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AMA submission: Health Insurance Amendment (Professional Services Review Scheme) Bill 2023

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The AMA is committed to upholding the integrity of Medicare and supports programs that monitor compliance of practitioners that bill Medicare. The Professional Services Review (PSR) scheme is an important program in supporting Medicare compliance, but it is only a small component of the overall compliance work administered through the Department of Health and Aged Care. As such the AMA works closely with the PSR and also with the department on compliance; with the goal of ensuring that compliance activities are appropriately targeted and that the medical profession has greater trust in compliance activities.

Under the existing wording of the *Health Insurance Act 1973* (the Act) the AMA has a legislated role in the selection of the Director of the PSR and in the selection of other statutory office holders. This Bill will see the AMA have this legislated role removed based on a recommendation in from the independent Review of Medicare Integrity and Compliance undertaken by Dr Pradeep Philip (Philip Review). The Bill will also establish the associate director role which we support.

The AMA will not oppose the Bill nor offer any amendments. However, this is dependent on the government formalising arrangements with the AMA as the peak body representing all medical practitioners around the consultation requirements referred to in Act and on the administration and functioning of the PSR. This should be accomplished by amending pre-existing memoranda of understanding.

Amending the formal arrangements in place is appropriate as the AMA's role with the PSR has been widely seen as essential, particularly in helping to ensure confidence in the PSR among the profession. The Philip Review found no evidence that the AMA's involvement in relation to PSR appointments has in any way interfered with its independence or impacted on its decision making, nor does it raise a potential conflict of interest as noted in the explanatory memorandum. The recommendation is due solely to the fact that there are now more health professions that may bill the Medicare Benefits Schedule (MBS). While this is true, the vast majority of MBS services are provided by medical practitioners.

Under the existing legislation the AMA's role is limited to the appointments of PSR Director and to committees. We are not involved at any stage of the review process and have no oversight of the content and conduct of reviews which is appropriate.

Australian Medical Association

The constructive engagement of the AMA in relation to the PSR has, in our view, ensured its effective functioning and delivered the support of the profession for the work of the PSR. There are those within the profession who have campaigned against the PSR and sought to undermine it, whereas the AMA has been a consistent voice of reason. The role of the AMA has never been questioned in earlier general reviews of the PSR or more specific reviews like the recent consideration of Section 92 agreements. Indeed, the body of evidence shows that we have helped to make the PSR to function effectively.

A key outcome of a memorandum of understanding between the government and the AMA in relation to the PSR was the establishment of the Professional Services Review Advisory Committee, which was recommended by a 2006 review of the PSR. This has been an effective forum that has supported constructive discussions over the years including, for example, potential legislative reforms, practitioner experience, the operation of panels, the operation of Section 92 agreements, and practitioner education.

The AMA has worked collaboratively with government to assist on matters related to MBS compliance activities (including the functions/powers of the PSR) in recent years. Listed below are examples where we believe our input helped the final legislation.

- the [Health Legislation Amendment \(Improved Medicare Compliance and Other Measures\) Bill 2018](#) which introduced new debt-recovery powers for Medicare debts owed to the Commonwealth, including providing for a shared debt recovery scheme
- the [Health Legislation Amendment \(Data-matching and Other Matters\) Bill 2019](#) which introduced a data-matching scheme for permitted Medicare compliance and related purposes
- the [Health Insurance Amendment \(Compliance Administration\) Bill 2020](#) which clarified the circumstances in which the Commonwealth can recover a Medicare benefit or payment where it has been provided based on false or misleading information
- the [Health Legislation Amendment \(Medicare Compliance and Other Measures\) Bill 2022](#) which strengthened the ability of the Commonwealth to recover debts, including through new sanctions and increased maximum penalties for body corporates and non-practitioners.

As noted in the Philip Review, the MBS is complex and the vast majority of doctors want to do the right thing, even those who have billed incorrectly. The AMA would like to continue to work with the government, the department and the PSR on the implementation of the recommendations of the Philip Review and on the administration of MBS compliance activities to improve compliance while ensuring the schemes are fair to all involved.

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