Cases against GPs abandoned as PSR faces review

PAUL SMITH

INVESTIGATIONS by the country's top Medicare watchdog into 39 doctors' prescribing and referral practices have collapsed, amid claims it has lost the trust of the profession.

The doctors facing investigation by the Professional Services Review were told their cases would be closed and no further action taken against them.

This follows the mass resignation of members of the PSR's review panels last November after it was found their appointments had not been formally approved by the AMA, as required by legislation. The panel members had to reapply for their positions. All 39 doctors – who make up about one-third of the current PSR case load — were before the affected panels.

At the time of the panel resignations, PSR director Dr Tony Webber claimed the cases would only be delayed.

The Federal Government last week confirmed it would launch an external review of the agency, although further details are yet to be released.

Dr Webber's three-year contract with the PSR ends in May and it is not clear whether he will reapply for his job.

Following long-running concerns from the medical profession that the PSR operated like a kangaroo court, he said the PSR was already introducing changes to its internal processes.

The proposed changes will see doctors given more information — including information about the cases against them — in advance of any formal interview with the PSR director.

"This is about improving the transparency of the PSR," Dr Webber said.

The watchdog's governance arrangements will also be strengthened, partly in an attempt to avoid a repeat of the latest fiasco.

PSR reform campaigner Dr Scott Masters, from Caloundra, Queensland, said he would welcome any changes that improved transparency.

"It's a major issue because doctors are not being fully informed about specific grievances

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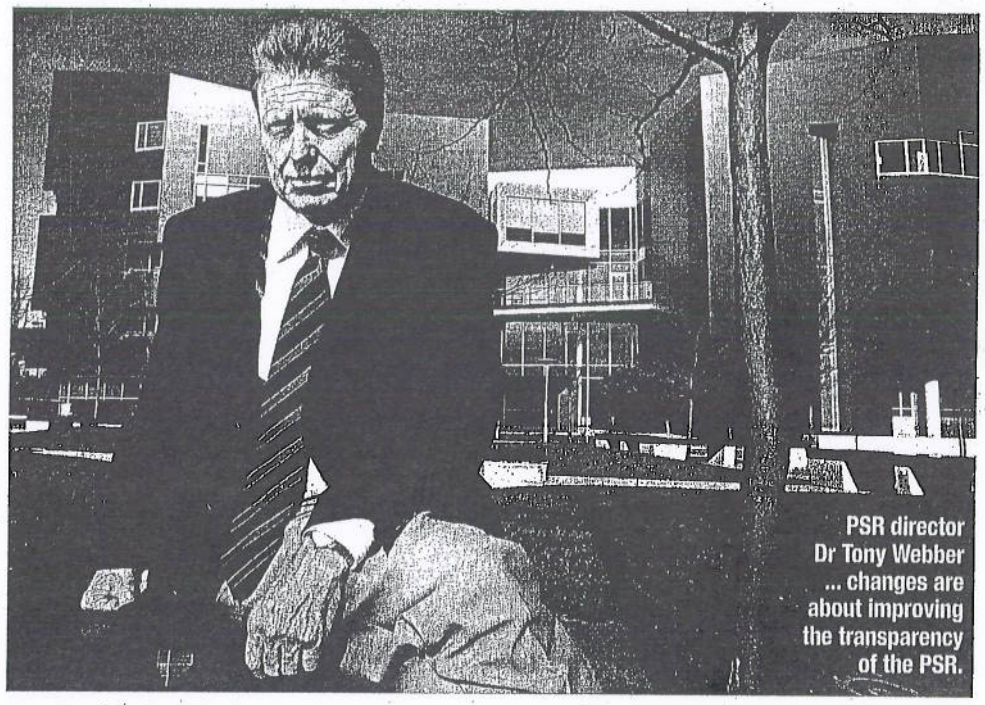

PSR director Dr Tony Webber ... changes are about improving the transparency of the PSR.

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Push for PSR transparency

EDITOR With reference to the article 'Protesting GPs 'paranoid', says Webber' (9 July), a simple way for the paranoia to be alleviated and the concerns of properly practising doctors assuaged would be for Dr [Tony] Webber to publish examples of the cases the Professional Services Review has prosecuted, as he does at lectures.

