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 The Secretary
Joint Standing Committee on Migration
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Dear Secretary

Re: Inquiry into eligibility requirements and monitoring, enforcement and reporting arrangements for temporary business visas

Thank you for the opportunity to provide a submission to the above inquiry.

The primary area of interest for the AMA with respect to the above inquiry is the use of temporary visas to recruit overseas trained doctors (OTD). Available statistics suggest that around 2500 doctors enter the country each year using business visa classes 457 and 422. An unknown number of doctors are recruited using the Occupational Trainee class visa – class 442.

The recruitment of overseas trained doctors is a key part of Australia's response to medical workforce shortages. The AMA is concerned to ensure:

- Every effort is made to recruit locally trained doctors,
- Australia does not actively recruit doctors from lesser developed countries,
- Recruitment processes are transparent and conducted in a timely fashion,
- The skills of overseas trained doctors are properly assessed,
- Overseas trained doctors are provided with appropriate orientation and access to ongoing professional support.

The AMA understands that the Department of Immigration is phasing out the use of 422 class visas in favour of class 457. A 457 visa provides employers with access to more streamlined arrangements for visa applications.

Current requirements mean that class 457 visas cannot be used to sponsor many OTDs who come to Australia to work as locum doctors. In circumstances where these doctors are contracted by locum services to work for a number of different practices, it is impossible to identify a single sponsoring employer. The only option is the more administratively cumbersome class 422 visa.

It would make good policy sense if this artificial distinction could be eliminated. Data on overseas trained doctor recruitment is widely acknowledged as poor and using multiple visa categories only exacerbates this problem. In addition, the benefits of streamlined application processes are unavailable to OTDs working in many locum arrangements.

The AMA believes that the current salary thresholds applied with respect to the recruitment of OTDs are inappropriate. An employer must only offer an annual salary of \$41,850 – which is well below average earnings across the medical profession. This threshold provides employers with no incentive to ensure that they offer competitive conditions to locally trained doctors before attempting to recruit an OTD. This leaves overseas trained doctors open to exploitation and they are often engaged on inferior conditions. The Committee must investigate a more appropriate salary benchmark.

Before the Department of Immigration will approve a 457 or 422 class visa, an OTD must obtain medical registration in the state/territory in which they intend practising. Unfortunately, the processes and standards of OTD assessment and support vary from jurisdiction to jurisdiction.

One example of such variability is that some states and territories will require an overseas trained specialist to submit to the Australian Medical Council specialist assessment process, whereas other jurisdictions may not enforce this process. Employers will also sometimes employ OTDs in “non-specialist” positions to avoid the AMC specialist assessment process, and then require them to perform work that is specialist in nature.

There is little doubt that if another Dr Patel situation were to arise, attention would quickly turn to the class of visa issued. In the absence of national standards of OTD assessment and support, visa arrangements would come in for valid criticism. The public would want an explanation as to why a doctor with inadequate skills had been granted a visa. Trying to shift the blame to a state or territory medical board would not address the resulting damage to the public’s confidence in overseas trained doctors. There is no doubt that the Department of Immigration can do more to ensure that OTDs meet appropriate standards of practice.

In 2004 the Overseas Trained Doctor Subcommittee of the Medical Training Review Panel cited evidence that as few as 28% of OTDs receive any type of formal orientation to the Australian health care environment. Many overseas trained doctors are placed in challenging work environments and without appropriate orientation they will inevitably struggle to integrate into the community, understand the health care system and commit to ongoing professional development and training. In some instances, OTDs will return to their country of origin or look for another country where they are provided with appropriate support.

In 2006, the Council of Australian Governments gave a strong commitment to the implementation of national OTD assessment and support standards. While the Commonwealth has tried to achieve consensus amongst states and territories to move forward with this decision, some jurisdictions have been slow to sign up for strengthened assessment and support arrangements.

