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## **AMA submission to the Senate Legal and Constitutional Affairs Committee - Migration Amendment (Repairing Medical Transfers) Bill 2019 [Provisions]**

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As the peak professional organisation representing medical practitioners in Australia, the Australian Medical Association (AMA) welcomes the opportunity to provide a submission to the Senate Legal and Constitutional Affairs Committee inquiry into the Migration Amendment (Repairing Medical Transfers) Bill 2019 [Provisions].

### **AMA Position on the Health Care of Asylum Seekers and Refugees**

In 2011 the AMA released a position statement Health Care of Asylum Seekers and Refugees. This position was updated and revised in 2015. The AMA also convened a national forum on the health care of asylum seekers and refugees to highlight and pursue the policies outlined in the position statement.

The AMA advises the Committee that we affirm our position that those who are in the care of the Australian government and who are seeking, or who have been granted, asylum within Australia have the right to receive appropriate medical care without discrimination, regardless of citizenship, visa status, or ability to pay. Like all people seeking health care, asylum seekers and refugees in Australia, or under the protection of the Australian Government, should be treated with compassion, respect, and dignity.

The AMA views refugees, asylum seekers and individuals in detention facilities or detailed in offshore in Nauru and Papua New Guinea (PNG) to be under the protection of the Australian Government.

The AMA makes the following general observations in relation to the health care of asylum seekers and refugees:

## Australian Medical Association

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1. In addition to suffering the same health problems as the general population, asylum seekers and refugees are at particular risk from a range of conditions including psychological disorders such as post-traumatic stress disorder, anxiety, depression, and the physical effects of persecution and torture. They may also suffer the effects of poor dental hygiene, poor nutrition and diet, and infectious diseases such as tuberculosis, which may be more common in their countries of origin.
2. To determine their specific health needs, all asylum seekers and refugees need to undergo comprehensive and timely health assessments in a culturally appropriate manner by suitably trained medical practitioners as part of a primary health care team. This assessment should be used to establish ongoing care with appropriate and descriptive records of asylum seekers' health being recorded on a regular basis to enable multidisciplinary teams and healthcare providers to give effective ongoing care.
3. All asylum seekers and refugees should have access to the same level of health care as all Australian citizens.
4. All asylum seekers and refugees, independent of their citizenship or visa status, should have universal access to basic health care.
5. Immigration policies that restrict the basic human rights of disadvantaged groups of people, such as asylum seekers and refugees, can have adverse impacts on their health and wellbeing.

### **IHAP and the Medevac Bill**

The AMA has consistently called for a body of clinical experts independent of government with the power to investigate and advise on the health and welfare of asylum seekers and refugees.

Throughout the debate over IHAP and the Medevac Bill, the AMA urged the Parliament to reach a bipartisan position on how best to establish and implement such a body. Originally the AMA sought to assist all sides of Parliament including working with the Government as it developed its own preferred model. Our sense is that there was a strong desire on all sides of politics to come up with the right solution, notwithstanding the failure to reach agreement at a political level.

We also know that last minute amendments to the Medivac Bill precluded funding to support the ongoing operation of IHAP. To this extent, IHAP needs to be modified and properly resourced to undertake its work. Notwithstanding its measured effectiveness since establishment, it has been significantly relying on the personal efforts and funding of the nominated individuals or organisations. This is extremely problematic in the long run especially if the case load should increase significantly.

As the future of IHAP is again uncertain and, to that extent, the AMA would again urge all parties to reach agreement on a way forward.

To the extent that there may be varying political views on the IHAP arrangements, IHAP has a number of core features that accord with the AMA's long-standing policy position, outlined above, and should be preserved in any future arrangements.

### Australian Medical Association

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IHAP has, to date, successfully been able to monitor, assess and report on the physical and mental health of asylum seekers and refugees.

IHAP has also been able to provide an overview of health services available in Papua New Guinea and Nauru, including detailed statistical information and other data, and reasons for medical transfers.

The AMA understands IHAP members will personally visit Regional Processing Centres and provide further assessments of the physical and mental health conditions of asylum seekers and refugees and the standards of health care provided.

These are important functions central to the provision of proper and appropriate care.

### **World Medical Association (WMA) position**

The AMA draws the Committee's attention to WMA position adopted by the 203rd WMA Council Session, Buenos Aires, April 2016. The WMA position supports and in fact reaffirms the AMA position that independent medical oversight is an absolute requirement.

The WMA Statement of Principles states:

The WMA reiterates the WMA Statement on Medical Care for Refugees originally adopted in Ottawa, Canada in 1998 which states:

- Physicians have a duty to provide appropriate medical care regardless of the civil or political status of the patient, and governments should not deny patients the right to receive such care, nor should they interfere with physicians' obligation to administer treatment on the basis of clinical need alone.
- Physicians cannot be compelled to participate in any punitive or judicial action involving refugees, including asylum seekers, refused asylum seekers and undocumented migrants, or Internally Displaced Persons or to administer any non-medically justified diagnostic measure or treatment, such as sedatives to facilitate easy deportation from the country or relocation.
- Physicians must be allowed adequate time and sufficient resources to assess the physical and psychological condition of refugees who are seeking asylum.
- National Medical Associations and physicians should actively support and promote the right of all people to receive medical care on the basis of clinical need alone and speak out against legislation and practices that are in opposition to this fundamental right.

WMA urges governments and local authorities to ensure access to adequate healthcare as well as safe and adequate living conditions for all regardless of their legal status.

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**Conclusion**

The AMA supports a body of clinical experts, independent of government, with the power to investigate and advise on the health and welfare of asylum seekers and refugees.

We maintain that health and medical services in immigration detention centres should only be provided by organisations, in facilities accredited to Australian standards, that have the full capacity to provide an appropriate range of health and medical care to all detainees as needed, and according to best practice standards in health care delivery (as would apply in the general community).

Adherence to these standards should be guaranteed through a process of ongoing monitoring of detainees' health by an independent statutory body of clinical experts with powers to acquire information and investigate conditions in centres as it determines.

It is essential that the assessment and provision of medical care to asylum seekers in detention must be undertaken by medical practitioners.

In the absence of any other alternative independent medical panel that is demonstrably superior, the AMA affirms its support for the IHAP, in assessing the needs of asylum seekers and refugees for transfers for medical and psychiatric assessment and treatment. However, we also want to see IHAP properly resourced, including and remuneration for members, recognising the workload and commitment that it involves.

10 August 2019

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