If the cases presented at his lectures are typical and not just the extremes, real doctors have little to worry about.

An audit is, after all, just that — an audit — possibly anxiogenic, but not of itself inherently unfair.

After all, the Australian Taxation Office does it all the time and we just seem to wear that without the shock-horror reaction.

The cases I saw Dr Webber present were so utterly over the top that no one could possibly defend them nor blame the department for acting on them. Some were so bizarre and hysterically funny as to make one wonder if the doctor concerned had become a stranger to reason.

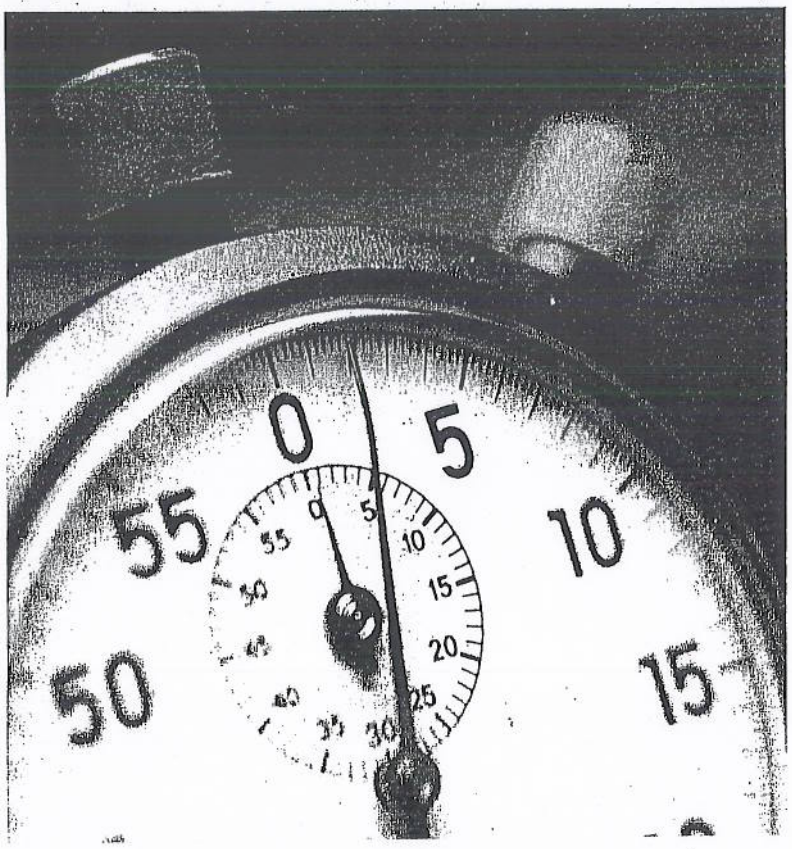
Furthermore, I got the distinct impression that the weirder the billing process, the weirder the clinical management.

Dr Lee Simes
Nowra, NSW

EDITOR Surely an audit of long consultations is not difficult — because you can physically see only so many patients one-on-one each day.

As a relative rookie to Medicare, it seems to me it is financially more lucrative to see many patients in as brief a time as possible (preferably bulk-billed), which is contrary to almost every other aspect of holistic healthcare.

Dr Simon Robinson
Nerang, Qld



EDITOR I never worried about audits — I always thought my practice was very well run on ethical, sound principles. We always passed our accreditations with flying colours, etc.

Then I learnt that two colleagues, both of whom I held in high regard, had been harassed in a way that — if truthfully represented — should make us all paranoid.

The impression I got from their accounts was one of a pompous "holy Inquisition" storming in, ignoring any evidence but written records, and dishing out disproportionate punishments on unsubstantiated allegations without leaving any reasonable recourse for appeal.

After learning of their fate, I wanted to make sure I claimed the correct item numbers. So in late February/early March, I enquired in writing about the correct application of several item numbers that seemed ambiguous.

The effect? No answer except for an acknowledgement that my queries had been received.

It seems that neither Medicare nor Dr Webber's group can clarify the interpretation of numerous item numbers, but don't hesitate to punish if their interpretation doesn't match the practitioner's at the time of the audit.

The process needs transparency. All cases that end up in some form of penalty or settlement need to be published, anonymously, for all of us to judge — not just judged by a small number of seemingly unaccountable inquisitors.

