



Submission to the Private Health Insurance
Legislation Amendment Bill 2018 and
related Bills

July 2018

Our Credo

We believe our first responsibility is to the doctors, nurses and patients, to mothers and fathers and all others who use our products and services. In meeting their needs everything we do must be of high quality. We must constantly strive to reduce our costs in order to maintain reasonable prices. Customers' orders must be serviced promptly and accurately. Our suppliers and distributors must have an opportunity to make a fair profit.

We are responsible to our employees, the men and women who work with us throughout the world. Everyone must be considered as an individual. We must respect their dignity and recognise their merit. They must have a sense of security in their jobs. Compensation must be fair and adequate, and working conditions clean, orderly and safe. We must be mindful of ways to help our employees fulfil their family responsibilities. Employees must feel free to make suggestions and complaints. There must be equal opportunity for employment, development and advancement for those qualified. We must provide competent management, and their actions must be just and ethical.

We are responsible to the communities in which we live and work and to the world community as well. We must be good citizens - support good works and charities and bear our fair share of taxes. We must encourage civic improvements and better health and education. We must maintain in good order the property we are privileged to use, protecting the environment and natural resources.

Our final responsibility is to our stockholders. Business must make a sound profit. We must experiment with new ideas. Research must be carried on, innovative programs developed and mistakes paid for. New equipment must be purchased, new facilities provided and new products launched. Reserves must be created to provide for adverse times. When we operate according to these principles, the stockholders should realize a fair return.

Johnson & Johnson Medical Pty Ltd (JJM) welcomes the opportunity to contribute further to reform of the private health insurance sector with the aim to deliver greater transparency and value for money for Australian consumers. In providing input to this inquiry, we reflect on Our Credo which ensures our patients, customers and stakeholders are front of mind.

Johnson & Johnson is the world's most comprehensive healthcare company. Our mission is to change the trajectory of health for humanity and we are passionate about improving health outcomes in the communities we serve. We do this through our iconic consumer health, beauty and baby brands; our life-saving pharmaceutical treatments for cancer, immune and infectious diseases and mental illness; and our innovative medical devices.

With more than 135 years in the healthcare business, including 87 years in Australia, Johnson & Johnson is uniquely placed to offer a perspective on healthcare gleaned from our international and local experiences.

As one of the leading suppliers of medical devices and technology, Johnson & Johnson is driven by a commitment to patients. We develop sustainable, integrated healthcare solutions by working side-by-side with healthcare stakeholders and investing in entrepreneurial medical leadership. We collaborate with industry associations, alliances, health forums, national organisations, advocacy groups and policy makers to ensure our healthcare system provides patients with timely access to medical technologies that improve lives.

We are a significant supplier of professional education to the Australian healthcare professionals who use our innovative products and solutions. Our partnerships with universities address emerging issues across the Australian health landscape by providing joint education and research programs along with practical experience to student, doctors, nurses as well as registrars and consultants.

Our emphasis on value is combined with a relentless focus on product quality, safety and continuous improvement. In meeting customer and patient needs everything we do must be of high quality – which is fundamental to Our Credo.

Our vision is straightforward: to positively impact human health through innovation. For this we develop the best science and technology to solve the greatest needs of our time based on evidence. We also encourage, support and invest in the early-stage research and discovery that is the essential first step to making the life-changing products that our business is founded upon. We believe that people have the right to long and healthy lives and explore every possible avenue in pursuit of this goal.

We support modernisation of Australia's health care system. We support reforms designed to improve patient access to innovative products and services and which foster sustainable levels of investment in healthcare. JJM supports evidence-based decision making and measured introduction of reforms that reflect the important contribution made by stakeholders across the healthcare sector.

Australia's private health system complements the public system by providing more tailored care options, broader clinician choice and reduced waiting times. It reduces pressure on finite taxpayer resources devoted to public health.

The country's ageing population is increasing demand for health care resources, driving health inflation ahead of economic growth in both the public and private systems. Measures which reduce capacity or access to essential services in the private system would increase the cost of the public

system and increase public hospital waiting lists. Achieving greater balance in health expenditure requires the adoption of more efficient and transparent practices and a greater focus on the unexamined cost inputs in the private health insurance model.

