



16 August 2019

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email to: legcon.sen@aph.gov.au

Dear Committee Secretary

**Re: Inquiry into the Migration Amendment (Repairing Medical Transfers) Bill 2019
[Provisions]**

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) welcomes the opportunity to provide a submission to the Inquiry into the Migration Amendment (Repairing Medical Transfers) Bill 2019 (the Bill).

The RANZCP is the principal organisation representing the medical speciality of psychiatry in Australia and New Zealand and is responsible for training, educating and representing psychiatrists on policy issues. The RANZCP represents more than 6600 members, including more than 4900 qualified psychiatrists, and is guided on policy matters by a range of expert committees including the RANZCP Asylum Seeker and Refugee Mental Health Network Committee.

The RANZCP holds significant concerns for the mental health of asylum seekers held in offshore detention, confirmed further by the Independent Health Advice Panel (IHAP) First Quarterly Report highlighting that many people in offshore detention have recently sought treatment for mental health conditions (Department of Home Affairs, 2019). The RANZCP remains committed to those in offshore detention having access to specialist health care in Australia, particularly specialist psychiatric acute care, which may not be readily available in offshore detention centres.

We have significant concerns that the proposed Bill's removal of the provisions inserted into the Migration Act 1958 by Schedule 6 of the *Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019* (Cth) will have very detrimental effects on an already vulnerable population. The repeal of the subdivision which relates to the establishment, functions and power of the IHAP would impact the ability of those with medical, including psychiatric issues, to be treated in Australian mental health services. The RANZCP believes that the IHAP is a valuable safeguard for government, people in offshore detention and the medical practitioners providing care offshore. The IHAP, due to its recent establishment, has not yet been reviewed and we would recommend time to be able to ascertain its value.



The RANZCP would like to note the perception that the proposed bill is required as the Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019 (Cth) weakens the Minister's ability to return an individual to offshore detention while they are in Australia undergoing medical care. Current provisions allow the Minister discretion to veto an application to be brought to Australia within 72 hours of receiving the recommendation based on security or character grounds and does not allow a pathway for those who are transferred to Australia for treatment to settle in Australia permanently (ARKC, 2019). As these provisions are already covered in current legislation, the RANZCP does not understand that the Migration Amendment (Repairing Medical Transfers) Bill 2019 [Provisions] is required as the Minister has an opportunity to refuse entry to Australia if deemed necessary.

Further to the point raised above, the RANZCP is concerned that the bill proposes to allow the Minister discretion to remove an individual who has been brought to Australia seeking health care, whether or not that purpose has been achieved. This is concerning, as those transferred to Australia for healthcare should be allowed to stay to ensure medical outcomes are achieved. It is important to note that while healthcare services are available in offshore detention to some degree, this may not include all specialist and multidisciplinary services. The RANZCP firmly believes that ceasing medical treatment should be a decision made between medical practitioners and the individual. Removal of an individual from medical care at the discretion of government officials, against medical advice, would undermine the ability of medical practitioners working in Australian health services to provide adequate care. This may also place further pressure on medical practitioners working in offshore detention to provide treatment which they may not have resources, capacity or support to provide. The RANZCP strongly believes that denying a person the ability to receive optimal treatment will have further detrimental outcomes on both physical and mental health of people in offshore detention.

The RANZCP also refers the Committee to the RANZCP's position statement on the [provision of mental health services to asylum seekers and refugees](#) and the RANZCP's professional practice [guidelines for psychiatrists working in Australian immigration detention centres](#). Both documents further frame the broad range of issues related to restricting access to effective and independent healthcare for asylum seekers and refugees such as the importance of clinical independence in ensuring psychiatrists have the capacity to practice without undue external influence. The RANZCP position statement also recommends the development of initiatives, such as the IHAP, which help further support the mental health and wellbeing of asylum seekers held in offshore detention as crucial. We attach the RANZCP's *Position Statement 46: The Provision of mental health services for asylum seekers and refugees* and the RANZCP's *Professional Practice Guideline 12: Guidance for psychiatrists working in Australian detention centres* for your reference.

The physical and mental consequences for those held in offshore detention would be severe with the passing of the Migration Amendment (Repairing Medical Transfers) Bill 2019. We urge that the health of this vulnerable population is a government priority.



Yours sincerely

/Associate Professor John Allan
President

Ref: 1517

References

Department of Home Affairs (2019) *Independent Health Advice Panel First Quarterly Report: Summary Report*.
Department of Home Affairs, Canberra.

Andrew & Renata Kaldor Centre for International Refugee Law (ARKA) (2019) Factsheet on the Medevac Law:
Medical Transfers from Offshore Processing to Australia, The University of Sydney. Available at:
https://www.kaldorcentre.unsw.edu.au/sites/default/files/Factsheet_Medevac_8Mar2019.pdf (accessed 12 August
2019).

Attachments

RANZCP policies