Dr Horst Herb
Dorrigo, NSW

EDITOR While better data take time to accumulate and process, GPs are always at risk of being targeted if they seek to practise anything more than quick-fix medicine.

To do so, however, GPs have to make risk-loaded decisions many times a day, but unlike public servants and slick tradespersons, doctors do not readily disappear when the policy fails or the waterpipe bursts.

Dr Pierre Le Grand
Brisbane, Qld

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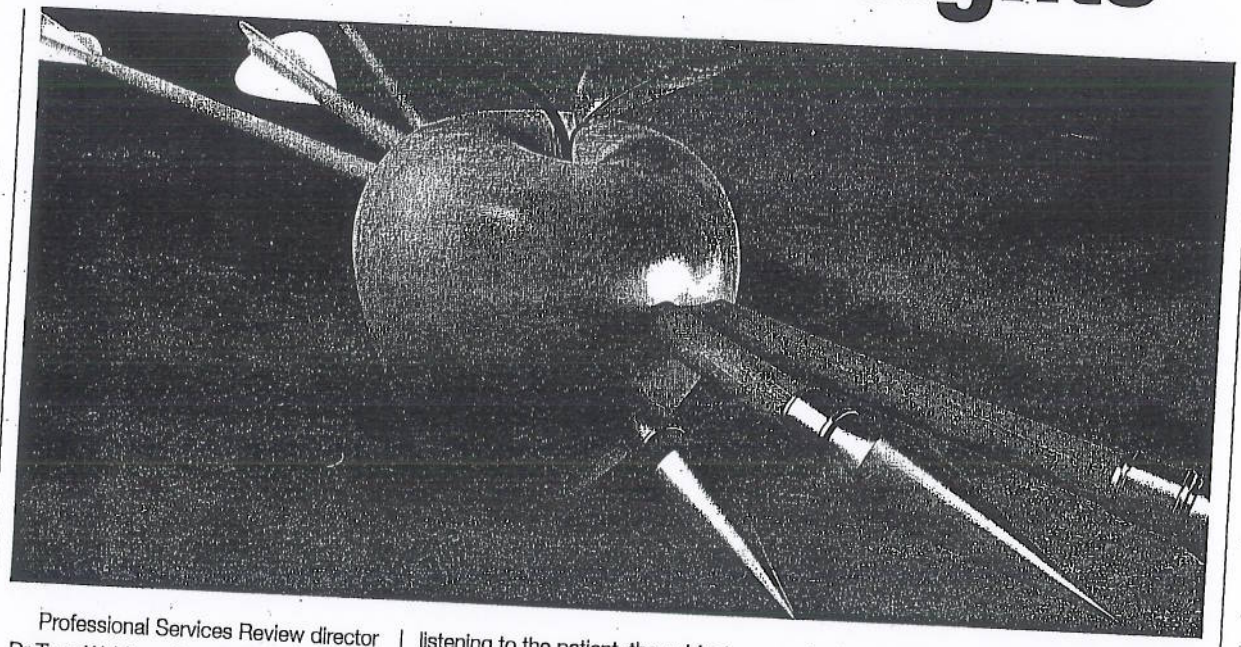
We're all in Medicare's sights

EDITOR The new face of Medicare should be of concern to all doctors, as I believe most are potential targets of this unfair auditing process.

Those who believe the Medicare propaganda will think that only the rotten apples of the profession are affected. However, if you know doctors who have been victims of the process, you will realise the majority have not set out to rip off Medicare, but have been caught up in the ever-widening Professional Services Review auditing net, despite offering a good value community health service. Yet the naturopath offering the cancer cure and homeopathic vaccine goes untouched.

Having been through it myself, I felt intimidated by the process and the outcome made no sense to me at all. It is heavily biased against the doctor getting a fair go.

In reality, Medicare is the lawmaker, prosecutor, judge, jury and revenue collector. At no stage is there any constructive advice on how to be Medicare-compliant except the endless petition of "practice in accordance ... the schedule and your peer ...".



Professional Services Review director Dr Tony Webber often says that another GP should be able to read a doctor's notes and know exactly what went on in the consultation. This is a convenient argument for him to make as it allows him to punish doctors without any firm guidelines or any constructive feedback.