We support the following underlying principles for initiatives to modernise private health insurance:

- Physician and patient choice should be maintained and patients should benefit from improvements to the health system;
- The health system should encourage innovation in Australia - providing incentives to adopt new and improved medical technologies and services that benefit patients;
- Reforms should focus on delivery of value and an efficient competitive environment;
- Reforms should afford stakeholders appropriate time to adjust and, administrative costs for any model must be reasonable and sustainable for industry;
- Data sourced to investigate market competition must be derived from credible sources and commercial sensitivity must be protected; and
- Policy reforms should not add barriers to entry or discourage competition.

Comment on legislation:

JJM supports the passage of three Bills which form a key component of the Government's private health insurance reforms announced on 13 October 2017. These reforms seek to address a number of sustained criticisms about the private health insurance system in Australia, primarily the erosion of the value proposition in private health insurance policies.

Private health insurance premiums have been growing at a rate that has far outstripped inflation. Over the past 10 years premium costs have increased by 68 per cent, while the consumer price index has grown by around 25 per cent.¹ While health insurance premiums have been growing rapidly, consumers feel that the value of their private health insurance is declining. Patients continue to be faced with high and unpredictable out-of-pocket costs, complex and difficult to understand policies and a complex regulatory framework.²

As a result, the number of Australians covered by private health insurance has declined in proportionate terms over the past nine consecutive quarters.³ Hospital coverage has fallen to its lowest proportion since 2010 at 45.5 per cent.⁴ In addition, complaints to the Private Health Insurance Ombudsman have increased over the past four consecutive years – including a 30 per cent increase from 2015-16 to 2016-17.⁵

The measures contained in this legislation are aimed at improving the transparency, affordability and operation of the private health insurance system for consumers which JJM wholeheartedly supports.

To improve transparency, the legislation will discontinue the 'Standard Information Statement' from 1 April 2019 and will replace it with a 'Private Health Information Statement'. A 'Private Health Information Statement' will allow insurers to adopt a more flexible format for informing consumers about their products. This will improve the quality of information provided and ensure that

¹ Australian Bureau of Statistics, Consumer Price Index, December 2017.

² Australian Competition and Consumer Commission, Report to the Australian Senate, *On anti-competitive and other practices by health insurers and providers in relation to private health insurance*, 2016-17.

³ Australian Prudential Regulation Authority, *Private Health Insurance Membership and Coverage*, March 2018.

⁴ Ibid.

⁵ Private Health Insurance Ombudsman (PHIO) – State of the Health Funds Report 2017.

consumers can make a more informed choice. The removal of benefit limitation periods in all policies will also increase transparency for consumers and make it easier for consumers to switch providers to get access to better coverage, a better product or a better price.

Importantly, the legislation will increase the powers of the Private Health Insurance Ombudsman to allow for investigations and audits of private health insurers or brokers following complaints. This is an important accountability measure to safeguard consumers against misleading advice and will encourage private health funds to provide clear and accurate advice on the content of their policies and exclusions.

To improve affordability, particularly for young people, the legislation will support increased flexibility for insurers to offer discounts for hospital cover for those aged 18 - 29 and allow consumers the opportunity to purchase products with a larger excess in return for lower premiums. This will give young Australians better access to cheaper premiums and will encourage more young people to join the private health insurance pool to the benefit of the overall health system. Incentives will also be offered for insurers to include travel and accommodation benefits as part of hospital treatment cover, which will provide a valuable financial benefit to rural and regional patients.

These are important steps and are welcomed by JJM, however there is more to do. The Government is currently considering additional changes as part of the broader private health insurance reform package.

Important considerations for broader reform:

The Government's reform package includes a new system for categorising hospital products (Gold/Silver/Bronze/Basic) and general treatment products (Gold/Silver/Bronze) and the use of standardised clinical definitions for treatments. From 1 April 2019 all 70,000 private health insurance policies will be categorised into these four tiers. The classifications are intended to provide consumers with clear and accurate information about what a policy covers in one page – making it easier to compare and contrast policies.

