

11/7/05

General Practitioner, Dr Anonymous  
Independent contractor to a services company.

To : The Secretary of the Committee  
**Inquiry into Independent Contractors and Labour Hire arrangements**

As a General Practitioner , witness an increasing trend for our society to DEMAND more from our limited SUPPLY of health reasources.

Any attempt to engrace the economies of scale such as "The corporatisation of medical services" ,or boosts of funding such as "Medicare - Plus" serve only as temporary solutions to the ability of our system to maintain politically sensitive ideologies such as "universal access" to health.

Multiple public and private conflicts of interest exist.

A public company (who's profitability and share price depends on the ability of it's Directors and their subordinates to evade criminal prosecution when intimidation ,undue influence,duress ,threats and bullying pass undocumented) will be successful if it can procure and maintain a monopoly of sorts .Once the infrastructure is laid that effectively allows the construction of a monopoly ,will health dollars be squandered and produce "Medicare Millionaires".

Bullying an "independent contractor" in such a way that directs the way he or she practices for the services company's bottom line, not only contradicts the Medical Practices act but also contradicts the concept of " freedom of association ".It creates a situation where there is no competition.

The independent contractor with diminished rights, may be seen as a lower class worker. Strategies must be in place that recognises Workplace Arrangements that are meant to misrepresent the "real situation".Criminal sanctions should be in place that prohibits fraudulently constructed contracts that are meant to deceive .

Recognition of "Sham" contracts is made possible by access to various state acts such as the "Unfair Contracts Act,NSW".This is one instrument that MUST NOT BE REMOVED.In fact , it should be enshrined in the newly proposed "Independent Contractors Act".It is where ,characteristics of contracts that are contradictory make a contract automatically VOID , without having to go through the rigorous and costly process of determining whether a worker is an employee or independent contractor.

Any attempts to influence the way an independent contractor conducts business should be made illegal .The onus of proof of interference element should be borne by the principal contractor ,in that he/she must prove that it did not occur.The penalties should be similar to those of tampering with a witness or even contempt of court.

Bullying ,duress and undue influence are ways that Directors of certain companies dictate the pattern of practice in order to achieve maximum profits.These largely unreported phenomena should be defined and legislated against.They too must be given broader definition ( than what currently exists) to render a contract illegal.

A Shameful situation exists in Australia, where the bullying of independent contractrors in sham agreements, leads to situations where some service companies that procure and perfect the art of disguising illegitemate pressure or interference, are "successful" , and that others, with similar structures, that dont behave in this way ,are NOT successful.

An even more concerning fact,is that some government policy has facilitated and in effect "legalised" this type of unethical and illegal behaviour.An outstanding example is when amendments to the trade practices act include allowing application of the "competition test" to THIRD LINE FORCING ( Now commonly referred to as "VERTICAL INTEGRATION" ).This was previosly and unequivocally PROHIBITED.It was meant to prevent monopoly's.

It will be interesting to see ,that if and when the "Corporation" becomes unable to service demand ,(profits would fall and share price would fall) ,where the blame would be directed.I feel that this is inevitable and should be foreseen NOW not AFTER the fall.I foresee another H.I.H collapse , with the public shareholder carrying the can.  
It is for the longer term interests of the health system that we NOT allow monopoly's to occur.That is , legislating against the purchase of an independent contractor's "freedom of association".

Unscrupulous corporate Directors should be subject to criminal sanctions and jail, if a conscious intent to obtain a physical advantage via misrepresentations is proven.

Your Sincerely

Dr Anonymous