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23 May 2017

The Secretary
Parliamentary Joint Inquiry on Corporations and Financial Services
Parliament House
CANBERRA ACT 2600

Dear Secretary

Re Inquiry into the Life Insurance Industry

1.0 Introduction

I write in response to the formal invitation for MedHealth Pty Ltd (MedHealth) to give evidence to the Parliamentary Joint Committee on Corporations and Financial Services (the Committee) into the life insurance industry dated 4 May, 2017. On behalf of MedHealth, I would like to thank the Committee for this opportunity.

While MedHealth will offer the Committee every possible assistance, we would like to make it very clear that MedHealth does not directly participate in the life insurance industry.

MedHealth is not an insurance company and does not market, sell or manage any insurance related products, nor does it determine **any** insurance claim in **any** jurisdiction or scheme including the life insurance market. Rather, MedHealth provides a range of health risk management services and related medical support services, which are utilised by a wide range of industries and organisations, including the life insurance industry.

Given its limited role as a service provider to the life insurance industry, MedHealth is not in a position to meaningfully comment on the internal workings of the life insurance industry, or on the management or operations of any particular organisation operating within it. Furthermore, owing to strict privacy obligations, MedHealth is not in a position to comment on any specific case it may have been involved with.

We appreciate, however, that the Committee has expressed interest in one specific service offered by MedHealth companies (and a range of other competing organisations in the sector), namely, Independent Medical Examinations. This is discussed below.

By way of context, an overview of MedHealth, its customers and its capabilities follows.

2.0 MedHealth – An Overview

MedHealth was founded as *mlcoa* in Melbourne, in 1986. It is an Australian provider of health risk management services and related medical support services. MedHealth also facilitates the provision of independent medical opinions in New Zealand.

MedHealth is a wholly-owned subsidiary of the United States based ExamWorks Group, a leading provider of medical evaluation and related services. ExamWorks also has operations in the United Kingdom and Canada.

MedHealth owns and operates six core business units, each with dedicated management and operational teams. This includes four business units focusing on facilitating the provision of independent medical opinion services, training and consulting:

- **mlcoa** – a national facilitator of independent medical opinions, training and consulting services;
- **Medilaw** – a predominantly Queensland based facilitator of independent medical opinions and training;
- **Next Health** – a predominantly West Australian based facilitator of independent medical opinions and training; and
- **ASSESS Medical** - a predominantly New South Wales based facilitator of independent medical opinions and training.

MedHealth has recently expanded from its training, consulting and facilitating independent medical opinion services, to include claim application support services and medical facilities support services, which are offered broadly to the medical, claims management and rehabilitation industries, including MedHealth's established customer base. Currently MedHealth operates two businesses in claims application support/medical support services:

- **mi-Clinic** – a national provider of medical facilities support services including medical transcription and sessional room hire; and
- **CaseWorks Australia** – a national provider of claim application support services.

MedHealth operates within a strict competency-based quality assurance framework, and is the only provider of its type that is quadruple certified:

- ISO 9001 (Quality Management);
- ISO 27001 (Information Security Management System);
- ISO14001 (Environmental Management Systems); and
- AS/NZS 4801 (Occupational Health & Safety Management System).

3.0 MedHealth Customers

Across its six business units, MedHealth provides its services to a broad range of industries and customers. This includes:

- Various State based and Federal workers' compensation schemes;
- Various self-insured organisations;
- Various Federal Government agencies and departments;
- Various State-based Government agencies and departments;
- Various State motor accident schemes;

- The life insurance market;
- The legal market;
- Third-party claims administrators;
- Various law enforcement agencies;
- Various State Coroners;
- Private sector employers; and
- Treating medical practitioners and their patients.

4.0 MedHealth Capability

MedHealth employs more than 250 full time and part time staff across its companies. MedHealth's senior management team includes a number of executives and operational staff with extensive health and injury management backgrounds.