On 15 July 2018, the Government announced details about the new classifications. The announcement stated that Silver and Gold policies were to provide comprehensive cover for Australians. However, as it stands, only Gold cover will include certain comparatively common services such as pregnancy care, joint replacements and cataract procedures as part of its minimum requirements.

This should be a cause of some concern for consumers. For example, the Government's own modelling indicates that under current policies hip and knee replacements are included in 77% of Basic cover products, 76% of Medium cover products and 100% of Top cover products on a non-restricted basis.⁶

Currently, 61 per cent of all joint replacements performed in Australia are provided in the private system. Between 2003 and 2016 the number of hip replacements undertaken per year has increased by 73.7 per cent.⁷ Between 2003 and 2016 the number of knee replacements undertaken per year

⁶ Deloitte, Department of Health, Evaluation of proposed PHI product reforms, Final Report, 29 June 2017 (updated 6 September 2017), p 119.

⁷ Australian Orthopaedic Association National Joint Replacement Registry (AOANJRR), Hip, Knee & Shoulder Arthroplasty: 2017 Annual Report. Adelaide: AOA, 2017, p 54.

has increased by 111.5 per cent.⁸ This increase has been driven primarily by improved access through the private system.

The significant growth in these procedures reflects Australia's changing demographics⁹ and the evolution of its healthcare needs. Australians are living – and remaining active – for longer. The technological innovations in joint replacement materials and techniques has also increased the value of this intervention. Artificial joints are now longer lasting and have reduced revision rates¹⁰ which means that the procedures are now increasingly common for younger patients.¹¹

While it is acknowledged that there remains a cohort of people who will continue to seek access to lower levels of cover through entry-level products (particularly in the case of young people who are at a reduced risk of requiring hospital care), it is important that all other insurance products include coverage for services with a high prevalence. This will address a major issue of concern for consumers who have been complaining in increasing numbers to the PHIO about unexpected exclusions and restrictions.¹²

JJM will making a detailed submission regarding the exposure draft of the Private Health Insurance (Reforms) Amendment Rules 2018 which give effect to the Gold/Silver/Bronze/Basic product categories. This submission will provide further analysis on the expected impact of the classifications. We will also be seeking further information on the modelling undertaken by the Department of Health to support the announced categories. JJM's analysis will focus on ensuring that consumers are not left worse off as a result of these changes.

Getting these minimum requirements right is fundamental to the overall success of the reforms. It would be a perverse outcome if, through categorisation, Australians ended up getting less from their health insurance or had to take out higher cover to access the benefits they enjoy today. It would also lead to a sharp and unsustainable increase in demand for common procedures in the public system.¹³

JJM notes that the publicly available modelling released to date assumes that the transition to Gold/Silver/Bronze will involve the maintenance of private health insurers' margins. This is despite the fact that these margins have increased by 24% over the last two years.

It is important that all participants in the system – including doctors, hospitals and insurers – are contributing to reducing costs to consumers through applying downward pressure on premium growth. Medical device manufacturers have recently contributed \$1.1 billion in savings to deliver the lowest increase in premiums in 17 years.

The other direct result of the Agreement was that the price reductions to the Prostheses List have now removed the difference in pricing between public and private medical devices at an aggregate level. Indeed, the latest APRA quarterly figures show that private health insurance benefits paid for

⁸ AOANJRR, Hip, Knee & Shoulder Arthroplasty: 2017 Annual Report. Adelaide: AOA, 2017, p 166.

⁹ The Intergenerational Report projects that the proportion of the population over 65 years of age will more than double by 2054-55.

¹⁰ AOANJRR, Hip, Knee & Shoulder Arthroplasty: 2017 Annual Report. Adelaide: AOA, 2017, p 166 (The proportion of revision knee procedures has declined from a peak of 8.8% in 2004 to 7.4% in 2016). See also, p 54 (The proportion of revision hip procedures has declined from a peak of 12.9% in 2003 to 8.9% in 2016).

