

25 January 2013

Dr Ian Holland
Secretary
Senate Standing Committee on Community Affairs
PO BOX 6100
Parliament House
Canberra ACT 2600

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Dear Dr Holland

Re: Inquiry into the National Disability Insurance Scheme Bill 2012

The Royal Australian College of General Practitioners (RACGP) thanks the Senate Standing Committee on Community Affairs for the opportunity to comment on the National Disability Insurance Scheme Bill 2012 as introduced to the Australian Parliament on 29 November 2012.

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

It is understood that the Bill establishes a framework for the National Disability Insurance Scheme (NDIS) by:

- setting out the objects and principles of the scheme, which includes giving people with disability choice and control over the care and support they receive
- providing for the establishment and functions of the National Disability Insurance Scheme Launch Transition Agency, including implementation of the scheme as of July 2013, and
- providing for a review of the Act's operation after a two-year period.

Overall the RACGP is generally supportive of the proposed NDIS, its objects, guiding principles and broad parameters. However, there appears to be wide ranging implications for the medical profession which need to be addressed to ensure the scheme is workable. The two main areas of concern to the RACGP relate to:

- the risk of unsustainable clinical and administrative requirements being imposed upon the medical profession, and
- the likely impacts of compensation claims perused by the Agency on behalf of individuals who believe their impairment may have resulted from a medical intervention.

Therefore the RACGP seeks clarification of medical practitioners' roles, responsibilities and the broader implications arising from their involvement in the following activities:

1. patients application for NDIS support (Sections 24 and 25)
2. development, management and review of patients' NDIS support plans (Section 36)
3. any ongoing or periodic review of their impairment(s) for continuation of NDIS support (None)
4. the pursuit of compensation claims against parties thought to be responsible for an NDIS participant's impairment, including claims against medical practitioners for impairment arising from medical intervention (Sections 104 – 114).

These issues are discussed in turn under the corresponding sections below.

1. Patient's application for NDIS support

Presumably medical practitioners will be among those authorised to assess NDIS applicants' impairment and provide the Agency with information that will enable it to determine whether or not the applicant meets the prescribed access criteria, disability and early intervention requirements in accordance with Part 1:

Section 24: *Disability requirements*, whereby NDIS applicants will be required to provide information about their type of impairment(s) (intellectual, cognitive, neurological, sensory or physical) and whether their impairment(s):

- is/are likely to be permanent (this includes impairments that are chronic or episodic in nature)
- result in substantially reduced functional capacity to undertake a range of specified activities
- affect their capacity for social and economic participation, and
- whether their disability support requirements are likely to continue for the person's lifetime.

Section 25: *Early intervention requirements*, whereby NDIS applicants are to provide the Agency with information that will substantiate the claim that the provision of early intervention supports for a child with developmental delay or any other person with a disability, is likely to:

- reduce the person's future need for support
- mitigate, alleviate or prevent deterioration of their functional capacity to undertake communication, social interaction, learning, social mobility, self-care, self management, or
- strengthen the sustainability of informal supports available to the person, including through building the capacity of the person's carer.

To ensure these activities can be carried out, the clinical and administrative requirements associated with each task must not be unnecessarily complex nor burdensome. Further, the high volume of patients presenting for assessment (particularly during the scheme's launch) may significantly increase medical practitioners' workload and potentially have widespread medical workforce implications. Hence the RACGP seeks clarification of their roles and responsibilities and asks that the potential workforce implications be taken into account when developing the NDIS rules that are expected to prescribe:

- the kinds of assessments that may be conducted for these purposes
- the method(s) for assessing, or criteria for deciding, the 'general' 'reasonable' and 'necessary' supports that will be funded or provided under the NDIS, and
- the persons who may conduct assessments for the purposes of deciding whether a person meets the disability requirements or the early intervention requirements without compromising quality.

2. Development, management and review of NDIS support plans

The full extent of medical practitioners' contribution to the development, management or review of NDIS participants' disability support plans (referred to in Part 2, Divisions 1 and 2) is currently unclear. The RACGP therefore seeks clarification of medical practitioners' role in the process including Section 36 *Information and reports for the purposes of preparing and approving a participant's plan*. As part of *preparing and approving a participant's plan*, the Agency CEO can request the NDIS applicant/participant undergo a medical, psychiatric or psychological examination provide the resulting report (in the approved form) from the person who conducts the examination. Overall the RACGP asks that the tasks required of medical practitioners are clear, not overly prescriptive, nor cumbersome and consistent with current best practice.

3. Ongoing periodic review for continuation of NDIS support

It is currently unclear as to whether there will be any on-going or periodic review of NDIS participants' disability to determine their eligibility for ongoing support and, if so, what medical practitioners' role will be in such a process. Again the RACGP asks that any activity required of medical practitioners be clear, simple to understand, not overly prescriptive, nor cumbersome and consistent with current best practice.

4. The pursuit of compensation claims

In accordance with Part 1, Section 104, *The requirement to take action to obtain compensation*, the Agency CEO may require a NDIS applicant or participant to take action to obtain compensation for a personal injury if the applicant/participant has not taken reasonable action to claim or obtain compensation in the past.

Again the RACGP seeks clarification of what implications this might have for medical practitioners where a medical practitioner is:

- engaged by the plaintiff to act as a medical expert / assessor in a compensation claim against a third party, or
- the defendant, accused of contributing to the plaintiff's impairment due to their medical practice.

The latter would clearly have a significant impact on medical practitioners and medical indemnity insurers as 'compensation payers'. Therefore the RACGP seeks further clarification of the legislators' intentions in relation to this matter and further consultation about the broader ramifications for the medical profession, including the potential impact on medical indemnity insurance costs for medical practitioners.

The RACGP would greatly appreciate your consideration of the issues canvassed herein and the opportunity to discuss any associated implications for the medical profession with you. If you have any questions regarding these matters please contact myself or Mr Roald Versteeg, Manager – Policy & Practice Support

Kind regards

Dr Liz Marles
President