

# Healthcare, mandatory reporting and medical students



CPD 

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## CASE

Sam is a final year medical student. They have been struggling to complete their medical degree in recent months. They are balancing study for their final year exams with two casual jobs and the stress of their mother's recent diagnosis of multiple sclerosis. Sam's brother also has an intellectual disability and his behaviours have been becoming more challenging for his mother (who is a single mother) to manage. Sam has been assisting their mother with the management of Sam's brother. Sam recently failed their final year exams and is having to resit those exams in a couple of weeks. If they fail the supplementary exams, Sam will have to repeat their final year. This will add to their debts and stress. Sam sees their usual general practitioner (GP) to discuss the situation and their anxiety, and discloses they have been using more and more cannabis to 'relax, unwind and sleep at night'. Without cannabis, Sam lays awake for hours worrying about their responsibilities.

'I've been hiding it', Sam tells the GP. Sam agrees to receive further assessment and management, but asks 'Will you have to tell my university dean now? Can I still be a doctor?'

## QUESTION 1

What is the prevalence and outcomes (treated and untreated) of medical students with substance abuse disorders?

## QUESTION 2

What are the mandatory reporting obligations under the National Law in relation to medical students?

## QUESTION 3

What are the legal principles to consider when balancing confidentiality and public safety when treating medical students?

## ANSWER 1

Although rates of illicit substance use among medical students are less than among other university students or the general population,<sup>1</sup> 10% of Australian medical students reported occasional illicit drug use (less than three times per month) and 0.5% reported regular use (up to six times per week).<sup>2</sup> Cannabis is the most commonly abused illicit substance among medical students; a recent meta-analysis of nearly 20,000 medical students found that one in three have used cannabis at least once, 8.8% are currently using cannabis and that male students are twice as likely as female students to use cannabis.<sup>3</sup> Cannabis use among medical students is also associated with concomitant alcohol abuse,<sup>4</sup> impaired academic performance,<sup>5</sup> lenient attitudes

to self-prescribing,<sup>6</sup> later substance use as a doctor<sup>7</sup> and reduced ability to diagnose patients with substance use disorders.<sup>8</sup>

## ANSWER 2

In all Australian states and territories, except for Western Australia, a health practitioner (including a GP) who is treating a medical student must, as soon as practicable, notify the Australian Health Practitioner Regulation Agency (Ahpra) if they form a reasonable belief that the student has an impairment that, in the course of undertaking clinical training, might place the public at substantial risk of harm (*Health Practitioner Regulation National Law Act 2009* Sch. (Qld), ss 141B(3) and (4)). Although treating GPs in Western Australia are not required to make notifications about impaired students, they can make a voluntary notification (*Health Practitioner Regulation National Law Act 2009* Sch. (Qld), s 144(2)).

However, before making any notification, Sam's circumstances must be carefully assessed. First, the treating GP must determine whether Sam's cannabis use is causing impairment, because cannabis use without impairment is not reportable to Ahpra. This might involve assessing the amount and frequency of use and its impact on functioning, including cognition and sleep. Second, even if Sam's cannabis use is impairing their ability to undertake clinical training, this is not

reportable if it does not place the public at substantial risk of harm. A substantial risk of harm is a very high threshold that is not easily reached.<sup>9</sup> In deciding whether a substantial risk of harm exists, the treating GP should assess the nature, extent and severity of any impairment, as well as Sam's willingness to engage in treatment (*Health Practitioner Regulation National Law Act 2009* Sch. (Qld), s 141B(5)). In this case, Sam has agreed to assessment and treatment. As part of an agreed treatment plan, the GP could consider obtaining Sam's consent to speak with their university about other interventions to reduce any risks, such as reducing or restricting their unsupervised patient contact or taking a break from studies. Ultimately, a mandatory notification might only need to be made if Sam does not comply with any proposed interventions or if those interventions prove ineffective, and a substantial risk of harm exists.

### ANSWER 3

In Sam's case, the GP must attempt to balance competing considerations. A doctor's legal and ethical duty of confidentiality is a cornerstone of medical practice. It upholds patients' autonomy and allows patients to feel comfortable disclosing sensitive and potentially embarrassing information to their treating doctor that allows the doctor to diagnose and treat their health condition. However, confidentiality is not absolute. The Medical Board of Australia's Code of Conduct states that medical practitioners are required to protect patients' privacy and right to confidentiality, unless release of information is required or permitted by law.<sup>10</sup> In addition to the mandatory reporting laws described above, most Australian privacy laws also allow a health practitioner or organisation to disclose health information about a patient, without their consent, if they reasonably believe that it is necessary to lessen or prevent a serious threat to public health or public safety (eg *Health Records and Information Privacy Act* (NSW) Sch 1, 11(c); *Health Records Act 2001* (Vic) Sch 1, 2.2(h); *Health Records (Privacy and Access) Act 1997* (ACT) Sch 1, 10 2(d); *Personal Information Protection Act 2004* (Tas). Sch 1, 2 (d)).