If these delays persist, the Commonwealth should close off opportunity for OTDs to slip through assessment processes by imposing the following new conditions on 457 and 422 visa applications:

- *Formal assessment of the OTD’s qualifications and skills by the relevant specialist College*
- *Evidence of appropriate arrangements to provide supervision and/or training as determined by the College assessment*

- *A requirement for the sponsor to provide the OTD with formal orientation to the Australian health system*
- *The appointment of a doctor with recognised Australian qualifications as a mentor for the OTD.*

These would improve assessment and support arrangements and ensure some measure of national consistency.

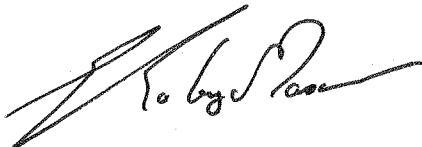
The AMA also has concerns about the possible abuse of class 442 – Occupational Trainee visas by state and territory health departments. The skills assessment requirements for this category of doctor are cursory and health departments do not have to seek an area of need declaration. They can be appointed in any hospital for up to 12 months on a “structured” training program, although these often appear to be normal service positions.

The skill levels of some OTDs being appointed to these positions are well above what would be considered appropriate for a bona fide training position, with some even holding Fellowship of overseas medical colleges. In normal circumstances these doctors should be required to utilise a business visa, however, an Occupational Trainee visa appears to offer an easier, less rigorous option. To illustrate the growth in the use of this visa category – in 2001/02 there were 725 occupational trainees registered with the NSW Medical Board. By 2005/06 this had nearly doubled to 1326 doctors. There is a reasonable suspicion that many of these doctors are being used to plug workforce gaps, rather than work in structured training programs.

Overseas trained doctors make an enormous contribution to the medical workforce in Australia. The vast majority of overseas trained doctors are highly skilled, however, recent events in Queensland did enormous damage to the health system and the confidence that the public has in overseas trained doctors. Australia must have the right systems in place to properly assess their skills and provide them with ongoing community and professional support. This is what both the public and overseas trained doctors deserve.

Please find attached a copy of the AMA’s Position Statement on Overseas Trained Doctors. The AMA would welcome the opportunity to appear before the Inquiry or provide further information if required. Please contact Mr Warwick Hough, Director, Workplace Policy Department email whough@ama.com.au or by telephone (02) 6270 5488.

Yours sincerely



Dr E Robyn Mason
Secretary General

wh:tg

Overseas Trained Doctors

2004

Preamble

The Australian Medical Association (AMA) recognises the important contribution that Overseas Trained Doctors (OTD) have made and continue to make to the medical workforce. It is in both the interests of the profession and the public that appropriate, clearly defined and transparent standards should be in place to govern the assessment, recruitment and training of OTDs and that every effort should be made to support OTDs to enhance their long term contribution to the medical workforce.

There is a shortage of doctors both here and overseas and the AMA has played a key role in highlighting this situation to policy makers. The shortage of doctors in some areas and some specialties (including General Practice) in Australia is well documented. While OTDs play and will continue to play a crucial role in addressing medical workforce shortages, they must not be seen as a long-term solution to these problems.

Having regard to a global responsibility, Australia must ensure that it expands its own pool of Australian trained doctors to ensure that it has an adequate medical workforce to meet the future health needs of the population. Necessary strategies include:

- encouraging Australian trained doctors to remain in the workforce
- providing adequate funding to hospitals for specialist positions
- undertaking rigorous workforce planning to ensure that available University and Medical College places and training positions properly match future population growth and changes in the delivery of medicine

In response to community concerns about workforce shortages and the need to ensure that the public can have continued confidence in standards of medical care the AMA has adopted a policy on Overseas Trained Doctors based on the following principles:

- Australia should train sufficient doctors to meet Australian requirements in the long term and should not leave a structural imbalance to be filled by OTDs. There are strong ethical considerations for a wealthy country like Australia recruiting doctors from other countries on a regular basis;
- There is a need for clear and reliable data to aid workforce planning;
- Medical Colleges currently provide appropriate recognition of overseas medical specialties, based around equivalence. (It is recognised that with respect to Areas of Need, Colleges may currently assess this by determining the competency of the applicant to perform specific procedures outlined within the area of need (AON) position description and that the College must consider that the applicant is substantially comparable to an Australian trained doctor¹);
- Medical Colleges should continue to assess OTDs for the purposes of gaining specialist registration by a Medical Board, recognising that current access to College assessment may be improved – including the pre-recognition by the Colleges of qualifications from countries (or institutions) that have similar training systems and environments to those in Australia;
- Ensuring that OTDs who possess the appropriate level of skills and competencies are able to become part of the medical workforce with a minimum of red tape and bureaucracy;
- Before Areas of Need are able to access OTDs there must be a rigorous and objective process, including consultation with the AMA, to determine Area of Need status;

¹ This assessment process is outlined in more detail in the submission by the Royal Australasian College of Surgeons to the ACCC Review of the Assessment of Overseas Trained Surgeons.

- Explicit arrangements should exist between the recruiting agencies, employers and Medical Boards clearly specifying responsibilities prior to arrival, upon arrival and in the period following their arrival to ensure that OTDs who do not have appropriate skills are properly assessed and given relevant supervision, training, orientation, mentorship and support;
- Ensuring that as far as practicable OTDs are assessed prior to arriving in Australia and that all OTDs be given a mandatory orientation course;
- Recruitment agencies should be regulated by the relevant regulatory or statutory bodies in Australia to ensure OTD standards are high and that they properly meet the requirements of the position;
- Ensuring that OTDs are given adequate supervision under the auspices of the relevant College if thought necessary by the College;
- Adequate Government funding is in place to support the delivery of programs such as compulsory orientation courses and ongoing support initiatives required to ensure that OTDs are able to fully participate in the medical workforce;
- OTDs are entitled to working conditions that are equal to similarly qualified Australian doctors in like locations. OTDs should not be exploited by employers by avoiding (or by providing less than) established entitlements or by offering lesser working conditions than apply to local doctors.

It is important to emphasise that the approach to the recruitment of OTDs must have regard to our obligations as international citizens. The AMA supports the ethical recruitment of doctors from overseas. The recruitment of doctors from developing countries, in particular, must be based on the principles of justice and fairness where the benefits of international recruitment and exchange of medical professionals significantly outweighs any associated burdens for developing countries. As such, the AMA supports the recruitment of doctors from developing countries only where it is done as part of a refugee program or on a short stay basis as part of an approved educational or aid program that is intended to assist in the development of the medical workforce in their country of origin.

The recruitment of OTDs must also be based on respect for the individual. Potential recruits must make the decision to work in another country based on full and accurate information relating to the position to be filled and other conditions which may affect their work life and living conditions in Australia (eg: immigration requirements, contractual arrangements, legal and regulatory requirements).

1. Data Collection

- 1.1 To aid future workforce planning an integrated approach to data collection about OTDs needs to be adopted by the state and federal governments.

2. Standards

- 2.1 Nationally consistent guidelines for the assessment, recruitment, registration, training and ongoing support for OTDs should be developed and implemented
- 2.2 Subject to the exemptions referred to under the heading – Areas of Need/Districts of Workforce Shortage, the standards of entry for an OTD should require that they:
 - complete the AMC assessment process or other suitable assessment process as required by the relevant Medical College
 - undertake a period of oversight determined by the State/Territory Medical Board on advice from the relevant Medical College before being allowed to undertake any form of unsupervised practice
 - are assessed to ensure that they have requisite English language skills, based on rigorous agreed national standards
- 2.3 Efforts to review the AMC examination process in order to remove barriers to timely and appropriate assessment continue to be supported by the AMA.
- 2.4 The AMA will work with the Australian Medical Council, State/Territory Medical Boards, Medical Colleges and other stakeholders on an ongoing basis to ensure that standards

remain relevant and in keeping with modern medical practices and training and assessment techniques.

