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Submission regarding Australia's Health Workforce, Productivity Commission Position Paper, September 2005

The Australian Medical Association (New South Wales) endorses the response of the Australian Medical Association to this paper, but wishes to expand on an issue of particular concern, regarding the paper's recommendation on the delegation of medical services.

The AMA supported delegation of medical services under the supervision of medical practitioners, but noted that role delegation might not be appropriate in all settings.

The AMA (NSW) is opposed to Draft Proposal 7.3:

Under the auspices of the Australian Health Ministers' Conference, jurisdictions should enact changes to registration acts in order to provide a formal regulatory framework for task delegation, under which the delegating practitioner retains responsibility for clinical outcomes and the health and safety of the patient.

The reasoning outlined in the Position Paper in support of the proposal was that delegation would be attractive to the medical profession, would involve less regulation and simpler indemnity arrangements, and should therefore be defined in the regulatory framework.

In fact, if such changes were made to registration acts, medical practitioners could be held responsible for situations over which they had no control. A consultant on call to a public hospital could be held responsible for any adverse consequences following directions given before he or she could reach the hospital. Such consequences could occur through no negligence on the part of the consultant or hospital staff. The director of an emergency department could be held responsible for adverse events in an emergency department under crisis through lack of resources.

Any clause defining responsibilities in a registration act renders a practitioner liable for charges of professional misconduct when adverse outcomes occur. The proposal on responsibility for delegation as drafted will leave medical practitioners open to a charge of professional misconduct resulting from factors over which the doctor has no control.

Although the Commission did not find evidence of inappropriate treatment of patients in emergency departments, the recent coronial inquiry into the death of a Sydney woman waiting to be seen in an emergency department found that "Mrs Brophy's death is not the result of a failing of any individual but a failing of the system of health to provide adequate resources, training and management systems to identify and prioritise presenting patients". The AMA (NSW) has serious concerns that in cases such as this the ED director might be implicated because of the regulatory framework.

Moreover, the Position Paper envisages that medical practitioners will be able to delegate tasks to staff with no formal qualifications. It appears to the AMA (NSW) that the doctor will be held responsible for the actions of any such staff.

"In sum, the Commission considers that credentialing and delegation will sometimes be better approaches than formal registration requirements for providing assurances about the quality and safety of services delivered by health practitioners. In rural areas, particularly, these approaches may allow a faster and more effective response to changing scopes of practice and job redesign initiatives." (P110)

Moreover, the reasoning above seems to indicate that rural patients can expect the lowest acceptable common denominator of medical expertise.

Existing structures for delegation, such as the role of General Practice Nurses, work well as they are defined by the funding structure and, due to their specificity, can be covered by medical indemnity arrangements. Teamwork in other defined contexts is an established feature of health care practice. Delegation should not be controlled by formal regulation.

The AMA (NSW) considers that it is heavy handed and unnecessary to introduce an added element of uncertainty and coercion by inserting the proposed clause into medical registration acts. The proposal if adopted would make doctors reluctant to work in a number of situations, and could add substantially to indemnity costs.

Directive measures can have far-reaching, unintended consequences and require careful consideration. For example, the 1996 decision to restrict provider numbers and medical school places was motivated by the intent to reduce medical outlays from the supply side. It was based on inaccurate work force projections, deprived the nation of locally trained doctors, and was a major contribution to the current shortage of practitioners.

In general, the AMA (NSW) considers that the degree of centralised planning of the health work force envisaged by the Productivity Commission is excessive. Centralised decision-making will distance planning from those delivering services and will leave matters like education, training, accreditation, registration, deployment of the workforce and allocation of subsidies open to political manipulation.

Yours sincerely,

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