MedHealth has active consulting arrangements with over 1,500 independent medical specialists and allied health professionals.

MedHealth operates 12 purpose built consulting facilities covering all State and Territory capital cities, and has sessional room arrangements in 33 regional centres. In addition to its on-the-ground offices, MedHealth operates a state-of-the-art national video consulting capability.

5.0 Independent Medical Examinations (IME)

5.1 An Overview of the IME

An Independent Medical Examination (IME) is an assessment of a person by an independent medical specialist to form an expert clinical opinion regarding aspect(s) of that person's injury or medical condition.

Specifically, an IME may provide an independent expert medical opinion regarding:

- Causation of an injury or medical condition;
- Diagnosis;
- Treatment;
- Injury and disability duration;
- Rehabilitation requirements;
- Current or future work capacity;
- Prognosis;
- Permanent impairment; and/or
- Total and permanent disability.

It is noted that MedHealth does **not** directly provide IMEs. Rather, it **facilitates** the provision of an IME from an independent medical specialist for, and on behalf of, a requesting organisation.

IMEs are requested in the life insurance market by life insurance companies, third party administrators managing life insurance claims, law firms representing life insurance companies, and law firms representing individual clients with a life insurance product.

A request for an IME is done via a letter of referral, with a structured series of questions from the requesting party in relation to a person's injury or medical condition. These questions are put to the independent medical specialist for consideration and response to the requesting party. It is **not** the role of the independent medical specialist to formulate, propose, suggest, or change the questions asked.

A request for an IME is typically accompanied by all relevant background materials which are provided for review prior to a scheduled interview and clinical examination of the insured by the independent medical specialist.

Based on his or her review of the background material, the interview and examination of the insured, and a review and research of any relevant literature, the independent medical specialist prepares a written report that includes responding to the questions originally posed for consideration.

There are two reasons why an independent medical specialist may decline to answer one or more questions put to them for consideration:

- It is beyond or outside his or her scope of clinical practice; and/or
- There is insufficient evidence and/or material upon which to form a meaningful opinion at that point in time.

5.2 IME and Expert Opinion Evidence

Independent Medical Examinations are an example of **expert opinion evidence**.

Expert medical opinion evidence can be defined as opinions which are provided by medical practitioners who have specialised knowledge of medical issues because of their training, study and experience in medicine.

When an independent medical specialist is preparing an IME they are preparing expert medical evidence that can, ultimately, be relied upon by a Court. Expert medical opinions are allowed into evidence because they can greatly assist the Courts to understand and decide complex medical issues which they would not otherwise be able to do.

Practice Rules now impose an Expert Witness Code of Conduct on independent medical specialists, which they must acknowledge in every report. The Code of Conduct binds them to prepare their report on the basis that **their first legal duty is to assist the Court, and not to the party funding the service.**

When an independent medical specialist prepares and submits an IME report they are subject to the rules and obligations regarding expert evidence. This includes the obligations imposed on any witness, and in particular a witness who has given a written undertaking to the Court to produce a report to assist the Court, or when attending a Conclave, or giving evidence on oath. **In addition to the serious criminal sanctions that apply to any witness who intentionally misleads the Court, a finding that an independent medical specialist had intentionally sought to mislead the Court would be expected to render them liable to be disciplined if not struck off for professional misconduct.**

5.3 Other Critical Features of an IME

There are several critical features of an IME worth noting:

