

AHPRA and disability support: a provocation

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AHPRA and disability support: a provocation

- **three contrasting approaches:**
- A disability support practitioner
- somebody with over 15 years experience in various roles in University discipline, misconduct and appeals hearings (a participant observer?)
- a disability studies framework

AHPRA and disability support: a provocation

- Key interrelated but separate issues to explore
 1. The legislations effectiveness in achieving its aims particularly the protection of the public
 2. How the legislation is implemented in the complexities of a post-secondary education setting
 3. The impact on disability support practice

Disability Support Practitioner

- Long history in sector including time as both receiving and giving disability support
- Currently Disability support practitioner at ACU
- Small but expanding institution
- Large percentage of the enrolment for nursing and a number of new health profession-related courses, eg. Occupational and speech therapy

Participant in university hearings

- 15 years in various roles within formal university processes such as appeals, ethics and discipline hearings

Disability studies framework

- In this particular case, two influences:
 - Ethnography of care/definition, eg. Kohrman 2004, Petryna 2002, Fulcher 1991
 - Work on the nature of disclosure within higher education settings, eg. Bathurst 2000

What AHPRA establishes

- The AHPRA legislation establishes a uniform national regime of reporting and surveillance for health practitioners
- Tertiary education institutions under the act are one of the bodies that have an obligation to report practitioners who are a risk to the general public

The circumstances in which a Tertiary education institution may be required to define a student as unfit to practice

1. Breaches of formal disciplinary and behavioural statutes e.g. stalking or other clear risks to others
2. Conduct within practice-based units that will lead to a reasonable expectation that the student is unable to perform safely the practices of the particular profession. This would normally be recorded as a fail in that unit.

The circumstances in which a Tertiary education institution may be required to define a student as unfit to practice
continued

- When staff of that institution come to a conclusion that the student is not safe to practice.

- The obligations under 1 and 2 predate the AHPRA legislation (and cover courses not under the AHPRA umbrella), however
- There are established procedures to deal with a number of the issues
- The key procedural issues under these obligations are timing and natural justice

Natural Justice

- Natural justice, also known in this context as procedural fairness, can be defined in at least two ways:
 - Cynically, as the minimum standard of fairness for a formal process to follow that it is not subject to being overturned by a court
 - Idealistically, as the rules that need to be followed for a hearing to be just

Natural Justice continued

- In practical terms, this includes the following:
 - The right of somebody to know what they are accused of doing
 - The right to speak in one's defence
 - The right for the decision to be made on evidence, and finally
 - The right for it to be made on rules applicable to that class of people, eg. All students

Timing

- As a part of natural justice, and also as established precedents, the reporting process for decisions made in university hearings is:
 - After both the initial hearing and all internal to the institution appeals rights have been exercised

Where is AHPRA different?

- Firstly, AHPRA processes are external to the university
- Second, perhaps most problematically, instead of being universally around conduct/actions, they also include impairment

Pragmatics of risky students, professional practice and disability support

- As disability support practitioners, we all have students who cannot automatically be assumed to be able or safe to practise a caring profession at a particular point in time. However, this may not be true by the end of their degree.

Pragmatics of risky students, professional practice and disability support continued

- Two questions for us as disability support practitioners:
 1. How best do we support the student in the situation, whether to work through their issues to the point where they are a safe practitioner; or
 2. At what point do we need to report this to an external person?

Disability support and disclosure

- As far as disability support practices in post secondary education is focused on individuals disclosure will be an issue
- An implicit part of disclosure in practice is a bargain for controlled disclosure

The Problem of AHPRA for disability support (A biased view?)

- Implicit in much disability support practice is a relationship between student disclosure leading to the provision of support.
- Where AHPRA is problematic is that it threatens that relationship of support.

AHPRA and disability support

- Given the previous slide, how does the AHPRA process address two concerns:
 - The pragmatics of disability support practitioners
 - The pragmatics of the objectives of the legislation, eg. Keeping the community safe