPRA, the Office of the Health Ombudsman and by the College of Psychiatrists and the College of General Practitioners.

Response and action: the recommendation is implemented.

Responsible agency: Queensland Health.

On 10 May 2016 the Minister for Health and Minister for Ambulance Services responded:

AHPRA implemented the coroner's recommendation when it considered Mr Phillipson's advice at inquest. AHPRA reports that the Australian Health Workforce Ministerial Council did not accept the recommendation at this time and will consider a national approach to mandatory notifications upon receipt of additional advice.

AHPRA will continue to use the national restrictions library which limits the type of information required from treating practitioners to report ongoing treatment and compliance with treatment.

Recommendation 5

The Australian Health Practitioner Regulation Authority (AHPRA) consider whether there is scope within their role to also adopt and provide a more rehabilitative capability, such as the Nursing and Midwifery Health Program in Victoria. Alternatively, such resourcing could be considered by government to directly fund a service which solely provides rehabilitation service and is exempted from any requirement to report to AHPRA while a practitioner is receiving treatment.

Response and action: the recommendation is implemented.

Responsible agency: Queensland Health.

On 10 May 2016 the Minister for Health and Minister for Ambulance Services responded:

AHPRA implemented the coroner's recommendation when it considered whether there is scope with in their role to provide a more rehabilitative capability. However, it was determined that it is not AHPRA's role to rehabilitate practitioners, but rather to protect the health and safety of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered. When AHPRA becomes aware of concerns about a health practitioner, AHPRA protects the public by taking timely and necessary action under the national law.

The Medical Board of Australia signed an agreement with the Australian Medical Association for the delivery of nationally consistent external health programs, to be available to all medical practitioners and medical students, no matter where they live. The board will fund the health programs, using existing resources from medical practitioners' registration fees, but will not be involved in the establishment or running of the services.

The Nursing and Midwifery Board of Australia also announced that it will fund a new health support service for all registered nurses and midwives and students enrolled in approved nursing and midwifery courses. The service will be designed to ensure that nurses and midwives can access support if they are impaired or at risk of impairment.

AHPRA and the boards would be supportive of any rehabilitation program which could lead to better protection of the public; however, in order to ensure that their primary consideration of public protection is met, such a program would not exempt practitioners from reporting requirements.

Recommendation 6

Access to Medicare rebates for drug testing ordered by the Australian Health Practitioner Regulation Authority should logically also be considered.

Response and action: the recommendation is agreed in part and is implemented.

Responsible agency: Queensland Health.

On 10 May 2016 the Minister for Health and Minister for Ambulance Services responded:

AHPRA implemented the coroner's recommendation when it considered whether to include access to Medicare rebates for drug testing ordered by AHPRA. However, section 16A of the *Health Insurance Act 1973* states that Medicare benefits in relation to pathology services, that a Medicare benefit is not payable in respect of a pathology service unless the service was determined to be necessary by a treating practitioner. Since drug and alcohol screening requirements are imposed by national boards as part of the restrictions on registration for impaired practitioners and are not required by a treating practitioner they are not eligible for Medicare rebates.

In July 2015, AHPRA agreed with national boards a single funding model for drug and alcohol screening for all registered health practitioners as follows:

- the board meets the cost of screening at assessment and where any additional screening is required on review of registration restrictions (noting that such additional screening would be rarely required as assessors will have available to them all results of screening conducted to the time of the assessment), and
- the registrant meets the cost of ongoing screening.

In approving the single funding model a financial hardship policy was also approved. The policy provides for any practitioner or student required to undertake drug and alcohol screening may apply in writing for financial hardship assistance which, if approved, will result in the relevant national board bearing the costs of screening if the applicant complies with the drug and alcohol screening protocol.

Recommendation 7

It is recommended that hospitals managing a health practitioner in the workplace who is subject to Australian Health Practitioner Regulation Authority supervision consider the lessons learned from the experience of the Toowoomba Hospital. In the aftermath of their co-worker's death, staff agreed for the future to notify managers/team leaders verbally or in writing if they were concerned regarding the behaviours of a co-worker in a work unit. If a staff member was maintained in a work unit with restrictions placed on their practice, the staff member would have to agree to disclosing restrictions to other staff members working with them as part of the agreement. It is suggested that Queensland Health consider this kind of agreement in the context

of caring for co-worker's emotional wellbeing and professional reputations as well as those of the practitioner under management.

Response and action: the recommendation is implemented.

Responsible agency: Queensland Health.

On 10 May 2016 the Minister for Health and Minister for Ambulance Services responded:

The Queensland Health Human Resource Branch will form a working party to consider the coroner's recommendation and determine the feasibility of developing a policy and guideline in relation to fitness for duty, specifically in relation to employees who are affected by alcohol and drugs. An update will be provided in mid-2016.

On 12 September 2016 the Minister for Health and Minister for Ambulance Services responded:

The Queensland Health Human Resource Branch formed a working party to develop a policy and guideline in relation to fitness for duty, specifically in relation to employees affected by alcohol and other drugs. The working party has representation from hospital and health services, employee representative groups and the alcohol and other drug service.

The working party will continue to meet on a fortnightly basis. It is anticipated that a policy and guideline will be drafted by the end of 2016.

On 25 January 2018 the Minister for Health and Minister for Ambulance Services responded:

Queensland Health considered the lessons learned from the experience in Toowoomba and the coroner's suggestion of an agreement in the context of caring for co-worker's emotional wellbeing and professional reputations as well as those of the practitioner under management.

Following a period of consultation with all relevant stakeholders, the working group finalised the policy and guideline in December 2016. This policy applies to the Department of Health and is easily adaptable for use within hospital and health services. The aim of the policy and guideline is to:

- Define clear expectations in relation to expected standards of behaviour when attending work, particularly in relation to attendance at work whilst under the influence of alcohol or other drugs.
- Provide appropriate support to employees who identify a health problem related to the use of alcohol or other drugs.
- Ensure the Department of Health meets its statutory obligations and duty of care to provide a safe working environment and to keep all employees free from harm.
- Provide line managers with the skills to identify and manage issues in the workplace related to alcohol and other drugs through appropriate training, education, support, tools and resources.

Publication of the amended policy and guideline is in the planning phase.

The Minister for Health and Minister for Ambulance Services updated:

Under the *Health Practitioner Regulation National Law Act 2009,* it is **mandatory** for registered health practitioners and their employers to inform the Australia Health Practitioner Registration Agency (AHPRA) if they have formed a reasonable belief that a registered health practitioner has

behaved in a way that constitutes notifiable conduct. For example, notifiable conduct by registered health practitioners includes practising while intoxicated by alcohol or drugs.

In addition, the Queensland Health policy and guideline state that a registered health professional must immediately advise their manager/clinician manager when the status of their professional registration with the registration board or membership of the professional association changes.

Under the *Work Health and Safety Act 2011*, employees must take reasonable care for their own health and safety while at work and ensure their acts or omissions do not adversely affect the health and safety of other workers in the workplace.

The Department of Health, in consultation with hospital and health services also developed a policy and guideline titled *Fitness for duty: Alcohol and other drugs* which was published on the Department of Health policy site in March 2017.

The policy applies to the Department of Health and is easily adaptable for use within hospital and health services. The publication of the policy and guideline was communicated to hospital and health services through a variety of channels including circulars, statewide teleconference, E-alert (QH electronic newsletter) and correspondence to human resource executives.