- a) An independent medical specialist providing an IME **does NOT determine and is NOT determining** an insurance claim. Rather, they are providing an independent expert medical opinion in relation to a person's injury or medical condition, upon which any relevant third party (including a Court) can rely.
- b) It is totally irrelevant as to which party has requested an IME, as this has no bearing on the expert medical opinion of the independent medical specialist.
- c) The independent medical specialist is "independent" in the sense that:
 - i. He or she is not involved in the treatment or care of the person they are examining for the purpose of the IME;
 - ii. He or she has no relationship (financial or otherwise) with the organisation/individual requesting the IME other than receiving payment for providing their expert medical opinion for a specific IME; and
 - iii. He or she has no personal or social relationship with the examinee or the referrer.
- d) The payment to an independent medical specialist for providing an IME, and to MedHealth for facilitating an IME, is never conditional on the content of the opinion of the independent medical specialist. It is only ever conditional on the fact that the IME report is produced and delivered to the requesting party.
- e) Every IME report is issued under the name of the independent medical specialist that completed the relevant examination.
- f) An IME report is never issued until it has been reviewed, approved and signed by the relevant independent medical specialist.

5.4 What is MedHealth's Role in the IME Process?

While any organisation requiring an IME is able to approach a medical specialist directly (and it is our understanding that many do), a significant number choose to use a third party facilitator such as MedHealth (via one of its business units). There are a number of benefits for an organisation to facilitate an IME through MedHealth, and there are a number of benefits for an independent medical specialist (or any expert) to consult through MedHealth. These factors are discussed below.

By way of summary, MedHealth's role in the IME process is to secure availability from a wide range of independent medical specialists covering a wide range of geographies, jurisdictions and specialties, and to coordinate and support their activities to ensure an efficient and productive process is achieved for the insured, the funder (insurer/government agency/scheme/law firm/individual) and the medical specialist.

MedHealth's operational teams ensure that the specialist and the insured are supported through the IME process. MedHealth's employees are totally agnostic as to the opinion of the independent medical specialist.

MedHealth's responsibilities and support during the IME process more specifically includes the following:

- a) **Specialist Recruitment & Ongoing Credentialing** – MedHealth maintains a diverse panel of highly regarded independent medical specialists covering all key medical specialities and sub-specialities, jurisdictional expertise and credentialing,

and geographical coverage. Specialists are evaluated as to their suitability to undertake IMEs on the basis of their clinical experience, clinical reputation, current medical board registration, appropriate medical indemnity insurance, jurisdictional accreditation and any other relevant experience. Specialists are subject to ongoing review subject to these criteria.

- b) **Specialist Availability & Coordination** – MedHealth maintains a detailed availability schedule of all specialists on its panel by relevant accreditation, area of speciality and geography. MedHealth aims to meet requests for an IME with an appropriately qualified and available specialist. Once agreed, MedHealth will arrange any required travel and/or accommodation.
- c) **Coordination of Information** – MedHealth’s administrative teams assist both the funder and the insured in making the appropriate medical information (files) available to the specialist in a timely manner to ensure the specialist has reviewed all relevant information prior to undertaking and completing an IME. Furthermore, MedHealth retains control over the supplied medical information and the final report in a secure environment to ensure future reference by the specialist for legal matters and/or clarification of the original opinion.
- d) **Facilitation of Secretarial Functions** – MedHealth’s administrative teams provide a booking function, diary management, transcription services, and review of the IME report to ensure a consistent quality and presentation. All reports are reviewed as part of a Quality Assurance process for completeness and clarity. This is delivered to an ISO standard. As noted above, IME reports are never issued until they have been finally reviewed and approved by the responsible specialist.
- e) **Provision of Practice Management Infrastructure** – MedHealth operates facilities across Australia that allows the interview and examination process to take place in a central, disability enabled, professional medical environment.
- f) **Provision of a Secure Information Technology Platform** – MedHealth operates a sophisticated IT platform that allows for the safe and secure storage and movement of electronic information. As noted above, MedHealth is ISO 27001 (Information Security Management System) certified.

6.0 Conclusion

MedHealth would like to thank the Committee into the life insurance industry for the opportunity to provide the information in this submission. Should the Committee have any further questions surrounding the use of medical expert opinion evidence generally, or the use of independent medical examinations specifically, I will gladly provide MedHealth's further assistance.

Yours sincerely,

Timothy Morphy
Director & Chief Executive Officer