

## **Dr Mark Hobart – Notification Regarding Issuing of Vaccination Exemptions**

### **Request for Clarification: How Can ‘Exemptions’ Exist in a System Requiring Voluntary Informed Consent?**

**To:** Australian Health Practitioner Regulation Agency

**From:** Elizabeth Hart – elizmhart@gmail.com

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#### **SUMMARY OF CONCERN**

Dr Mark Hobart is a registered medical practitioner whose registration was suspended on 18 November 2021 by the Victorian Immediate Action Committee (VIAC) of the Medical Board of Australia (‘the Board’) – nearly four and a half years ago – for issuing exemptions to COVID-19 vaccination.

Between 14 December 2020 and 26 October 2021, AHPRA received eight notifications in relation to Dr Hobart concerning COVID-19, in particular vaccination exemptions and the dissemination of information about COVID-19.[1]

**This notification is concerned specifically with the issue of vaccination exemptions and the implications of that framework for voluntary informed consent.**

In relation to the VIAC decision, Dr Hobart’s solicitors were notified that the decision was founded on the Board’s ‘reasonable belief’ that ‘because of Dr Hobart’s conduct, he poses a serious risk to persons and it is necessary to take immediate action to protect public health or safety and taking immediate action in respect of Dr Hobart’s registration is otherwise in the public interest’.[1]

**The fundamental issue is that the conduct in question arose within a framework requiring medical exemptions as the formal means of avoiding penalties for vaccination refusal, despite the professional requirement that vaccination proceed only on the basis of valid voluntary informed consent.**

This notification concerns Dr Hobart’s conduct in issuing medical exemptions and whether such conduct – **in the context of a system requiring such exemptions for vaccination refusal** – can be reconciled with a practitioner’s obligation to obtain valid voluntary informed consent.

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#### **DOCUMENTED CONSENT STANDARD**

A medical practitioner has a personal and non-delegable obligation to obtain valid voluntary informed consent prior to administering any medical intervention, including vaccination.

This requirement is set out in:

- **Good medical practice: a code of conduct for doctors in Australia – 4.5 Informed consent** (attached)

The Code provides that:

“Informed consent is a person’s voluntary decision about medical care that is made with knowledge and understanding of the benefits and risks involved.”

- **The Australian Immunisation Handbook – Preparing for vaccination – Valid consent** (attached)

*The Australian Immunisation Handbook* states:

“Valid consent is the voluntary agreement by an individual to a proposed procedure, which is given after sufficient, appropriate and reliable information about the procedure, including the potential risks and benefits, has been conveyed to that individual.”

The Handbook further states that for consent to be legally valid:

**“It must be given voluntarily in the absence of undue pressure, coercion or manipulation.”**

- **Correspondence from Ahpra** (letters attached)

In correspondence directly to me, Ahpra has also confirmed practitioners’ obligation to obtain voluntary informed consent:

**Letter from Ahpra dated 20 September 2021 to Elizabeth Hart**, which states:

“Practitioners have an obligation to obtain informed consent for treatment, including vaccination. Informed consent is a person’s voluntary decision about health care that is made with knowledge and understanding of the benefits and risks involved.”

**Letter from Ahpra dated 5 October 2017 to Elizabeth Hart**, signed by former Ahpra CEO Martin Fletcher, which states:

“*Good medical practice: A code of conduct for doctors in Australia* provides guidance to medical practitioners. Informed consent is a key element of good medical practice. A medical practitioner must obtain informed consent before undertaking an examination or providing treatment, including providing vaccines. The immunisation legislation does not mandate vaccinations and consent is still required.”

Valid consent requires that a patient’s decision be made freely, without coercion, pressure, or conditional consequences.

**Accordingly, without voluntary informed consent, a practitioner cannot ethically proceed.**

## DOCUMENTED POST-SUSPENSION CONFIRMATIONS FOR CONSENT

Dr Hobart was suspended in November 2021.

Following Dr Hobart's suspension, the requirement for valid informed consent continued to be explicitly affirmed by the Australian Government:

- **Correspondence from the Department of Health to Emma McArthur dated 21 December 2021** (attached), states:

**"...informed consent should be obtained for every COVID-19 vaccination, as per usual consent procedures for other vaccinations."**

The letter also refers to:

"...the Australian Immunisation Handbook, which has information about 'valid consent', including criteria for consent to be legally valid..."