3. Areas of Need/Districts of Workforce Shortage

3.1 To address workforce shortages in areas of need a limited range of exemptions to the above standards (except for English language proficiency) should be allowed in the following circumstances, with the relevant Medical Board having responsibility for reviewing and granting their application for medical registration:

- OTDs in public hospitals where adequate resources for training, assessment and supervision are available, provided that they meet all AMC qualification requirements within 4 years (noting that the AMA supports the concept whereby candidates can meet AMC requirements through workplace assessment)
- OTDs on temporary work visas who work in the public hospital system where adequate resources for training, and supervision are available and they work in total no more than 4 years
- OTDs who hold qualifications recognised by the relevant Medical College or who have trained and/or practiced in countries recognised by the relevant Medical College as having similar training systems and requirements, similar disease profiles, – provided their qualifications, skills and recency of practice meet the requirements of the position
- OTDs from other countries or with other qualifications undertaking a period of oversight as determined by the relevant Medical Board upon advice from the relevant Medical College where their skills are assessed and the results of that assessment are provided to the Medical Board for review

4. Recruitment & Ongoing Support for OTDs

4.1 Organisations that act as recruitment agencies for OTDs must be regulated, accredited and audited by the relevant regulatory or statutory body to ensure that they properly match OTDs to available positions.

4.2 OTD recruitment agencies must be required to take on a pro-active role and to deliver ongoing support services to OTDs to ensure that:

- OTDs can navigate the requirements to practice in Australia
- OTDs can be properly matched to positions
- an orientation program can be prepared for them
- a skills development program can be prepared for the OTD
- their skills can be assessed on an ongoing basis
- support programs such as mentoring can be co-ordinated and monitored

4.3 The recruitment of OTDs should be underpinned by a formal agreement between the OTD and the employer outlining the obligations on both parties, with the role of the recruitment agency being to ensure that these obligations are appropriate and fulfilled by the parties.

4.4 The long-term aim of a pro-active approach combined with the ongoing delivery of support is to ensure that OTDs are able to adapt to the Australian health system and enter the community as seamlessly as possible and that their skills are developed over time.

4.5 Recruitment and ongoing support should be open to private sector organisations provided they have appropriate experience and background in the recruitment and mentoring of medical practitioners.

5. Advocacy

5.1 The AMA is recognised as the primary advocacy body for all doctors in Australia and will welcome OTDs to the AMA, and encourage their active participation in AMA activities. This includes access to the support and advocacy services that are available to all members.

6. Orientation

6.1 Orientation is vital to ensure that OTDs have an understanding of:

- Australian Health System and processes
- knowledge of acronyms and colloquialisms