The problem with this in general practice is that a lot of time is spent listening to the patient, the subject matter can be repetitive and mundane, and of insufficient clinical usefulness to take the time to record. There is no reward for a succinct recording; you must keep on ticking boxes and regurgitating platitudes to stand a chance.

As auditing becomes more widespread, it will inevitably make doctors reluctant to have a special interest in anything as it makes them an easy target for audits and fines. Fewer bulk-billed, long consultations will be the result due to the extra time now required to 'Webberise' the notes. No increase in patient care, just more time satisfying the bureaucrats.

Dr Tony Michaelson
Eltham, Vic

... for what? ... list and dentist ...

PSR panel suspended over error in selection process

Andrew Bracey

MEDICARE watchdog the Professional Services Review (PSR) has suspended all operations of its peer review committees following revelations of irregularities in the appointment of panel members.

A spokesperson for the PSR has confirmed that 40 matters before the PSR had been deferred after every panellist – understood to be almost 100 – was asked to resign and apply for reappointment.

The move follows news that the Department of Health had failed to seek the necessary AMA approval for the appointment of an unknown number of panellists, as required by the legislation governing the PSR's operations.

"The PSR will ensure that deferring committee processes will not materially disadvantage practitioners," said the spokesperson.

No concluded cases would be impacted by the development, he added.

However, Sydney GP Dr Alan Laughlin, whose case before the PSR is currently pending, said those who had previously been through the process and had been found to have practised or billed Medicare inappropriately should be given some opportunity to appeal.

"People may want to sue the Government because of what has happened. If these committees have not been appropriately appointed and [practitioners] found guilty based on it – you would hope they would have some kind of recourse."

NSW GP Dr Malcolm Fairleigh, who has been involved in efforts to gain clarity around PSR processes and interpretations of MBS items, also welcomed the development, saying it was a first step towards building GP confidence in the profession watchdog.

"I am heartened by the fact that the PSR can also get into trouble for not doing the paperwork properly," he said.

AMA vice-president Dr Steve Hambleton said the association would now consult the medical colleges on the appropriateness of PSR panellists to "make sure we have the right people available to be on the committees so everyone has confidence in the process".

Dr Hambleton would however not be drawn on whether the AMA would support the reappointment of PSR director Dr Tony Webber when his position comes up for re-confirmation in May next year.

Meanwhile, Medicare's latest National Compliance Program report has revealed that health professionals incorrectly or fraudulently claimed more than $10 million in MBS and PBS rebates in 2009-10.

According to the report, GP care plans, compliance incentive payment programs and the monitoring of up-coding of procedural items are to be targeted by Medicare in the coming year.

Diagnostic imaging and pathology ordering, recently highlighted by the PSR as a problem area, will also come under greater scrutiny.

Labor losing grip on health reforms

John Farey

AS THE year comes to an end, a series of policy backdowns and a shift in state government power towards the Coalition has experts questioning the future of Labor's sweeping health reform agenda.

Policy experts have labelled the health reforms requiring state co-operation under the Council of Australian Governments (COAG) "politically dead" and questioned the Federal Government's ability to pass key legislation through Parliament.

The assessment follows Health Minister Nicola Roxon's most recent backdown last week, after pressure from GPs forced a two-year extension of the after-hours Practice Incentives Program payments set to have been axed in July 2011.

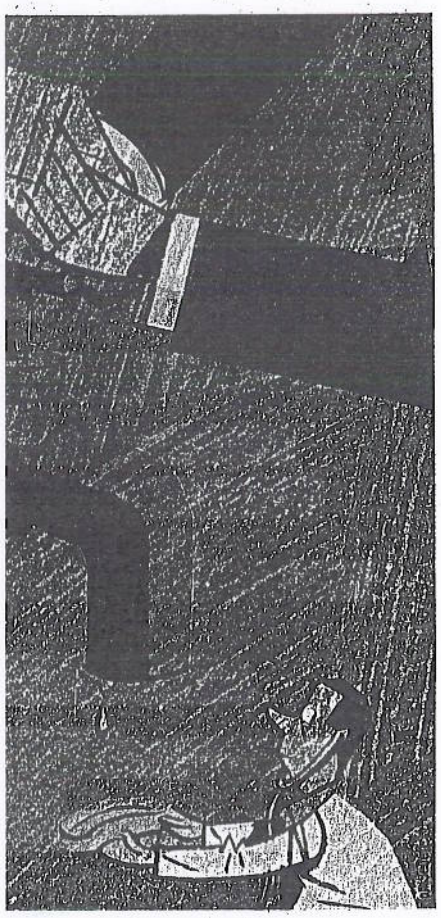
The news followed the Government's recent shelving of the contentious diabetes block-funding scheme, which has been reduced from a $449.2 million initiative to a $30.5 million trial.