The letter provides clarification regarding the COVID-19 Vaccine Claims Scheme, confirming:

"...The Scheme does not provide an indemnity for practitioners or insurers..."

- **Operation COVID Shield – *Handling consent refusal by people presenting for vaccination* – guidance for vaccination providers (December 2021)** (attached), which states:

**"Informed consent is an individual's voluntary decision to agree to a healthcare treatment, procedure or intervention, such as a COVID-19 vaccination, in its entirety, after the individual has been provided understandable, sufficient, appropriate and reliable information about the intervention, including the potential risks and benefits."**

"As a health professional you:

- require informed consent from a patient prior to providing them with a vaccination; and
- have a duty of care to ensure patients are making educated and informed decisions about vaccination."

"It is not your role as a health professional to debate topics or change a patient's opinion."

**"A patient must provide informed consent prior to vaccination."**

"If a patient has not provided informed consent, you **should not** vaccinate them, even if they are mandated to receive a COVID-19 vaccination to perform particular roles or enter certain settings."

- **Correspondence from the Department of Health and Aged Care to Elizabeth Hart dated 17 November 2022** (attached), states:

**“Informed consent should be obtained for every COVID-19 vaccination, as per usual consent procedures for other vaccinations.”**

The letter also refers to:

“...the Australian Immunisation Handbook...which has information about ‘valid consent’, including criteria for consent to be legally valid...”

The letter provides clarification regarding the COVID-19 Vaccine Claims Scheme, confirming:

“...rather than putting in place a medical indemnity scheme for health professionals, the former Government established the no-fault Scheme, which commenced operations on 13 December 2021...

While a medical indemnity scheme for health professionals administering the COVID-19 vaccine was not established per se, the creation of the no-fault Scheme was intended to support increased participation by health professionals in the COVID-19 Vaccination rollout.”

Taken together, these documents confirm that, following Dr Hobart’s suspension in November 2021, **the Australian Government continued to affirm that valid *voluntary* informed consent should be obtained for every COVID-19 vaccination, and that practitioners *should not* proceed without such consent, including where vaccination was mandated.**

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## **HOBART AND THE EXEMPTION FRAMEWORK**

The *COVID-19 Vaccine exemptions* document (attached), issued by the Australian Government, opens with the statement:

“COVID-19 vaccines are safe and effective. They’re recommended for all Australians from 5 years of age.”

**The document does not acknowledge voluntary informed consent for vaccination.**

**Vaccination is the default expectation**, with narrowly defined temporary and permanent medical exemptions operating as the only mechanism by which individuals may be permitted to depart from that vaccination expectation without penalty.

This is reflected in the Services Australia Immunisation Medical Exemption form (IM011) (attached), which notes that the medical basis for vaccine exemption is to be based on guidance in *The Australian Immunisation Handbook*, and ATAGI expanded guidance in relation to COVID-19 vaccines.

The form identifies medical contraindications such as anaphylaxis or significant immunocompromise. **It does not acknowledge voluntary informed consent and does not recognise refusal of vaccination as sufficient in itself.**

**The Australian Immunisation Handbook also reflects this same limitation.** In its guidance on *Reporting to the Australian Immunisation Register* (attached), the Handbook states that “when required, exemptions to immunisation can be given for medical contraindications or natural immunity to certain diseases”. This addresses the circumstances in which exemptions may be recorded for administrative purposes and identifies the categories of medical practitioners authorised to provide them.

**It does not address the role of voluntary informed consent in determining whether vaccination proceeds.**

However, in its guidance on *Preparing for vaccination – Valid consent* (attached), the Handbook states that valid consent “...**must be given voluntarily in the absence of undue pressure, coercion or manipulation.**”

**These two positions are not reconciled.** The valid consent guidance does not explain how voluntary informed consent is to operate within a framework that provides for medical exemptions.

Valid voluntary informed consent is required for vaccination. **A patient’s refusal does not require justification.** A framework that recognises only medical exemptions as the basis for non-vaccination is not consistent with that principle.