For example, if Sam's treating GP felt that such a threat existed, they could disclose health information about Sam's cannabis use to the university so the university can take steps to lessen or prevent any perceived risk. However, in practice, this might not be necessary if the GP has already made a mandatory notification to Ahpra.

The information in this article is intended to be general information only and is not a substitute for legal advice. Readers should contact their medical defence organisation for specific advice about their mandatory reporting obligations in any given clinical situation.

### Key points

- Cannabis consumption is prevalent among medical students and can have adverse impacts on mental health, academic performance and later substance use as a doctor.
- Treating GPs have an obligation to report impaired medical student patients to Ahpra if the GP forms a reasonable belief that the medical student patient has put the public at substantial risk of harm.
- However, mandatory reporting thresholds are high and there are steps that treating GPs can often take to mitigate the risk that a medical student patient's cannabis abuse will place the public at substantial risk of harm.

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### References

1. Roncero C, Egido A, Rodriguez-Cintas L, Pérez-Pazos J, Collazos F, Casas M. Substance use among medical students: A literature review 1988–2013. *Actas Esp Psiquiatr* 2015;43(3):109–21.
2. Lawrence D, Wu F, Ireland M, Hafekost K. National mental health survey of doctors and medical students. *Beyond Blue*, 2013.

Available at <https://espace.curtin.edu.au/bitstream/handle/20.500.11937/90008/89832.pdf?sequence=2> [Accessed 22 August 2023].

3. Papazisis G, Sifias S, Tsakiridis I, Koulas I, Dagklis T, Kouvelas D. Prevalence of cannabis use among medical students: A systematic review and meta-analysis. *Subst Abuse* 2018;12:1178221818805977. doi: 10.1177/1178221818805977.
4. Fond G, Picot A, Bourbon A, et al. Prevalence and associated factors of cannabis consumption in medical students: The BOURBON nationwide study. *Eur Arch Psychiatry Clin Neurosci* 2021;271(5):857–64. doi: 10.1007/s00406-020-01131-0.
5. Boland M, Fitzpatrick P, Scallan E, et al. Trends in medical student use of tobacco, alcohol and drugs in an Irish university, 1973–2002. *Drug Alcohol Depend* 2006;85(2):123–28. doi: 10.1016/j.drugalcdep.2006.03.016.
6. Dyrbye LN, West CP, Satele D, Boone S, Sloan J, Shanafelt TD. A national study of medical students' attitudes toward self-prescribing and responsibility to report impaired colleagues. *Acad Med* 2015;90(4):485–93. doi: 10.1097/ACM.0000000000000604.
7. Bogowicz P, Ferguson J, Gilvarry E, Kamali F, Kaner E, Newbury-Birch D. Alcohol and other substance use among medical and law students at a UK university: A cross-sectional questionnaire survey. *Postgrad Med J* 2018;94(1109):131–36. doi: 10.1136/postgradmedj-2017-135136.
8. Roncero C, Rodríguez-Cintas L, Egido A, et al. The influence of medical student gender and drug use on the detection of addiction in patients. *J Addic Dis* 2014;33(4):277–88. doi: 10.1080/10550887.2014.969600
9. Australian Health Practitioner Regulation Agency (Ahpra). Guidelines: Mandatory notifications about registered students. Ahpra, 2020. Available at [www.ahpra.gov.au/documents/default.aspx?record=WD20/29516&dbid=AP&chksum=kAxzvOQxqBeINfE4HOB9rw%3d%3d](http://www.ahpra.gov.au/documents/default.aspx?record=WD20/29516&dbid=AP&chksum=kAxzvOQxqBeINfE4HOB9rw%3d%3d) [Accessed 7 July 2023].
10. Medical Board of Australia (MBA). Good medical practice: A code of conduct for doctors in Australia. MBA, 2020. Available at [www.medicalboard.gov.au/codes-guidelines-policies/code-of-conduct.aspx](http://www.medicalboard.gov.au/codes-guidelines-policies/code-of-conduct.aspx) [Accessed 7 July 2023].

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