¹¹ AIHW, *The Second Australian Atlas of Healthcare Variation*, 2017, p 243.

¹² ACCC, Private Health Insurance Report, 2016-17.

¹³ In 2016-17, 3.0 per cent of patients waited more than 365 days for orthopaedic surgery. AIHW, *Australian Hospital Statistics: Elective Surgery Waiting Times*, 2016-17.

prostheses decreased by 13 per cent, saving the private health insurance industry \$72 million in the March quarter alone. This means that payments by health funds for medical devices now represent only 11 per cent of all private health insurance costs.

For private health insurers, the regulated Prostheses List helps to constrain prostheses expenditure in the private market and allows funds to accurately predict expected payments. This is evidenced by the fact that the average cost per Prostheses List benefit has remained consistent over the last decade. For consumers, the Prostheses List means that privately insured patients can access a comprehensive range of life-saving and life-changing medical devices at no cost. Maintaining – and improving – this arrangement is therefore essential to the value proposition of private health insurance.

One immediate measure the Government must take to improve this arrangement is the inclusion of funding pathways for non-implantable devices. Allowing non-implantable devices to be included in the Prostheses List would provide patients with additional treatment options that can deliver improved clinical outcomes, less invasive surgery and a reduction in recovery time. For example, catheter ablation devices which treat atrial fibrillation are currently not eligible for inclusion in the Prostheses List due to the removal of the device at the end of the procedure. This is despite clinical and economic evidence articulating the benefits to the patient.¹⁴

The current waiting period to receive this procedure in a public hospital can be up to 18 months. Permitting this, and other, non-implantable devices to be included in the Prostheses List would be an important step in better demonstrating the value of private health insurance to consumers and increasing coverage rates.

The Government can further improve value by acting quickly to implement the commitments in the MTAA Agreement to reduce the time to market for medical devices, including developing expedited pathways for listing and increasing listing frequency.

An ongoing commitment to reducing Private Health Insurance Premiums:

In order to deliver ongoing savings and further reduce pressure on premiums it will be necessary to examine the other 89 per cent of costs in the private health insurance system.

Further interrogation of these inputs has the potential to apply significant downward pressure on premiums and increase coverage rates. This includes looking at where the private health insurers can do more to release their retained capital in excess of requirements to deliver value back to consumers and policyholders, instead of just shareholders.

The Government has rightly tasked its Private Health Ministerial Advisory Committee – chaired by the Chief Medical Officer, Professor Brendan Murphy – to consider reforms addressing these other cost inputs. A particular focus will be making information on the fees charged by specialists more transparent for consumers.

¹⁴ Xiaofeng Cheng, Xiaoqing Li, Yun He, Xiaoyan Liu, Guoqiang Wang, Li Cheng & Jianbo Hu (2014). Catheter ablation versus anti-arrhythmic drug therapy for the management of atrial fibrillation: a meta-analysis, *Journal Interventional Cardiac Electrophysiology*, 41, pp 267-272.

Specialist costs remain a major driver of overall expenditure – on average specialist fees make up over half the costs of a hospital treatment episode. However, these costs are regularly not explained to consumers.¹⁵

A solution to this problem is establishing an accessible database of specialist fees with costs itemised by procedure. In time, this database could be connected to GP practice management software, allowing GPs to have an informed discussion with their patient on anticipated costs for the consultations and surgery prior to the referral being written. This can be complemented by mandating that insurers provide their members with a minimum level of information about gap cover arrangements to assist with decision making when selecting a policy.¹⁶

These ideas warrant further consideration and discussion. Increasing transparency in specialist fees will produce a fairer health system and will protect consumers and payers from unreasonably high charges that bear no relationship to the quality or nature of the medical service provided.

¹⁵ A survey found one quarter of private patients were not provided with informed financial consent, or given an estimate of their costs. IPSOS, *Health Care and Insurance Australia*, 2015.

¹⁶ ACCC, *Private Health Insurance Report*, 2016-17, p 2.