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Australian College of Rural and
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James Strickland
Acting Committee Secretary
Standing Committee on Committee Affairs
Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By Email: community.affairs.sen@aph.gov.au

Dear Mr Strickland

Re: Inquiry into the Health Insurance Amendment (Professional Services Review Scheme) Bill 2023

I am writing in response to your email of 20 June, inviting the Australian College of Rural and Remote Medicine to make a submission to the inquiry.

The ostensible purpose of the [Health Insurance Amendment \(Professional Services Review Scheme\) Bill 2023](#) (the Bill) is to implement priority changes arising from recommendations of the [final report](#) of the independent Review of Medicare Integrity and Compliance undertaken by Dr Pradeep Philip (Philip Review). The College is concerned to note that in several places, the drafting of the Bill goes beyond the recommendations of the Philip Review, placing public confidence in the system at a higher priority than the rights of practitioners potentially impacted.

This is despite the reported “*notoriously high strike rate*”¹ of the Professional Services Review (PSR), which has found all but one practitioner in the past three years guilty of inappropriate practice. The consequence is that ensuring confidence in the PSR among the medical profession, and the benefits of a robust, profession-led regulatory system are lost in these amendments.

1. Removal of the requirement for the Australian Medical Association (AMA) to agree to the appointment of the Director of the Professional Services Review (PSR)

The Philip Review made the point that either all professions should be included in the appointment of Directors, or none. Whilst we appreciate the rationale behind this decision, the result is that will be nothing enshrined in legislation which requires a medical practitioner on the PSR. The Australian Medical Association have publicly voiced their disappointment at the removal of this power, stating that it has been “*essential in the past particularly in helping to ensure confidence in the PSR among*

¹ The Medical Republic, [AMA to lose PSR involvement](#), 25 May 2023, accessed 22 June 2023

the profession". Although there is some reasonable justification for this amendment, when read with later amendments in the Bill, this raises concerns for our members.

2. Amendment of the consultation requirements for appointing other statutory office holders of the PSR to enable consultation with relevant peak bodies directly

Whilst the College notes the intention to levels the playing field across all health practitioners, our members will require some assurance that meaningful consultation with representatives of the profession will occur, and that this representation will include representation of rural voices.

3. Establishment of the new statutory office of Associate Director/s of the PSR

This amendment appears sensible. There is currently no provision for managing conflict, increased workloads, or absence, and these changes will address these issues. We note however that whilst the draft Bill makes provision for the Minister to appoint multiple Associate Directors, there is no requirement for any of these to be medical practitioners.

4. Removal of the requirement for the Chief Executive Medicare (CEM) to consult with stakeholder groups prior to issuing a notice to produce documents.

The College is concerned regarding the removal of consultation requirements. Under current legislation, where the CEM has reasonable concerns about an amount paid by way of benefit of payment the CEM can require the production of documents, but only where the CEM has:

- taken advice from a medical practitioner who is a Departmental employee, and
- taken reasonable steps to consult with a relevant professional body.

In each case, about the types of documents that contain information relevant to ascertaining whether amounts paid in respect of a professional service should have been paid.

The draft Bill deletes the requirement to *"take[n] reasonable steps to consult with a relevant professional body"*.

The rationale for this is stated as:

- Consulting with a non-regulated entity about a regulated entity does not demonstrate clear and accountable natural justice to the regulated entity.
- It will streamline the audit process without limiting the documents or other information that a person may provide.

Whilst the Philip Review did question whether consultation at multiple points *"might be restrictive to the compliance activities, burdensome to the professional bodies, and unintentionally increase the timeframes for activities such as audits"* ² its recommendation was not to remove connections with professional bodies, but to consider a more coordinated approach. This legislation removes stakeholder engagement from this part of the process without putting in places any other mechanisms. The College is particularly concerned that the only remaining mechanism by which the CEM will obtain input will be via advice secured from a Departmental employee. Securing an understanding of rural and remote contexts is an important component of stakeholder engagement

² [Philip Review Final Report](#) page 40, para 2.7.1

in the context of consultation relating to medical practitioners. It is imperative that their involvement is not lost to the process.

The Bill purports to implement priority recommendations from the Philip Review, with, no doubt, further amendments to come, however it is difficult to see how this is a priority. Whilst removing input from the relevant professional body may well streamline the process, this is potentially detrimental to the practitioner who is required to produce documents under this section and is not in keeping with the recommendations from the Review.

The suggestion that consulting with a non-regulated entity about a regulated entity does not demonstrate clear and accountable natural justice is misleading. The relevant professional body is arguably better placed than departmental employees to comment on the types of documents that may contain relevant information, and also to provide unique rural and remote perspectives in the case of the production of documents from medical practitioners working across rural and remote Australia.

In the event that these changes are enacted, the College is seeking clarity regarding what will be done to ensure that our members will be appropriately represented at the high level by the PSR overseeing authority and in individual investigations, especially with respect to doctors working in the distinctive context and conditions of rural and remote practice.

Yours sincerely

Marita Cowie AM
Chief Executive Officer