- their local community
 - cultural issues
 - their rights and obligations
 - medical ethics and patient rights
- 6.2 Accordingly, all OTDs must participate in a structured orientation program. The mode of delivery will need to be flexible. The program will need to be modular, based around nationally developed guidelines and be tailored to the applicant's skills and background.
- 7. Areas of Need/Districts of Workforce Shortage**
- 7.1 To ensure that OTDs are directed to areas of genuine need and that the best use of existing resources is made, the definitions for Areas of Need and District of Workforce Shortage need to be reviewed and where possible brought into alignment. Area of Need and District of Workforce Shortage declarations should be made in consultation with the AMA.
- 7.2 Before a position can be filled with an OTD, there should be an objective analysis of the reasons for the position remaining unfilled.
- 8. Resources & Supervision**
- 8.1 Employers should not have access to the OTD workforce unless they have in place adequate supervision relevant to the requirements of the OTD. In this regard, national standards (including reporting and assessment) need to be developed covering the supervision of OTDs and employers need to adhere to these. Supervision should be to the standards required by the relevant Medical College or Medical Board.
- 8.2 Where an OTD will be required to supervise other doctors, their supervisory qualifications should be reviewed as part of the assessment and accreditation process.
- 9. Information For OTDs & Offshore Assessment**
- 9.1 An OTD Website should be established by the Department of Health and Ageing to provide OTDs and employers with a comprehensive source of information on all aspects of practicing in Australia.
- 9.2 To assist OTDs assess their prospects to practice in Australia before arriving, tools should be made available to them, ideally via the OTD Website, that enable them to do so. These could include practice English language exams and practice AMC exams. These should be interactive and provide feedback to the OTD about where they require improvement in order to pass the exam process.
- 9.3 The AMA supports efforts made by the AMC to develop an assessment process whereby the OTD can complete the MCQ and Clinical Exams in their country of origin.
- 10. Distance Learning Tools**
- 10.1 The AMA recognises the difficulties OTDs placed in rural areas face in accessing training and assessment programs. In response, the delivery of training needs to be made more flexible and additional support mechanisms should be provided.
- 10.2 Training providers need to expand the suite of distance learning tools to assist OTDs in rural/remote locations to develop their skills on an ongoing basis, and as far as possible deliver skills assessment programs in the workplace.
- 11. Pay & Conditions**
- 11.1 The pay and working conditions of OTDs needs to be protected. Existing safeguards within Immigration requirements must be properly enforced to ensure that employers who wish to sponsor OTDs provide working conditions for OTDs that are equal to a similarly qualified doctor in like locations.
- 11.2 OTDs should have access to a suitable complaints mechanism that ensures that they are able to bring forward complaints without fear of retribution.
- 12. Access to Services**
- 12.1 Access to basic services such as health care and education is an important part of ensuring that an OTD and their family are able to enter the community successfully. Access to these services needs to be expanded.

12.2 AMA members should assist in directing OTDs to appropriate medical services and should bear in mind the Hippocratic Oath when they treat OTDs as patients.

13. Medical Colleges

13.1 The AMA recognises the fundamental importance of the Medical Colleges in the development of the medical workforce.

13.2 In assessing and/or training OTDs, Medical Colleges must ensure that they adopt modern training and assessment standards based on sound and defensible criteria. The criteria for assessing OTDs as well as determining what requirements (if any) should be placed on OTDs seeking a College Fellowship or equivalence must be based on the following principles:

- they should be objective
- they should be relevant
- they should have proper regard for overseas qualifications, and wherever possible priority should be given to the introduction mutual recognition policies along with more sophisticated recognition of prior learning processes
- they should not impose unnecessary or unreasonable costs on the OTD
- they should be applied consistently

13.3 Medical Colleges should regularly review non-accredited training posts to ensure that all eligible training positions are accredited in order to maximise access to training opportunities for OTDs.

14. Government Co-ordination & Resources

14.1 In order to ensure that OTDs are properly trained and can fully participate in the medical workforce as well as the broad community, Governments at both Federal and State level need to co-operate with stakeholders in the development of consistent standards of assessment, recruitment, registration and training as well as support mechanisms.

14.2 To ensure that adequate assessment, support and training mechanisms are in place, State and Federal Governments need to ensure that additional funding is available for:

- projects to establish relevant standards and streamlined processes – extending right through to the College assessment and training programs
- ongoing support
- educational resources
- additional hospital training posts
- resources and supervision

14.3 Funding should follow the OTD so that employers who take on OTDs can access funding to allow them to properly supervise and provide orientation for their OTDs.

15. Medical Indemnity

15.1 The AMA believes that the policy initiatives outlined are aimed at ensuring the maintenance of standards amongst the medical workforce, and therefore should not affect the overall risk profile of the profession. The AMA also acknowledges that developments in medical indemnity need to be taken into account in policy formulation and as a basic principle, any additional indemnity risks from the recruitment of OTDs should not be borne by the profession.

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