

# PARLIAMENTARY INQUIRY QUESTION ON NOTICE

## Department of Health and Aged Care

### Senate Community Affairs Legislation Committee

#### Health Insurance Amendment (Professional Services Review Scheme) Bill 2023

PDR Number: IQ23-000061

#### Clarification on submission to the Health Insurance Amendment (Professional Services Review Scheme) Bill 2023

#### Written

Senator: Marielle Smith

#### Question:

1. Please explain the background to the provisions that the bill seeks to amend, including:
  - a. the impetus for the existing requirement to engage with the AMA on the appointment of the director of the PSR;
  - b. the eligibility requirements for appointments to positions on the PSR; and
  - c. the requirement for the CEM to consult with a relevant professional body prior to it issuing a notice to produce documents?

2. The AMA submits that its support is:

*...dependent on government formalising arrangements with the AMA as the peak body representing all medical practitioners around the consultation requirements referred to in [the] Act and on the administration and functioning of the PSR. This should be accomplished by amending pre-existing memoranda of understanding.*

Does the department intend to formalise arrangements with the AMA by amending the pre-existing memoranda of understanding?

3. The amendments proposed by the bill would retain consultation requirements for appointments to the roles of Deputy Directors and Panel members, as well as to members of the Determining Authority. However, it appears that there would be no consultation requirements for appointments to the position of Director.

Would you please explain why consultation requirements would remain in the Act for appointments to some positions, but not to the Director?

4. Your submission states:

Engagement with the health profession would remain an integral part of the PSR appointment process and departmental compliance program. Stakeholder groups would still be consulted as necessary to inform compliance activities.

Can you please explain how the department intends to continue engaging with relevant stakeholders should the Bill pass?

**Answer:**

1.

a. The requirement to engage with the Australian Medical Association (AMA) was included in the legislation that originally established the Professional Services Review (PSR) Scheme because the AMA was instrumental in developing the new peer review process and supporting the legislative framework. The PSR Scheme was established by the Health Legislation (Professional Services Review) Amendment Act 1994, introduced to Parliament in 1993.

The PSR Scheme was established in response to a report from the Australian National Audit Office that its predecessor, the Medical Services Committees of Inquiry, did not deal with over-servicing effectively. The AMA had a key role in the preparation of the legislation that established the PSR Scheme, and it was the first time the AMA had agreed to actively participate in a genuine system of peer review.

The explanatory material to the originating Bill and the parliamentary debates at the time refer to the close consultation that took place between the Department of Health and Aged Care (the department) and the AMA in the development of the scheme. The AMA was intended to represent the medical profession of the time, and other health practitioners did not yet have access to Medicare.

b. The only eligibility requirements are for the Director to be a medical practitioner and other office holders to be medical or other health practitioners, which are not changing. In relation to consultation requirements with the AMA, similar to the above response, the AMA was instrumental in the original development of the PSR Scheme and this is the background to its central role in consultation arrangements for appointing other medical office holders.

c. The current requirement is that the Chief Executive Medicare must take reasonable steps to consult with a relevant professional body prior to it issuing a notice to produce documents.

This requirement was included when the notice to produce provision was introduced into the legislation in 2011. The associated explanatory material provides that the requirement 'will ensure that the CEO has sought the views of a relevant professional body about the kind of documents that may be relevant to substantiating the Medicare benefit paid for the service'.

2. The Government is committed to consultation with all relevant stakeholders across the healthcare sector. The Independent Review of Medicare Integrity and Compliance referred to the need for input and collaboration from various stakeholders to bolster the integrity and compliance of the Medicare system. While these stakeholders include the Australian Medical Association, the Review highlighted the importance of also engaging with other stakeholders across the sector.

As a result, the Government intends to formalise strategic agreements with key health stakeholders, including the AMA. These agreements will encourage collaboration and enable the Government and health sector stakeholders to work together during ongoing integrity reforms.

3. Requirements to consult with relevant organisations have been retained for Deputy Directors, Panel members, and practitioner members of the Determining Authority as these office holders are intended to represent particular health professions and specialties. In these circumstances, it is appropriate to ensure that the Minister consults with the organisations representing those specialties.

Specific consultation requirements are not proposed for the appointment of the Director. This is intended to enable the Minister to consult as widely as necessary about the appropriateness of a particular appointment.

4. The department routinely engages with stakeholders on the design and development of compliance strategies to address inappropriate and incorrect provider claiming under the Medicare program and other Australian Government funded health programs. This includes consideration of what documents and information might be relevant to substantiating claims for payment. Engagement is important to test the efficacy of proposed compliance intervention and to make the necessary adjustments to strategies; and in doing so ensuring that the department's compliance programs are robust, justifiable and sustainable.

Engagement with stakeholders, whether legislated or as part of the department's routine business, is relied on to understand the nature of concerns and environmental factors that might be relevant to each profession or specialty. If this Bill is passed, the department will continue to consult closely with professional bodies and stakeholder groups to better understand and address causes of non-compliance.

Health professional peak bodies will also be consulted on potential candidates for appointment as Director of the PSR following a merit-based selection process.