Robert Wells, director of the Menzies Centre for Health Policy at the Australian National University, said the impact of the newly elected Victorian Coalition Government, likely to join WA in withdrawing from COAG agreements, endangered the chances of health reform in the near future.

"Certainly, I think you could say that politically it's dead," Mr Wells said.

"You've got [two key states] withdrawing, and it would appear that if there's a change of government in *page 4* ▸

Ms Roxon's office rejected the claim that the Government was languishing on health reform.



their role will be to:

- Identify local service gaps with the funding flexibility to do something to address them;
- A specific focus on improving access to after-hours care;
- Clear reporting and accountability against a national performance framework; and
- Improve coordination of primary healthcare across various providers.

So the challenge for us all now

PSR needs to tell us the rules first

REGARDING 'Health Department defers MBS item advice to doctors' groups' (14 February), the only reliable answer can be given by Dr Tony Webber, head of the Professional Services Review (PSR), which regularly decides whether the correct interpretation has been made. The PSR must publish a list of its interpretations, so that all doctors will know in advance what it means.

Otherwise we have the continuation of the current farce. It's like being stopped for speeding and asking: 'What is the speed limit?' and being informed 'I do not have to tell you.' 'How fast was I going? 'You do not need to know.' 'So how come I have broken the law?' 'Not my call, just pay the fine and shut up!' The PSR has become investigator, prosecutor, judge, jury and sentencing officer... but you will never know what the rules are!

Dr A. Breck McKay
Victoria Point, Qld

IT IS no surprise the Government has deferred to the professional bodies in relation to interpreting the MBS. Under the High Court ruling General Practitioners Society v Commonwealth 1980, it was established that it has no explicit or implicit constitutional right to interfere in the doctor-patient relationship.

Medicare can only act as an administrative body to administer the Medicare system. To the contrary it would be like the Tax Office being allowed to make new tax laws and administer as it saw fit. The Tax Office is only allowed to administer the laws. Only the High Court and Parliament, within the ambit of the constitution, can create new ones. Accordingly, contrary to popular belief, Medicare is just a chequebook agency. Its responsibilities do not include interpreting MBS item numbers based on the efficacy of a clinical service. Their job is to say that for a given type of service this will attract a government rebate irrespective of the nature or type of clinical work or standards involved.

Medicare should not be giving any advice on interpretations or setting standards, as it risks being accused of interfering in the doctor-patient relationship. This is a great opportunity for the professions to step up and play a greater role

David Dahm (pictured)
CEO, Health & Life Pty Ltd

SO WHY not form a joint committee with representation from Medicare, AMA ,RACGP and ACRRM to formulate guidelines for the benefit of all?

Dr Mark Craig,
Brisbane, Qld

FOR my two cents' worth, I suggest that the lack of clarity on the more contentious MBS items from Medicare staff may reflect the relative paucity of medical advisors the agency employs.

You may wish to speculate to what extent the interpretations are bound up in dogmatic rigid administrative processes such as information distribution networks and cultures.

Has anyone worked out exactly what forms of non-ablative therapy are referred to in the item number (30186) relevant to removal of verrucae vulgaris? Anything a doctor does to a wart almost certainly is going to be destructive (i.e. to take away, remove or even disintegrate, as per a dictionary definition).

Why have item numbers that don't make sense to anyone with professional expertise of the relevant topic?

Dr Peter Grant
Mount Cotton, Qld

OKAY, let me get this straight. They can tell you what you did wrong after the event and ask for repayment of monies wrongly claimed, but they cannot tell you how to claim correctly when asked in advance?

Straight out of *Yes, Minister*.

Dr Joe Kosterich
Woodvale, WA