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## **Submission on the National Health Reform Amendment (Independent Hospital Pricing Authority) Bill 2011 to the Senate Finance and Public Administration Committee**

The AMA supports the proposal that prices for activity based funding and costs for block funding for services provided by public hospitals are calculated and determined independently of governments and political interests, with significant input from medical practitioners and other clinicians.

These prices and costs must cover the reasonable expenses of providing effective, comprehensive, high quality health services including teaching, training, research, service development and quality improvement.

We have read the *National Health Reform Amendment (Independent Hospital Pricing Authority) Bill 2011* in conjunction with the National Health Reform Agreement and have specific comments to make to strengthen or clarify the arrangements.

### **Functions of the Pricing Authority (section 131)**

There are three additional factors under subsection 131(3) that the Independent Hospital Pricing Authority (Authority) should have regard to when performing its functions.

The Authority must have regard to all the performance indicators that hospitals are required to achieve as mandated by the Council of Australian Governments (COAG) under the Performance and Accountability Framework. The National Health Performance Authority will report on the performance of public hospitals against the performance indicators in this Framework. If hospitals are expected to perform to a certain standard, the national efficient price and the efficient cost must provide sufficient funding to achieve those standards. The AMA considers this to be the “effective” cost, which is of much greater relevance in the context.

The Authority should also have regard to the role and function of public hospitals to provide teaching and training and to undertake research and the need to ensure this is appropriately supported. The funding of these functions and the role of the Authority in calculating their costs is supported in the National Health Reform Agreement but not made explicit in this Bill.

The AMA notes that the Authority must give regard to submissions made at any time by the Commonwealth, a State or a Territory (paragraph 131(3)(b)). In addition, public submissions on the Authority’s work program will be called for annually (subsection 225(1)).

However, the Authority should also be required to give regard to submissions made at any time by non-government organisations on recommendations and decisions relating to the calculation of the efficient price and other decisions impacting on hospital funding and services.

#### **Constitutional limits (section 134)**

The AMA opposes the Authority having any function to determine an efficient price or efficient cost related to the provision of pharmaceutical, sickness or hospital benefits, or the provision of medical or dental services (subsection 134(a)). There is nothing in the National Health Reform Agreement to support the Authority's involvement in any of these functions in any form.

It is not clear what the intended purpose of this clause is and it should thus be removed. If the Government has a particular role in mind for the Authority in this regard, it should undertake full and proper consultation with the health sector.

#### **Cost-shifting disputes and cross-border disputes (section 139)**

The Bill should allow for individuals or non-government organisations, in addition to jurisdictions, to report cost shifting to the Authority. AMA members working in public hospitals have experienced many examples of activities that could be interpreted as a state or territory government cost-shifting to the Commonwealth.

The Authority should be required to investigate allegations and report publicly on its findings if an allegation is upheld.

#### **Appointment of members of the Pricing Authority (section 144)**

The AMA supports the requirement that at least one member of the Authority must have substantial expertise and standing in the field of rural or regional health care (subsection 144(4)).

However, the Bill does not specify the process for selecting members for appointment to the Pricing Authority (subsections 144(1)-(3)). At a minimum, the Bill should require that the process be transparent and apolitical, notwithstanding that the appointment of specific members must be made with the agreement of Premiers and/or the Prime Minister.

#### **Appointment of Clinical Advisory Committee members (section 179)**

The AMA supports the requirement to establish a Clinical Advisory Committee comprised of clinicians to provide advice to the Authority on a range of matters. However, the Bill does not specify any particular process for selecting members for appointment to the Committee apart from stating that the Minister will appoint all members. At a minimum, the Bill should require that the process should be transparent and apolitical. In addition, at least one member of the Committee should be appointed from nominations provided by the AMA.

#### **Procedures (section 182)**

The Bill does not address the relationship between the Clinical Advisory Committee and the Jurisdictional Advisory Committee and the advice the Authority intends to seek from both these committees. Nor is there any detail about how the Authority will deal with any conflicting advice

from these committees. The success of the Authority and its decisions will be strongly influenced by the quality of the advice it receives. Options for maximising collaboration and minimising lack of agreement between the two committees could include arranging joint meetings on complex matters or a member of each committee attending the other committee's meetings as an observer.

### **Reporting to Parliament (section 210)**

The National Health Reform Agreement allows State and Territory governments to pay public hospitals less than the full efficient price determined by the Authority (clause A65). State and Territory governments should be required to publicly report whether they have paid hospitals the full efficient price, or the actual amount paid if it is less than the full efficient price, so that it is clear when poor performance is linked to insufficient funding.

This information should be included in the report the Authority must make to Parliament each year and should also be provided to the National Health Performance Authority so that it can be included in any reports indicating poor performance.

### **Disclosure to certain agencies, bodies or persons (section 220)**

The AMA notes that the Bill allows for information to be provided to various bodies, including the Australian Commission on Safety and Quality in Health Care (the Commission) and the National Health Performance Authority (subsection 220(1)). More detail needs to be provided by Governments on the circumstances in which information would be shared.

At the same time, every effort should be made to minimise data collection duplication and therefore unnecessary administrative burden on health care providers. Clarity on the relationship between the three agencies will assist in achieving this.

The Bill should require that the Authority, the National Health Performance Authority and the Commission collaborate with each other and other relevant bodies to ensure that data collection requirements are consistent, synchronised and streamlined.

### **Report publication (sections 131, 193, 208, 210 and 212)**

All reports should be available on the internet given modern expectations of communication standards.

### **Conclusion**

The AMA is generally supportive of the Bill but recommends a number of amendments. A summary of these amendments is attached.

**AUGUST 2011**



## **SUMMARY OF AMENDMENTS PROPOSED BY THE AMA**

### Subsection 131(3)

Insert that the Authority must have regard to:

- any and all performance indicators that hospitals are required to achieve as mandated by COAG; and
- submissions made at any time by non-government organisations on recommendations and decisions relating to the calculation of the efficient price and other decisions impacting on hospital funding and services.

### Paragraph 131(3)(c)

Insert that the Authority must have regard to the need to ensure that public hospitals are able to fulfill their role and function to provide teaching and training and to undertake clinical research.

### Section 134

Delete all of clause (a) referring to the provision of pharmaceutical, sickness or hospital benefits, or medical or dental services.

### Section 139

Insert:

- capacity for individuals or non-government organisations to report allegations of cost shifting to the Authority; and
- requirement for the Authority to investigate allegations and report publicly on its findings if an allegation is upheld.

### Section 144

Insert requirement that Authority members must be selected through a transparent and apolitical process, notwithstanding that the appointment of specific members must be made with the agreement of Premiers and/or the Prime Minister.

### Section 179

Insert requirement for the Minister to appoint members to the Clinical Advisory Committee using a transparent and apolitical process and that at least one member of the Committee be selected from nominations provided by the AMA.

### Section 182

Insert requirement for the Clinical Advisory Committee and the Jurisdictional Advisory Committee to meet jointly at least once a year and to have one member attending the other committee's meetings as an observer.

### Subsection 210(2)

Insert requirement that the Authority must report to Parliament whenever a State or Territory government has not paid a Local Hospital Network or a public hospital the equivalent of the full efficient price determined by the Authority and the actual price paid.

### Section 220

Insert requirement that the Authority, the National Health Performance Authority and the Commission must collaborate with each other and relevant bodies to ensure that data collection requirements are consistent, synchronised and streamlined.

Sections 131, 193, 208, 210 and 212 relating to publishing of reports  
Make amendments to require all reports to be published on the internet.