



THE ROYAL  
AUSTRALIAN AND NEW ZEALAND  
COLLEGE OF PSYCHIATRISTS  
ABN 68 000 439 047

15 May 2009

Elton Humphery  
Committee Secretary  
Senate Standing Committee on Community Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

By email to: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

Dear Committee,

**Re: Supplementary submission to the Inquiry into Compliance Audits on Medicare Benefits: Privacy Impact Assessment**

Thank you for allowing the Royal Australian and New Zealand College of Psychiatrists (RANZCP) to attend the Senate Community Affairs Committee hearing into the Compliance Audits of Medicare benefits on Wednesday 6 May. Since that hearing, the RANZCP has considered the Privacy Impact Assessment, released on 1 May 2009, for the Increased MBS Compliance Audits. The RANZCP thanks the Senate Committee for the opportunity to comment on this Privacy Impact Assessment by way of a supplementary submission.

As stated in its original submission, the RANZCP believes it is imperative that the type of information the service provider needs to produce as part of an audit must not compromise patient confidentiality. Unfortunately the Privacy Impact Assessment does not alleviate the concerns raised originally in respect of the type and level of confidentiality that psychiatrists need to be able to offer their patients. Whilst reasonable audits for the Medicare system are appropriate and necessary, it is the view of the RANZCP that further work needs to be done to address some significant concerns in regard to patient confidentiality, particularly in relation to the unique nature of psychiatric practice.

Specifically we would like to make the following points:

- The Privacy Impact Assessment highlights that Medicare do not seem to understand that the knowledge that third parties will have access to their most

private thoughts, as written in the file, will have a significant impact on unwell patients who have a stigmatising mental disorder. The uncertainty of what is written in the file, who is reading it, and what they will do with it, will only fuel patients' concerns, when their anxiety is already very high. The proposed Compliance Audit initiative is likely to have an effect upon the relationship psychiatrists have with all their patients, not just the ones that have their files examined. The RANZCP would wish to discuss with Medicare how this important issue, which could potentially adversely affect the way patients interact with their psychiatrist, can be addressed.

- The proposed legislation and Privacy Impact Assessment in regard to the increased compliance audit, clearly states that clinical information will be required by Medicare to undertake the audit (paragraphs 121 and 129 of the Privacy Impact Assessment refer). It is the view of the RANZCP, and other medical and professional groups, that this could refer to a patient's full medical record. The RANZCP is aware that this interpretation is not shared by all Senate Committee members. If it is not the case that full clinical records could be requested as part of the audit, this needs to be far more clearly defined in all documentation to lessen significant consumer concern.
- If clinical notes are to be obtained then the practitioner or another medical officer needs to be able to prevent the release of sensitive information that is not relevant to the audit. The employment of specially trained investigators by Medicare does little to allay the RANZCP concerns on this matter. Clear guidelines need to be developed on the nature of the documents that will be required for audit in psychiatry, including what is expected in terms of record keeping. The RANZCP would wish to be involved in the development of these guidelines as a matter of priority.
- Medicare states that the audit will occur only if there is a potential risk to the integrity of the Medicare scheme. It is essential that professional bodies (in this case the RANZCP) are consulted on what constitutes appropriate servicing patterns, including in sub-speciality practice, to avoid practitioners being investigated in error.

The RANZCP notes recommendations 7 and 8 of the Privacy Impact Assessment as follows:

#### **Recommendation 7**

Medicare Australia and the Department of Health and Ageing should use existing relationships with peak practitioner groups, health consumer and privacy groups to review and, if appropriate, change their accreditation requirements and Privacy Policies in relation to notices displayed in practices.

#### **Recommendation 8**

To provide clarity and transparency, Medicare Australia should establish and publish a clear set of guidelines covering the relevant retention and destruction policies relating to documents collected through the proposed legislation.

We wish to impress the importance of the RANZCP (and relevant others, including consumer and carer groups) having the opportunity to work with Medicare before these processes are implemented to ensure that they are introduced in a way that is in patients' best interests.

The RANZCP looks forward to working with Medicare Australia and the Department of Health and Ageing to address some of these concerns. A copy of the RANZCP submission and supplementary submission to this Inquiry has been sent to the Medicare Integrity Branch at the Department of Health and Ageing for their consideration and action.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ken Kirkby', written in a cursive style.

Professor Ken Kirkby  
President, RANZCP

REF: 1407