**The requirement for an authorised medical exemption as a condition for avoiding vaccination is therefore not derived from the Handbook’s ethical framework for voluntary informed consent, but represents an administrative overlay that is inconsistent with it.**

This is also reflected in the language of the *COVID-19 Vaccine exemptions* document. The document states, for example:

“To receive a permanent medical exemption, you need to have a permanent medical condition that would make it unsafe for you to have any of the Australian-approved COVID-19 vaccines.”

During the COVID-19 vaccination rollout, mandates and associated penalties meant that refusal of vaccination was not accepted as sufficient in itself. **Instead, non-vaccination without penalty was made contingent upon the granting of a medical exemption, and practitioners who issued such exemptions were exposed to investigation and disciplinary action.**

**The exemption framework sits in direct contrast to contemporaneous guidance and correspondence issued by the Australian Government,** as detailed in this notification, which affirms that practitioners should obtain valid voluntary informed consent for every COVID-19 vaccination and should not proceed without such consent.

**A system in which a patient must obtain certification from a practitioner in order to refuse a medical intervention is not consistent with voluntary informed consent.**

How can refusal of a medical intervention require permission?

**In that context, the concept of a ‘medical exemption’ from a medical intervention is fundamentally incoherent, as it substitutes administrative permission for the ethical requirement of voluntary informed consent.**

Ahpra is currently maintaining a suspension against Dr Hobart arising from conduct – the issuing of exemptions – that only arose within a framework requiring such exemptions for vaccination refusal.

If that framework is not consistent with the requirement for voluntary informed consent, **it is unclear on what basis disciplinary action against a practitioner arising from participation in that framework can be reconciled with the Medical Board of Australia’s and Ahpra’s own stated position on voluntary informed consent.**

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## **REQUEST FOR CLARIFICATION**

In light of the matters set out in this notification, I seek clarification from Ahpra on the following:

- 1. Do Ahpra and the Board accept that a practitioner cannot ethically proceed with a medical intervention in the absence of valid voluntary informed consent?**
- 2. Consent to vaccination must be voluntary. How do Ahpra and the Board justify a system in which refusal of a medical intervention requires certification in the form of a medical exemption in order to avoid penalty?**
- 3. Do Ahpra and the Board accept that a framework in which people face penalties, restrictions, or loss of access to employment or services for refusing a medical intervention is incompatible with voluntary informed consent?**
- 4. In circumstances where valid voluntary informed consent may not have been present, what guidance did Ahpra and the Board provide to practitioners regarding their obligation not to proceed with vaccination?**

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## **CLOSING**

**This notification seeks clarification on a principle of fundamental importance to medical practice.**

For voluntary informed consent to be maintained as a genuine ethical and professional standard, **it is necessary to explain how a system requiring medical exemptions for refusal of vaccination could arise and be enforced.**

**In particular, clarification is required as to how Dr Hobart's conduct in issuing medical exemptions within such a framework is to be assessed in light of the obligation to obtain valid voluntary informed consent for vaccination.**

I request a clear and substantive response to the questions raised.

**Elizabeth Hart**

Independent researcher on medical ethics and vaccination policy

[vaccinationispolitical.net](http://vaccinationispolitical.net)

24 March 2026

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**FOOTNOTE**

[1] *Hobart v Medical Board of Australia* [2023] VSCA 270 (10 November 2023).

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**ATTACHMENTS**

1. *Good medical practice: a code of conduct for doctors in Australia* (Section 4.5 – Informed consent). Medical Board of Australia / Ahpra.
2. *Preparing for vaccination – Valid consent. The Australian Immunisation Handbook.*
3. Ahpra correspondence to Elizabeth Hart, 20 September 2021.
4. Ahpra correspondence to Elizabeth Hart, 5 October 2017 (Martin Fletcher).
5. Department of Health correspondence to Emma McArthur, 21 December 2021.
6. *Handling consent refusal* fact sheet (December 2021). Australian Government Operation COVID Shield.
7. Department of Health and Aged Care correspondence to Elizabeth Hart, 17 November 2022.
8. *COVID-19 Vaccine exemptions.* Australian Government Department of Health.
9. Services Australia – Immunisation Medical Exemption form (IM011).
10. *Reporting to the Australian Immunisation Register. The Australian Immunisation Handbook.*