The Royal Australian College of General Practitioners

Submission to the Senate Community Affairs Committee:

Inquiry into Health Practitioner Regulation (Consequential Amendments) Bill 2010

9 April 2010

THE ROYAL AUSTRALIAN COLLEGE OF GENERAL PRACTITIONERS

1. Introduction

The Royal Australian College of General Practitioners (RACGP) thanks the Senate Community Affairs Committee for the opportunity to continue to contribute to discussions regarding national registration, and the related Health Practitioner Regulation (Consequential Amendments) Bill 2010.

The RACGP is the specialty medical college for general practice in Australia, responsible for defining the nature of the discipline, setting the standards and curriculum for education and training, maintaining the standards for quality clinical practice, and supporting general practitioners in their pursuit of excellence in patient care and community service.

This submission is made in response to the Senate Committee's letter to the RACGP dated 26 February 2010 seeking to:

> examine the implications for healthcare providers, particularly the reserve powers relating to registration requirements.

Details of the Senate Committee's inquiry into the "Health Practitioner Regulation (Consequential Amendments) Bill 2010" can be found at:
http://www.aph.gov.au/SENATE/committee/clac_ctte/health_practitioner_reg/

2. Overview of concerns

In relation to the Health Practitioner Regulation (Consequential Amendments) Bill 2010, the RACGP's primary concerns relate to:

- Subsection 2(a)(iii), which will potentially allow the government to place additional requirements and/or restrictions on consultant physicians
- Subsection 9(a)(iii), which will potentially allow the government to place additional requirements and/or restrictions on medical specialists
- Subsection 19(c), which restricts the payment of Medicare benefits to medical practitioners that are outside of the medical practitioner's registration.

In addition to the above concerns, the RACGP also has a number of remaining concerns regarding the *Health Practitioner Regulation National Law Bill 2009*, including:

- Mandatory reporting of other medical practitioners
- Transparency of Ministerial Council accreditation and standard setting decisions.

3. RACGP response to the Senate Inquiry

3.1 Additional requirements for consultant and specialist medical practitioners

Schedule 1, Subsections 2 and 9 of the legislation, require that consultant physicians and specialists are registered with the Medical Board in the relevant speciality under a law of a State or Territory where the specialty is prescribed by regulation. These arrangements are similar to existing arrangements, and will require that the medical practitioner is on the relevant Medical Board of Australia's specialist register.

However, it is unclear as to why the legislation proposes new provisions, in Subsections 2(a)iii and 9(a)iii, which will effectively allow the government to impose additional requirements on consultant physicians and specialists. The College further notes that the explanatory memorandum does not provide details on why this additional provision has been introduced.

The College does not believe that Subsections 2(a)iii and 9(a)iii are necessary given that consultation physicians and specialists would already be required to be registered and on the specialist register to attract Medicare benefits.

3.2 Restriction of Medicare benefits to medical practitioners

The RACGP notes that Section 19C, 19CB, 19CC, and 19DA of the *Health Insurance Act 1973* cover issues relating to a medical practitioner providing services that are not within the scope of the medical practitioner's registration. Sections 19CB, 19CC, and 19DA specifically provide for offences where a medical practitioner renders an unauthorised service.

The College however questions why these same provisions, obligations, and offences do not apply to the 9 other health professions covered by the national registration scheme. In a national registration scheme, it is appropriate for the same statutory obligations and offences to apply to all health professions covered by the legislation.

4. Other concerns regarding the

4.1 Mandatory reporting

Clause 141 of the *Health Practitioner Regulation National Law Bill* describes the mandatory reporting arrangements for medical practitioners.

As previously advised, it is concerning to see that mandatory reporting has been included in the legislation, despite the well-considered feedback provided by both the RACGP and the medical profession.

To reiterate previous submissions, mandatory reporting is likely to have the opposite of the intended effect. The legislation, as currently written, will cause medical and health practitioners to hide their impairments and professional issues from their colleagues, driving the issues underground and increasing, rather than decreasing, the risks to patients, the public, the practitioners themselves, and their colleagues.

We strongly believe that it is important to strengthen patient safety and improve standards, and that the public should be kept safe from impaired health practitioners by registration measures and/or training and support measures.

Although the RACGP recognises that as the legislation has been adopted by four states and territories already, it is strongly recommended that mandatory reporting – as currently written – be either significantly reviewed or removed from the legislation. The College therefore recommends that the Committee and the Federal Parliament review this issue as a matter of urgency.

4.2 Transparency of accreditation decisions and standards

As previously stated in RACGP submissions regarding the national accreditation scheme, the legislation provides for Ministerial Council final authority on a number of accreditation, registration, standards, and policy issues.

Ultimately this will mean that the Ministerial Council can, at its discretion, reject any and all standards recommended by the national health boards in relation to registration and accreditation issues.

While there may be circumstances, on rare occasions, where this type of decision may be necessary in the interests of the Australian community, it is important that the process is both public and transparent.

Currently, the legislation only requires that the Ministerial Council consider the potential impact of changes to registration and accreditation standards on quality and safety. To ensure patient and public safety, and to ensure that the Ministerial Council is accountable for decisions made, the RACGP advocates that Ministerial Council decisions on accreditation issues, particularly where recommended accreditation standards are rejected, are made public with justification for the decision. Public accountability should apply to both government and non-government bodies making accreditation decisions.