



Attention: Ms Julie Dennett
Senate Legal and Constitutional Committee
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Dear Committee Secretary

I write to you today on behalf of the Australian Medical Association's (AMA) Public Health and Child Youth Health Committee in relation to the Senate Inquiry into the *Commonwealth Commissioner for Children and Young People Bill 2010*.

The AMA is the peak professional organisation representing doctors across all specialities of medicine in Australia. Doctors have a significant role in providing health advice and medical care for children and young people. While most children and young people in Australia are healthy and doing well, there are a number of areas where improvements could be made. In particular, measures of developmental wellbeing, mental health and obesity, indicate that children and young people in Australia are experiencing deterioration in outcomes.

The AMA has long been interested in proposals around the establishment of a National Commissioner for Children and Young People. As a medical organisation, the AMA is particularly interested in the establishment of a National Commission that has a significant focus on the health and wellbeing of Australia's children and youth. In many instances, issues that directly and indirectly impact on the health and wellbeing of children and young people are not politically prominent, and responsibility for improvement is passed between State and Federal jurisdictions. A National Commission could play an important role in promoting the rights of children and young people, including the right to suitable health care.

The *Commonwealth Commissioner for Children and Young People Bill 2010* (the Bill), introduced into the Senate by Senator Hanson-Young during September 2010, aims to establish a national independent statutory body that will recognise and promote the rights of children and young people in Australia. While such a Commission would have a range of responsibilities, it is apparent from the Bill [Section 9(1)(d)] that there would be a significant focus on promoting and protecting the rights of children in immigration detention.

The health and wellbeing of children and young people in immigration detention centres is an important and often emotive issue. Therefore, it was surprising to find that the Bill lacked meaningful reference to the role of the Commissioner in relation to the health of children and young people, including those who are seeking asylum. The following comments seek to highlight potential amendments to the Bill that could address this concern.

Section 4 of the Bill covers principles underlying the Act. As per the Explanatory Memorandum this section identifies principles from the United Nations *Convention on the Rights of the Child* that are applied to the Commissioner when exercising his or her powers. While the five principles that are included in the Bill are appropriate, the principles could be expanded to acknowledge the right to access health care. This addition would be consistent with Article 24 of the Convention, which recognizes that children have a right to enjoy the highest attainable standard of health.

A similar concern arises in relation to Section 10 of the Bill, which is concerned with the role, responsibilities and function of the Commissioner. Subsection 10 (e) states that the Commissioner will consult with educators. While educators have an important role in relation to children and young people, there are other professional groups, including doctors, that the Commissioner should consult with regularly. Consultation with doctors will assist the Commissioner in gaining valuable, and often unique, insights around issues affecting children and young people. Consistent with the specific reference to educators, this section of the Bill should be expanded to include reference to other suitable professionals, including doctors.

While the proposed National Commissioner should promote the rights of all children and young people, there are some groups that are especially vulnerable. It is pleasing that the Bill acknowledges this, and includes specific reference to a number of these groups, including Aboriginal and Torres Strait Islander children and young people. The AMA is committed to undertaking specific advocacy around improving the health and wellbeing of Aboriginal and Torres Strait Islander people. The AMA's views on initiatives and policies that seek to address the current disparities is articulated in the series of AMA Report Cards on Indigenous Health. These publications are available from: <http://ama.com.au/aboriginal-reportcards> .

There are other vulnerable groups of children and young people such as those who reside (or spend significant amounts of time) in institutional settings, and who face disparities in a number of areas, including health. Ideally, specific reference to vulnerable children and young people should also be included in Section 9 of the Bill, which is concerned with the functions and powers of the Commissioner. This would be consistent with the references to children and young people in immigration detention [9 (d)] and children and young people who arrive in Australia without a legal guardian and without requisite visa or authority for entry [9 (e)].

Internationally, a number of countries including New Zealand, Britain, Norway and Sweden, have Commissions that seek to represent the interests of children and young people at a national level. In Australia, recent initiatives such as the *National Framework for Protecting Australia's Children 2009 - 2010* also highlight the need to establish a National Commissioner for children and young people as a way of coordinating and promoting the interests and needs of children and young people. If such a Commission is to be established in Australia, it is crucial that the necessary focus on health is incorporated into the *Commonwealth Commissioner for Children and Young People Bill 2010*.

By way of summary, I would like to reiterate four key recommendations.

1. Section 4 of the Bill should be amended to include a sixth principle 'the right to health care';
2. Subsection 10 (e) of the Bill should be expanded to include reference to consultation with doctors and other professional groups;
3. Section 9 of the Bill should be expanded to include reference to children in institutional settings; and
4. The Bill (and any other activities related to the establishment of a National Children and Youth Commission) should incorporate a prominent focus on health.

I would like to thank the Senate Legal and Constitutional Affairs Committee for extending the opportunity to the AMA to provide comment on the *Commonwealth Commissioner for Children and Young People Bill 2010*. Should any questions arise in relation to these comments please contact Dr Maurice Rickard, Manager of the AMA's Public Health Section

Sincerely

Dr Andrew Pesce
President

3 February 2011